DRAFT STATEMENT OF COMMON GROUND

BETWEEN:

GREYSTOKE CB
&
CHERWELL DISTRICT COUNCIL

SECTION 78 APPEAL BY GREYSTOKE CB

LAND EAST OF JUNCTION 11 OF THE M40, BANBURY, OXFORDSHIRE, OX17 2BH

PROPOSAL:

OUTLINE PLANNING APPLICATION FOR THE CONSTRUCTION OF UP TO 140,000 SQM OF EMPLOYMENT FLOORSPACE (USE CLASS B8 WITH ANCILLARY OFFICES AND FACILITIES) AND SERVICING AND INFRASTRUCTURE INCLUDING NEW SITE ACCESSES, INTERNAL ROADS AND FOOTPATHS, LANDSCAPING INCLUDING EARTHWORKS TO CREATE DEVELOPMENT PLATFORMS AND BUNDS, DRAINAGE FEATURES AND OTHER ASSOCIATED WORKS INCLUDING DEMOLITION OF THE EXISTING FARMHOUSE. ALL MATTERS OF DETAIL RESERVED

LPA REF: **23/03428/OUT**
PINS REF: **XX**

DATE: **XX 2024**

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Signed:	**Signed:**
Name:	**Name:**
On behalf of: Cherwell District Council (the Local Planning Authority)	**On behalf of:** Pegasus Group (acting on behalf of the Appellant)
Date:	**Date:**

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1. INTRODUCTION

1.1 This Statement of Common Ground (SoCG) has been prepared by Pegasus Group, on behalf of Greystoke CB (the Appellant) in conjunction with Cherwell District Council ("the LPA").

1.2 It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of land east of Junction 11 of the M40, Banbury, Oxfordshire (the appeal site).

1.3 The purpose of the SoCG is to identify the areas where the principal parties (the Appellant and the LPA) are in agreement and to narrow down the issues that remain in dispute. This will allow the Inquiry to focus on the most pertinent issues.

1.4 This SoCG should be read alongside the other topic specific SoCGs which include:-

[tbc]

a. Ecology and BNG

b. Economic Need

c. Flood Risk and Drainage

d. Landscape and Visual

e. Air Quality

f. Traffic and Transportation - with Oxfordshire County Council

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2. THE APPEAL SITE LOCATION AND DESCRIPTION

2.1 The appeal site is located on land east of Junction 11 of the M40, on the eastern edge of the built-up area of Banbury. The site would be accessed from the A361, which in turn provides direct access to Junction 11 of the M40.

2.2 Banbury is a Market Town. It is the District's largest town with its own sub-region according to the Local Plan [paragraph C.108]. It is a focus for major retail developments, employment, housing and cultural and community uses. The Spatial Strategy requires that most of the growth in the District will be directed to locations within or immediately adjoining the main towns of Banbury and Bicester [paragraph A.11].

2.3 The settlement pattern of Banbury has seen employment land develop along the western side of the M40 motorway corridor and to the north of the town. This has recently been extended east of the motorway north of J.11 with the allocation and construction of the Frontier Park employment area. This expansion has used J.11 to create an extension to the established employment land to the north of Hennef Way and south along the western edge of the motorway.

2.4 The existing established employment land and areas under construction have a strong correlation with the motorway corridor and junction J.11. The geographical extent of the employment land creates robust separation between the motorway and the main civic areas of the town.

2.5 The appeal site itself extends to 66.15ha of greenfield land, geometric in shape, comprising a number of field parcels which are defined by mature hedgerow and trees. The internal areas of the fields consist of arable and pastoral land.

2.6 The site is bounded by the A422 to the south, and the A361 to the west. It adjoins open countryside to the north and east. Carrdus School, an independent day preparatory school, lies c.180m east of the Site, separated by a dense woodland copse. To the west of the A361 and opposite the Site is the recently consented commercial development of Frontier Park, with large shed buildings which are currently under construction.

2.7 There are no footpaths (Public Right of Way, PRoW) within the Site. Within the wider vicinity are a number of PRoW's.

2.8 The site itself is not covered by any current national or local landscape designations. It is not in, or adjacent to, an environmentally sensitive area, as

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defined by Regulation 2(1) of the EIA Regulations (i.e., sites designated as Sites of Special Scientific Interest (SSSI), National Parks, World Heritage Sites, Scheduled Monuments, Area of Outstanding Natural Beauty, and sites covered by international conservation designations), and therefore is not considered to represent an environmentally sensitive location.

2.9 There are no ecology designations that directly affect the site. There is a NERC Act S41 Habitat site (as per the Adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's unmet Housing Need, September 2020) to the north east but no development is proposed in this area and there would be a substantial buffer around it, providing opportunities for habitat and biodiversity enhancements.

2.10 In terms of heritage, the site is not located within or adjacent to a Conservation Area and there are no Listed Buildings within the Site boundary. The nearest Listed building is Seale's Farm which lies between c. 50m and 125m to the north-east of the site.

