

To: Mr. David Peckford and Planners  
Planning & Development  
Cherwell District Council

Re: Planning Application 25/01346/OUT: The Land Behind the Moors.

## JUSTIFICATION FOR GOING TO JUDICIAL REVIEW IN THE CASE OF THE DEVELOPMENT BEING APPROVED

18 August 2025

### 1. THIS LAND IS GREEN BELT

1.1. **Green Belt.** The NPPF says that the Government attaches 'great importance' to Green Belts (§142) and that once established their boundaries should only be altered in 'exceptional circumstances' that are 'fully evidenced and justified through the preparation or updating of plans' (§145). The land in question has to a marked degree the 'openness' that characterises a Green Belt. Other than two small villages there is no built environment for many miles, there being outstanding views West, North and East. To the North lies the Cherwell Valley Conservation Target Area, to the East St Mary's Fields Nature Reserve, beyond that the Branson estate. Further, of Green Belt boundaries NPPF §149 comments that they should be 'define[d] clearly, using physical features that are readily recognisable and likely to be permanent'. This is at present the case: there is a clear line of demarcation with drainage channels and high fences marking the boundary between the built environment and, commencing with these fields, the countryside beyond. This would not in the same way be the case were the five fields closer to the road (of the nine fields which form a geographical and ecological unit) to be developed.

1.2. **Not a 'grey belt'.** The NPPF glossary defines 'grey belt' as land that has previously been developed (as this land has not) **and/or land that does not contribute to purposes listed in §143, which include the 'setting and special character' of historic towns** (which it is clear from elsewhere includes various kinds of settlements). Kidlington is a historic settlement; it is in Domesday Book. The land which would be developed lies immediately adjacent to its historic centre. In their report Historic England, the statutory consultee, write that their primary concern is 'the impact the scheme would have on the setting of Church Street Conservation Area and the Grade I listed St Mary the Virgin Church. The Church Street Conservation Area covers the historic medieval core of Kidlington, which St Mary the Virgin Church is the focal point of'. 'Impact' consists in impact on views, not just on the building itself (see Historic England's 'The Setting of Heritage Assets', 2<sup>nd</sup> edn.). In their consultee report Historic England classify the proposed development's harm as 'less than substantial', their median classification, and not as causing 'no harm' as the applicants claim. Thus this land cannot, as the applicant claims, be classified as 'grey belt'. Furthermore even were the land to be considered 'grey belt' it would have to be shown, NPPF §155, (a) that the development 'would not fundamentally undermine the purposes... of the remaining Green Belt across the area' and (b) that there was 'a demonstrable unmet need for the type of development proposed'.

**1.3 The Setting of Heritage Assets.** The NPPF (§203), and in accordance with this Historic England's guidance, make clear that it is the setting of heritage assets that is of import, not just the asset itself. What Kidlington is known for is the view of the church from the surrounding fields and from further afield. 'The Church Street Conservation Area Appraisal' comments: 'The slender spire of St Mary's Church is a magnificent focal point from all directions.' It continues, that Kidlington 'was a distinctively rural agricultural settlement. The close connection of the core of the village with the surrounding landscape farmed from it is essential to understanding the history of the Conservation Area. Furthermore, the rural context also greatly enhances the aesthetic appeal of what is a very attractive group of buildings, [with] the church spire being the landmark feature from within the village and the rural hinterland alike.' While the Cherwell Local Plan 2042 states (§6.38): 'The 13<sup>th</sup> Century Grade 1 Listed Church of St Mary the Virgin is the focal point of the Church Street character area, prominent in views from across the flood meadows of the River Cherwell and forms an important view to the wider setting of Hampton Poyle Conservation Area north of the River Cherwell.' Further the 'Church Street Conservation Area Appraisal' speaks of 'expansive vistas out of the church yard', giving a photograph of the view out onto the fields to the West that would be lost.

**1.4 Footpaths.** The footpaths (PROWs) are of historic significance; one cuts across the middle of a field for it will have been used by worshippers coming from Thrupp (which did not have a church of its own). They are presumably ancient. PROW 265/15/10 is shown on a map of 'The Parish of Kidlington and Township of Thrup' dating from 'the 50<sup>th</sup> year of his present Majesty King George 3<sup>rd</sup>' (possibly actually from 1809) while PROW 265/17/10 is present on the map of 1810 drawn up before the Enclosure Act of 1818. Built on the site of a smaller Saxon church, the present church dates from 1220. Since the fifteenth century people will have viewed the magnificent spire, known as 'the Virgin's needle' (more perfect than that on Salisbury cathedral as has been said), across the fields. This view across the fields to St. Mary's has frequently attracted painters. (We recently unearthed an ink drawing by William Turner of Oxford dating from c. 1820–1830 with St. Mary's spire on the horizon.) Therefore it is not correct to say, as does the applicant's 'Settings' document, that 'the site does not ... have any surviving ... relationship with the Church that is intrinsic to the story and heritage significance of the Listed Building. The way in which the Church and its historic enclave is experienced will be unchanged'. In the case of this Church as historic monument the very opposite is the case.

**1.5 Conclusion.** It was on account of the land being Green Belt that it was not included by CDC among those parcels of land considered developable in LP2042. Both the Local Plan and the Local Plan Review (22 June 2025) cite the 'Church Street Conservation Area Appraisal' and the 'Kidlington Masterplan 2016' as supporting documents. It would be wholly 'inappropriate' (to employ NPPF's term) were it the case that, looking towards the church from PROW 265/15/10, one were to be confronted by three-storey modern housing. NPPF §153 states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. While NPPF §198 states: 'Planning policies and decisions should ... ensure that that new development is appropriate for its location taking into account ...the potential sensitivity of the site or the wider area ... In doing so they should ... identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.'

## 2. THE INCOMPLETE NATURE, OR INADEQUACY, OF THE APPLICATION AND OF CDC'S ENQUIRIES.

The consultee responses are punctuated by matters in need of further study or investigation. A list of some of these follows.

**2.1. The Heritage Aspect of the historic centre of Kidlington and the Grade 1 listed St. Mary's Church.** The NPPF §205 states that: 'Local planning authorities should maintain or have access to a historic environment record. This should ... be used to assess the significance of heritage assets and the contribution they make to their environment.' As Cllr Dorothy Walker in her consultee report as Ward Councillor comments, CDC has not done this, nor did it do so for the preceding 2024 EIA Screening Opinion application, notwithstanding the importance of Kidlington's Grade 1 Listed asset, St. Mary's Church.

**2.2. OCC Highway response,** making various critical comments concludes: 'Highway Objection. As the submitted information is currently insufficient, the Highway Authority is unable to positively support at this time. The application must provide the necessary revisions to allow us to progress with our assessment.'

**2.3. OCC as Flood Authority** comments that 'winter ground water monitoring records showing peak ground water levels should be submitted' (? which suggests it may be necessary to wait until winter). It should be said that in recent years there has been extensive flooding of all these fields every winter and spring making any assertion to the contrary disingenuous.

**2.4. CDC Ecology.** Their first response is an objection. Among other objections is that an outdated metric has been used to assess biodiversity net gain, while consideration of the pond has been entirely omitted. It is considered that due diligence has not been carried out, such that the proposed development's impact on nature has in all likelihood been underestimated. In their second response they say only that one of their former questions (LEMP) was satisfactory. What