2.11 The Site is located entirely within Flood Zone 1 which is considered to be the zone with the lowest risk of flooding by the Environment Agency.

2.12 The Site does not lie within an Air Quality Management Area (AQMA). The closest AQMA is Cherwell District Council AQMA No.1, located approximately c.540m to the west of the Site. The designated area incorporates Hennef Way between the junctions with Ermont Way and Concorde Avenue.

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3. THE APPEAL PROPOSALS

3.1 The Appellant seeks outline planning permission, with all matters reserved, for a large scale logistics development. The description of development reads as follows:-

> **"Outline planning application for the construction of up to 140,000sqm of employment floorspace (use class B8) with ancillary offices and facilities and servicing and infrastructure including new site accesses. Internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse."**

Amount and Job Creation

3.2 The proposal has the potential to deliver up to 140,000sqm of logistics floorspace which would meet modern day requirements, and which could directly facilitate up to 1,915 full-time equivalent jobs (FTEs) on-site once the scheme is built and operational.

3.3 There would also be further jobs in the wider supply chain and would make a significant contribution to the local economy.

Layout, Landscaping and Open Space

3.4 Whilst layout is a reserved matter, a Parameter Plan is submitted for approval to demonstrate how this scale and form of development could be accommodated. This is accompanied by an Illustrative Site Layout Plan which shows one way in which the site could be laid out and landscaped with individual buildings and a framework of green infrastructure.

3.5 The Parameter Plan identifies the location and extent of the development parcels and how they would be serviced. It allows for the creation of development parcels which can accommodate modern shed style logistics buildings in different arrangements that could be tailored to meet current market demand at the Reserved Matters stage.

3.6 The development would complement the adjacent employment allocation at Frontier Park and the broader range of existing commercial development west of the M40 at Banbury.

3.7 The Proposed Development retains and enhances existing landscape features (including the more important trees and hedgerows) and areas of wildlife value

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where possible. Land to the east will be left undeveloped and will provide strategic landscaping and opportunities for biodiversity gain for the area.

3.8 There are five small waterbodies within the site. Site features on the site include field boundaries with associated mature tree lines, hedgerows, and some woodland copses. The design of the proposed development seeks to safeguard and retain many of these features as part of the scheme. Supplementary tree and shrub planting throughout the site will further improve the biodiversity. Native plant species will be chosen to complement the existing flora of the site and respect any local provenance, as well as providing habitats beneficial for wildlife.

Access

3.9 The site would be served by a new 3-arm roundabout junction off the A361 at the western boundary and a priority junction further to the north. The internal road structure would then allow for a loop road to be created which would link the two access junctions. Individual parcels within the site would then be served off the internal loop road.

3.10 Pedestrian and cycle linkages are also designed into the Illustrative Site Layout Plan to provide connectivity.

Drainage

3.11 The proposals will incorporate on-site SUDs features which will attenuate the surface water as well as acting as an opportunity for biodiversity enhancements and contributing towards the visual amenity of the site.

Huscote Farm

3.12 The abandoned and derelict farmhouse at Huscote Farm is to be demolished. The other buildings associated with Huscote Farm were excluded from the application. There will be a separate application for the conversion of the outbuildings into ancillary offices/site facilities in due course.

3.13 However, given that this will require detailed plans and elevations as part of a change of use application this will be dealt with separately. The likely impacts have however been considered as part of the wider site assessments including the ES for completeness.

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4. APPLICATION PLANS AND DOCUMENTS

4.1 The plans and supporting documents that comprised the application at the time that it was submitted were as follows:

The Original Application Documents

Title	Reference	Rev
Site Location Plan	5166 CA 00 00 DR A 00050 P2	
Parameter Plan	5166 CA 00 00 DR A 00001 P10	
Illustrative Site Layout	5166 CA 00 00 DR A 05001 P8	
Illustrative Landscape Strategy	21340.111	B
Access drawing plan 1	23459-01-GA	B
Access drawing plan 2	23459-05-GA Rev B	B

Other Supporting Documents

7. Application forms, together with the relevant Certificates of Ownership and Agricultural Holdings Declaration, duly completed, signed and dated 5th December 2023;

8. Covering Letter (Pegasus Group, dated 5th December 2023)

9. Planning Statement (prepared by Pegasus Group) dated December 2023

10. Design and Access Statement (prepared by Pegasus Group) dated December 2023

11. Statement of Community Engagement (prepared by Pegasus Group) dated November 2023

12. Energy Statement (prepared by Pegasus Group) November 2023

13. Economic Benefits of Providing Warehouse Space Report (prepared by Pegasus Group) dated December 2023

14. Preliminary Geo-Environmental Assessment (prepared by DeltaSimons) dated May 2022 (5 parts)

15. Arboriculture Assessment (prepared by Barton Hyett Associates) dated May 2022

Environmental Statement

16. Volume 1 Main Text (December 2023);

17. Volume 2 Technical Appendices (December 2023); and

18. Non-Technical Summary (December 2023).

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Post submission documents – submitted March 2024

19. Ecology response including BNG Matrix (Prepared by Aspect Ecology) dated 11 March 2024

20. Agricultural Land Classification Report (Prepared by Amet), dated 18 March 2024

21. Transport Assessment Update (Prepared by DTA Transport), dated 19 March 2024

22. Drainage response to LLFA (prepared by Mabbett) dated 20 March 2024

Plans for Approval

4.2 It is agreed that if the appeal is allowed then the following plans would be the approved plans. All other plans and documents are to be treated as illustrative.

Title	Reference	Rev
Site Location Plan	5166 CA 00 00 DR A 00050 P2	
Parameter Plan	5166 CA 00 00 DR A 00001 P10	

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5. THE PUTATIVE REASONS FOR REFUSAL

5.1 It is agreed that the application was reported to the Planning Committee on 21st March 2024 with an Officer recommendation for refusal.

5.2 The Appellant sought extensions of time to allow further information to be submitted but those requests were declined.

5.3 Members agreed with Officers and the application was refused. The Decision Notice which is dated 26th March 2024 identifies the following reasons for refusal:

1. **The proposal is located on an unallocated site and development would represent an urbanising form of development which by reason of its location and proposed land use would result in a cluster of large warehouse buildings poorly related to Banbury that would result in a harmful visual intrusion of development into the landscape and open countryside and would therefore result in harm to the rural character, appearance and quality of the area. This identified harm would significantly and demonstrably outweigh the benefits of the proposal. Development would therefore fail to accord with Cherwell Local Plan 2011-2031 Part 1 policies ESD10, ESD13 and ESD15 and Cherwell Local Plan 1996 saved policies C7, C8 and EMP4, and with national policy guidance given in the National Planning Policy Framework.**
2. **The proposed development would be sited in a geographically unsustainable location with poor access to services and facilities and therefore future employees would be highly reliant on the private car to access their workplace, which would not reduce the need to travel and would result in increased car journeys and hence carbon emissions. The proposed development would therefore conflict with policies PSD1, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework. This identified harm would significantly and demonstrably outweigh the benefits associated with the proposed development and therefore the development does not constitute sustainable development when assessed against the National Planning Policy Framework as a whole.**
3. **The application site is located in an unsustainable location for cycling and walking. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.**
4. **The proximity of the access roundabout to M40 Junction 11 is likely to lead to severe congestion and potential safety issues arising from queuing on the M40 off slip. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan**

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1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.

5. **Any further development around Junction 11 of the M40 would add to the severe congestion and air quality problems on the A422, particularly along Hennef Way. This development does not demonstrate how it would mitigate its impact on these issues through adequate sustainable travel connections or by highway improvements. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policies TR1 and ENV7 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.**

6. **Safe and suitable operation of affected highway junctions has not been demonstrated by use of a suitable analysis tool. It has been agreed with the Applicant's transport consultant and National Highways that microsimulation modelling (such as VISSIM) is required to accurately represent the flow of vehicles at all primary local junctions and the interaction between them. Without agreed results of such analysis and resultant appropriate mitigation, the proposal is contrary to policies SLE1, SLE4 and INF1 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.**

7. **It has not been demonstrated that a signalised crossing of the A361 Daventry Road for pedestrians and cyclists may be incorporated at a safe and suitable location, and the associated access into the site has not been indicated. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.**

8. **The site is located close to and west of an existing Air Quality Management Zone and the proposal fails to adequately assess or mitigate against air quality matters as a result of increased vehicle movements associated with the development. The proposal is therefore contrary to policies SLE1, SLE4 and ESD1 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policies TR1 and ENV7 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.**

9. **The proposal fails to assess the potential economic impact upon Banbury, specifically the attractiveness of Banbury town centre and the edge of town retail and employment centres as a result of additional traffic and congestion on the local highway network rendering Banbury a less sustainable location. The proposal is therefore contrary to policies SLE1 and SLE2 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within**

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the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.

10. **The proposal lacks detail and information relating to the drainage of the site and is therefore contrary to Oxfordshire County Council's published guidance "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire", policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2015 and Government guidance within the National Planning Policy Framework.**

11. **The application has failed to demonstrate through the submission of a robust Landscape and Visual Impact Assessment that the proposals on this prominent site would not cause substantial landscape harm to the undeveloped rural character and appearance of the site and its surroundings when viewed from Public Rights of Way in the surrounding countryside. As such, the proposal is contrary to policies ESD10, ESD13 and ESD15 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1) and Government guidance within the National Planning Policy Framework.**

12. **The application has demonstrated, through its submission of an Agricultural Land Classification (ALC) Assessment, that the impacts of the proposal would result in loss of best and most versatile (Grade 3a) agricultural land. As such, the proposal is considered contrary to Government guidance outlined in paragraph 180 b) of the NPPF.**

13. **The application has failed to adequately demonstrate that development would not harm existing flora and fauna and that ecological mitigation would successfully deliver a 10% net gain in biodiversity or protection, enhancement and connectivity with the local green infrastructure network. As such the proposal fails to accord with policies ESD10 and ESD17 of the Cherwell Local Plan 2011-2031, saved policies C1 and C2 within the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.**

14. **In the absence of an appropriate protected species survey covering all protected species on site, the welfare of protected species has not been adequately addressed in accordance with article 12(1) of the EC Habitats Directive. The Local Planning Authority cannot therefore be satisfied that protected species will not be harmed by the development and as such the proposal does not accord with policy ESD10 of the Cherwell Local Plan 2011-2031, saved policies C1 and C2 within the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.**

15. **In the absence of a satisfactory Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations**

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SPD 2018 and Government guidance within the National Planning Policy Framework.

5.4 It is agreed that RfR15 is capable of being addressed through planning obligations such that neither party needs to present evidence on this matter at the Inquiry.

5.5 [update in due course whether certain other RfRs are now resolved and don't require presentation of formal evidence]

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6. PLANNING HISTORY

6.1 This section outlines the planning history of the site and that of adjoining land parcels, insofar as it is relevant to this application.

Planning Applications

The Application Site

6.2 The Applicant submitted an outline application for the Site on 17 May 2022 and this was validated on 19 May 2022

> **"Outline planning application for the construction of up to 140,000 sqm of Employment floorspace (use class B8 with ancillary offices and facilities) and servicing and infrastructure including new site accesses, internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse. All matters of detail reserved."**

6.3 An Appeal was submitted following the failure of Cherwell District Council (the Local Planning Authority) to determine an application for outline planning permission (with all matters reserved) within the statutory 16 week period.

6.4 The appeal was submitted on 25 November 2022 and was confirmed as valid on the 28 November 2022.

6.5 The Appellant withdrew from the Appeal on 15 March 2023 to enable further work to be undertaken on the traffic modelling.

Huscote Farm

6.6 Previous applications concern the farmhouse and buildings of Huscote Farm which will be the subject of a separate application. These include:

- 05/01910/F: Renewal of consent 00/00268/F. Erection of dwelling to replace existing. Application Permitted.
- 04/02624/F: Renewal of application 00/00267/F. Conversion of barn to dwelling with associated garages incorporating granny/staff annex. Application Permitted.
- 00/00268/F: Erection of new dwelling to replace existing. Application Permitted.

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- 00/00267/F: Conversion of barn to dwelling with associated garages and incorporating granny / staff annex. Application Permitted.

- 97/02182/F: Proposed pig/lairage building. Application Withdrawn.

Frontier Park

6.7 Other planning applications of significance relate to a parcel of land now known as 'Frontier Park' to the immediate west of the application site.

6.8 That site consists of three parcels, the northern two of which are presently under-construction, whilst the third (the southern parcel) is pending a decision on application 21/02467/F. This site as a whole extends to a total of 13 hectares and is an allocated for employment uses in the adopted CDLP (Policy Banbury 15). The various applications include:-

- 21/02467/F: OS Parcel 0005 And Part OS Parcel 1300 0878 And 7566, Banbury. Erection of mixed-use development including a 240-bed hotel, 4-storey office building and roadside services including 2 no hot food restaurant drive-throughs, a coffee shop drive-through and a petrol filling station with ancillary retail store. Validated 19/07/2021. Application withdrawn.

- 19/00128/HYBRID : Hybrid/Mixed Application Ban 15 Land Adjacent M40 J11 and West of Daventry Road, Banbury. Part A: Full planning application - the development of a new priority junction to the A361, internal roads and associated landscaping with 2 no. commercial buildings having a maximum floorspace of 33,110m2 and with a flexible use [to enable changes in accordance with Part 6 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices; and Part B: Outline planning application - the development of up to 2 no. commercial buildings having a maximum floorspace of 16,890m2 and having a flexible use [to enable changes in accordance with Part 6 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices, with all other matters reserved for future approval. Permitted 30/07/2020.

- 17/01044/F: Part OS Parcels 4200 and 1300 Land Between New Banbury Daventry Road and M40 Street from Banbury to Williamscot, Banbury.

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Development of land to the north east of Junction 11 of the M40 Banbury, to provide a 22,150sqm industrial building (Class B8); two office buildings of 3716sqm each (Class B1); Motorway Services Area with amenity building, Petrol Filling Station (with canopy, fuel pump islands, ancillary convenience store and food to go outlet) and HGV Parking; creation of a new vehicular accesses off the A361 together with associated alterations to the highway; parking and circulation; landscaping, drainage and associated works. Application Refused.

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7. PLANNING POLICY

7.1 This section identifies the planning policies and guidance that will be of most relevance to this appeal.

National Guidance

National Planning Policy Framework (NPPF)

7.2 A revised NPPF was published in December 2023. It will be a material consideration in the determination of this appeal. Both parties will make reference to the NPPF in support of their case. In particular reference will be made to paragraph 11d.

7.3 Both parties will also refer to the draft NPPF. **[Update in due course if revised NPPF is published]**

National Planning Practice Guidance (NPPG)

7.4 The NPPG will be a material consideration in the determination of this appeal. Both parties will make reference to relevant sections of the NPPG.

The Development Plan

7.5 Both parties agree and accept that under the provisions of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the Development Plan read as a whole, unless material considerations indicate otherwise.

7.6 At the time of preparing this SoCG, the statutory Development Plan covering the appeal site comprised the following:

- Cherwell District Local Plan 2011-2031 Part 1 (CDLP) first adopted July 2015,
- The Adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (September 2020), and
- 'Saved' policies of the Adopted Cherwell Local Plan 1996.

- It is agreed that the most important policy in the CDLP insofar as this appeal is concerned is:-
  - **Policy SLE1: Employment Development**

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7.7 It is also considered that the following CDLP policies are relevant for the determination of the appeal:-

- **Policy PSD1: Presumption in Favour of Sustainable Development**
- **Policy SLE4: Improved Transport and Connections**
- **Policy BSC9: Public Services and Utilities**
- **Policy ESD1: Mitigating and Adapting to Climate Change**
- **Policy ESD2: Energy Hierarchy and Allowable Solutions**
- **Policy ESD3: Sustainable Construction**
- **Policy ESD4: Decentralised Energy Systems**
- **Policy ESD5: Renewable Energy**
- **Policy ESD6: Sustainable Flood Risk Management**
- **Policy ESD7: Sustainable Drainage Systems (SuDS)**
- **Policy ESD8: Water Resources**
- **Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment**
- **Policy ESD13: Local Landscape Protection and Enhancement**
- **Policy ESD15: The Character of the Built and Historic Environment**
- **Policy ESD17: Green Infrastructure**
- **Policy Banbury 6: Employment Land West of M40**
- **Policy Banbury15: Employment Land North East of Junction 11**
- **Policy INF1: Infrastructure**

7.8 The following "saved polices" in the Cherwell Adopted Plan 1996 are also relevant for the determination of the appeal:-

- **TR1: Transportation Funding**
- **C8: Sporadic retained – development in the open countryside**
- **C28: Layout, design and external appearance of new development**
- **ENV1: Development likely to cause detrimental levels of pollution**

7.9 In addition, the following Cherwell District Council Supplementary Planning Documents are considered relevant to the appeal:

- **Developer Contributions Supplementary Planning Document (SPD) (February 2018)**
- **Banbury Vision and Masterplan Supplementary Planning Document (SPD) (December 2016)**

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The Cherwell District Local Plan

7.10 The Cherwell Local Plan 2011-2031 (Part 1) was formally adopted by the Council on 20 July 2015. Policy Bicester 13 was re-adopted on 19 December 2016.

7.11 In terms of priorities, the Plan states at p.10 that:

> **"Securing the economic future of the District is the main priority of this Plan"**

7.12 The Vision of the CDLP is:

> **"By 2031, Cherwell District will be an area where all residents enjoy a good quality of life. It will be more prosperous than it is today. Those who live and work here will be happier, healthier and feel safer."**

7.13 For this to happen the Plan at p.28 states that (inter alia):

> **"We will develop a sustainable economy that is vibrant and diverse with good transport links and sound infrastructure, supported by excellent educational facilities. Our economy will grow to provide more diverse employment for our increasing population and reduce the need for our residents to travel outside the District for work"**

Vision For Banbury

7.14 The CDLP also includes a Vison for Banbury in 2031:

> **"By 2031, Banbury will have become a larger and more important economic and social focus for its residents, for business, and for a large rural hinterland. The town will have a more diverse economic base and new employment areas will have been established with levels of deprivation reduced"** [C.130].

The Strategic Objectives of the Plan

7.15 In respect of developing a sustainable local economy the Strategic Objective is:

> **SO 1 - To facilitate economic growth and employment and a more diverse local economy with an emphasis on attracting and developing higher technology industries.**

7.16 From the foregoing it is agreed that economic growth is a key planning issue for the District.

The Spatial Strategy of the Plan

7.17 The Spatial Strategy of the Plan is that most of the growth in the District will be directed to locations within or immediately adjoining the main towns of Banbury and Bicester (Paragraph A11).

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> **"Banbury will continue to grow, albeit to a lesser extent than Bicester, in accordance with its status as a market town with a rural hinterland."**

7.18 It is agreed that the proposals are consistent with the spatial strategy in this regard.

Sustainable Local Economy

7.19 The Plan recognises that the key challenges to achieving a sustainable local economy in Cherwell include, inter alia, a requirement for new employment sites to meet modern business needs (paragraph A.14). It also recognises that there is insufficient diversity within the local economy, an overdependence on a declining number of manufacturing jobs and a need to respond to a growing and ageing population.

7.20 Paragraph B.32 of the Local Plan states that:

> **"We will support the logistics sector, recognising the jobs it provides and the good transport links that attracts this sector"**

The Presumption in Favour of Sustainable Development

7.21 **Policy PSD1** outlines the Council's approach to sustainable development.

> **When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions that mean proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.**
>
> **Planning applications that accord with the policies in this Local Plan (and where relevant with policies in neighbourhood plans) will be approved without delay.**
>
> **Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise, taking into account whether:**
>
> > **i. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or**
> >
> > **ii. Specific policies in that Framework indicate that development should be restricted.**

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7.22 **Policy PSD1** enshrines the PFSD in the Development Plan, although it should be noted the Policy predates the revisions to the NPPF in 2018 and 2021.

Location of Employment Development

7.23 **Policy SLE1** relates to new employment development and states inter alia that:-

> **"Policy SLE 1: Employment Development**
>
> **…..**
>
> **Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations. New dwellings will not be permitted within employment sites except where this is in accordance with specific site proposals set out in this Local Plan. 45 Cherwell Local Plan 2011-2031 Part 1 Section B - Policies for Development in Cherwell**
>
> **Employment proposals at Banbury, Bicester and Kidlington will be supported if they meet the following criteria:**
>
> - **Are within the built up limits of the settlement unless on an allocated site.**
> - **They will be outside of the Green Belt, unless very special circumstances can be demonstrated.**
> - **Make efficient use of previously-developed land wherever possible.**
> - **Make efficient use of existing and underused sites and premises increasing the intensity of use on sites.**
> - **Have good access, or can be made to have good access, by public transport and other sustainable modes.**
> - **Meet high design standards, using sustainable construction, are of an appropriate scale and respect the character of its surroundings.**
> - **Do not have an adverse effect on surrounding land uses, residents and the historic and natural environment."**

Climate Change, Flooding and Water

7.24 **Policy ESD1** requires all development to be designed to be resilient to, and adapt to the future impacts of, climate change through the inclusion of adaptation measures where appropriate.

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7.25 **Policy ESD2** promotes the concept of an 'energy hierarchy' from reducing energy use to allowable solutions.

7.26 **Policy ESD3** states all new non-residential development will be expected to meet at least BREEAM 'Very Good', subject to review over the plan period to ensure the target remains relevant.

7.27 **Policy ESD4** states that all applications for non-domestic developments above 1000m2 floorspace should include a feasibility assessment for the use of decentralised energy systems, providing either District Heating or Combined Heat and Power.

7.28 **Policy ESD5** requires all applications for non-domestic developments above 1000m2 floorspace a feasibility assessment of the potential for significant on site renewable energy provision (above any provision required to meet national building standards).

7.29 **Policy ESD6** sets out the requirement for a flood risk assessment, including for all sites greater than 1ha in flood zone 1. Whilst **Policy ESD7** states that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off.

7.30 **Policy ESD8** seeks to safeguard water quality. Development will only be permitted where adequate water resources exist or can be provided without detriment to existing uses.

Natural Environment

7.31 **Policy ESD10** states that in considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources. Relevant habitat and species surveys and associated reports will be required to accompany planning applications which may affect a site, habitat or species of known or potential ecological value. An air quality assessment will also be required for development proposals that would be likely to have a significantly adverse impact on biodiversity by generating an increase in air pollution. Planning conditions/obligations will be used to secure net gains in biodiversity by helping to deliver Biodiversity Action Plan targets. A monitoring and management plan will be required for biodiversity features on site to ensure their long term suitable management.

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7.32 **Policy ESD13** states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.

7.33 **Policy ESD17** states the District's green infrastructure network will be maintained and enhanced by, inter alia, connecting the towns to the urban fringe and the wider countryside beyond.

Infrastructure Provision

7.34 **Policy INF1** states development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

7.35 **Policy SLE4** identifies improvements to M40 junctions as a key transport proposal. New development in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development. All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling.

Site Allocation Policies

7.36 Although not directly relating to the proposal the following employment allocations in the CDLP are of significance.

7.37 **Policy Banbury 6: Employment Land West of M40** allocates 35ha of land for a mixed employment generating development. The site is now nearing completion and is characterised by medium to large distribution warehousing units.

7.38 **Policy Banbury 15: Employment Land North East of Junction 11** allocates 13 hectares of land for mixed employment generating uses. This site is part under-construction and is subject of planning applications/permissions as detailed earlier. The supporting text for the Policy at para c.195 says that this is a highly sustainable location:-

> **"C.195…..Policy Banbury 15 therefore seeks to deliver this land for economic development in the interest of delivering jobs and investment in a highly sustainable location."**

Saved' policies of the Adopted Cherwell Local Plan 1996

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7.39 'Saved' policies of the Adopted Cherwell Local Plan 1996 remain part of the statutory Development Plan to which regard must be given in the determination of planning applications.

7.40 The saved policies are those that were originally saved on 27 September 2007 and which have not been replaced by policies within the Adopted Cherwell Local Plan 2011-2031 (Part 1). Appendix 7 of that Plan lists those policies that have been replaced.

7.41 **Saved Policy C28** states the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban area or rural context of the area.

7.42 **Saved Policy ENV1** seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution, including that caused by traffic generation.

7.43 **Saved Policy C8** states the Council will resist sporadic development in the countryside. This will apply to all new development proposals beyond the built-up limits of settlements including areas in the vicinity of motorway or major road developments. The Council will resist such pressures and will where practicable direct development to suitable sites at Banbury or Bicester.

7.44 **Saved Policy TR1** requires the necessary highway improvements and traffic management measures and other transport measures as necessary for the development to proceed.

Emerging Development Plan Documents

The Emerging Local Plan

7.45 The Council is producing a new Local Plan to meet Cherwell's needs. The consultation draft of the Cherwell Local Plan Review 2040 was prepared to prompt discussion and feedback on new planning policies to guide the delivery of sustainable development across the district. Public consultation was held between Friday, 22 September 2023 and Friday, 3 November 2023.

[**to be updated closer to the inquiry**]

7.46 As the emerging plan is still at a very early stage in the plan making process, it is agreed that should be afforded [xx weight].

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Neighbourhood Plans

7.47 It is agreed that there are no designated Neighbourhood Plan Areas that cover the appeal site.

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8. MATTERS NOT IN DISPUTE

8.1 This section sets out the matters that are not in dispute between the Appellant and the LPA.

Format of Planning Application and Supporting Material

8.2 It is agreed that the format of the planning application forms, plans and the supporting documents fulfilled the requirements of the various regulations and validation checklists, applicable at the time of submission.

8.3 It is agreed that the LPA agreed to register the application as an outline application with all matters of detail reserved for subsequent determination.

8.4 It is agreed that the LPA did not exercise its powers to request that any of the Reserved Matters be unreserved.

Environmental Impact Assessment

8.5 It is agreed that the proposals are supported by an Environmental Statement (ES), including Supplementary Environmental Information and that the LPA is content that the ES met the procedural requirements of the EIA Regulations.

Development Plan Designations

8.6 It is agreed that Banbury is identified as a Market Town in the Local Plan.

8.7 It is agreed that the appeal site adjoins the built-up area of Banbury.

8.8 It is agreed that the appeal site is not situated within any designated landscape.

8.9 It is agreed that there are no ecological designations directly affecting the site.

8.10 It is agreed that the site is not located within or adjacent to a Conservation Area.

8.11 It is agreed that the site is not designated as Local Green Space or any kind of Local Gap or Strategic Gap.

8.12 It is agreed that the site is not currently located within a defined settlement boundary and it will therefore be considered as "countryside" in planning policy terms.

8.13 It is agreed that the appeal site is not allocated for any development purpose in the adopted Development Plan.

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The Principle of Development

8.14 It is agreed that securing the economic future of the District is the main priority of the CDLP [p.10].

8.15 It is agreed that Spatial Strategy of the CDLP is that most of the growth in the District will be directed to locations within or immediately adjoining the main towns of Banbury and Bicester [Paragraph A11]. It is agreed that the proposals are in general accordance with the Spatial Strategy in this regard.

8.16 It is agreed that the CDLP states that it will support the logistics sector, recognising the jobs it provides and the good transport links that attracts this sector [B.23].

8.17 It is agreed that the CDLP describes the neighbouring Frontier Park site (Site Allocation 15) as a highly sustainable location.

8.18 It is agreed that the strategic road network can be readily accessed from the appeal site and be done so avoiding lorry movements through residential areas.

8.19 It is agreed that the HELAA concludes that the site is suitable for employment development.

8.20 It is agreed that the proposals are in general conformity with CDLP Policy SLE.1 which relates to employment development.

8.21 It is agreed that the policies of the Development Plan do not reflect more up to date policy and guidance in the NPPF and PPG which relates to logistics development.

8.22 It is agreed that Policy C8 which relates to development in the countryside and in the vicinity of motorway junctions is out of date and should only be afforded limited weight in this case.

8.23 It is agreed that the positive social and economic benefits of the proposals are substantial in terms of investment, job creation, upskilling and diversification of the local economy.

8.24 It is agreed that the logistics industry plays a critical role in enabling an efficient, sustainable and effective supply of goods for consumers and businesses, as well as contributing to local employment opportunities, and has distinct locational

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requirements that need to be considered in formulating planning policies (separately from those relating to general industrial land).

8.25 It is agreed that strategic facilities serving national or regional markets are likely to require significant amounts of land, good access to strategic transport networks, sufficient power capacity and access to appropriately skilled local labour.

8.26 It is agreed that that it will be important to understand whether there are specific requirements in the local market which affect the types of land or premises needed including logistics activities.

Need and Demand for the development

8.27 [Likely to be a separate SoCG]

Prematurity

8.28 It is agreed that the LPA does not raise any objection on grounds of prematurity.

8.29 It is agreed that the emerging development plan is not at an advanced stage and that the proposals are not regarded as premature or prejudicial in relation to the progression of any emerging plan.

Highways and Access

8.30 [Likely to be a separate SoCG].

8.31 It is agreed that the proposals would not have an unacceptable impact on highway safety and that the residual cumulative impacts on the road network would not be severe.

8.32 It is agreed that the appeal proposals could provide for safe and suitable means of access for all users.

8.33 It is agreed that the opportunities for sustainable transport modes have been taken up.

8.34 It is agreed that the site is suitably located in relation to services, facilities and residential areas.

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Landscape and Visual Impact

8.35 [assume there will be a separate SoCG]

Master Planning

8.36 It is agreed that the planning application was submitted in outline with access, layout, appearance, scale and landscaping of the development reserved for future consideration.

8.37 It is agreed that the detailed design and layout of the scheme is capable of being addressed at the Reserved Matters stage.

8.38 It is agreed that the quantum of development is acceptable subject to other development control criteria being met.

Impact on Residential Amenity

8.39 It is agreed that the appeal proposals would not give rise to an unacceptable impact in terms of loss of privacy or overlooking for existing or future residents. Such matters can be addressed at the reserved matters stage

Public Rights of Way

8.40 It is agreed that the LPA raise no objections on grounds relating to public rights of way.

Ecology and BNG

8.41 Ecology and BNG

8.42 [assume there will be a separate SoCG]

8.43 It is agreed that the proposals present opportunities for mitigation and biodiversity enhancement. It is agreed that this can be secured by condition.

Trees and hedgerows

8.44 It is agreed that there would be no unacceptable impacts upon trees and hedgerows.

8.45 It is agreed that the proposals provide opportunities for new tree and hedgerow planting.

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Built Heritage

1.3 It is agreed that there are no designated heritage assets within the appeal site.

8.46 It is agreed that the appeal site is not located within or adjacent to a Conservation Area.

8.47 It is agreed that there are no listed buildings within the vicinity of the appeal site that the Council asserts would be adversely affected by the proposals.

Archaeology

8.48 It is agreed that there is no objection raised by the LPA on archaeological grounds.

8.49 It is agreed that such matters can be addressed by condition.

Contamination

8.50 It is agreed that there is no objection on contamination grounds, subject to conditions.

Infrastructure

8.51 It is agreed that any off-site infrastructure requirements can be addressed through Section 106 obligations.

8.52 It is agreed that, subject to the above, the LPA presents no evidence that the appeal proposals would have an unacceptable adverse impact on local community infrastructure.

8.53 It is agreed that no statutory consultee identified any insurmountable infrastructure capacity concerns that could not be resolved through conditions or Planning Obligations.

Flood Risk and Drainage

8.54 It is agreed that the appeal site is located within Flood Zone 1 (the zone with the least probability flooding).

8.55 It is agreed that there is no objection to the proposal on grounds of flooding and surface water matters, subject to the imposition of conditions.

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Foul Water

8.56 It is agreed that foul water is not a planning issue as it is dealt with under other legislation.

Air Quality

8.57 [assume there will be a separate SoCG]

Noise

8.58 It is agreed that there is no objection on noise grounds.

Benefits

8.59 It is agreed that the proposed development would secure the following benefits:

- Economic investment and expenditure on construction
- Creation of permanent employment (c1,900 FTE)
- Creation of temporary construction jobs
- Opportunities for training and upskilling
- Financial contributions towards off site infrastructure
- New green infrastructure including native planting
- Biodiversity enhancements

8.60 All benefits and the weight attributed to them will be assessed in evidence.

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9. MATTERS THAT ARE NOT AGREED AND REMAIN IN DISPUTE

9.1 The issues that remain in dispute between the Appellant and the LPA can be narrowed down to the following [**LPA to confirm**]:

Issue 1 The need and demand for the development and the economic benefits (RfR1)

Issue 2 The principle of development in this location (RfR 1 & 12)

Issue 3 Traffic and Transportation (RfR 2,3,4,5,6,7 &9)

Issue 4 Landscape and Visual Impact (RfR 1 &11)

Issue 5 Air Quality (RfR 8)

Issue 6 Ecological Impact and Biodiversity (RfR 13 & 14)

Issue 7 Drainage (RfR 10)

9.2 [The disputed matters can be fleshed out in more detail in the separate SoCGs and following further discussions with the LPA].

Other Matters

9.3 [In due course the parties can articulate the areas of disagreement in further detail]

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10. PLANNING CONDITIONS AND OBLIGATIONS

10.1 An agreed set of conditions will be provided to the Inspector before the start of the Public Inquiry for both appeal Sites.

10.2 The Appellant will also present deeds pursuant to Section 106 of the Town and Country Planning Act which will secure the planning obligations that are deemed necessary to make the development proposals acceptable.

10.3 The Planning Obligations will be based on the following agreed Heads of Terms:

- **[Xx]**
- **[Xx]**

10.4 It is agreed that the onus rests with the LPA to demonstrate that any planning obligations that are sought meet the legal tests set out in the CIL regulations.

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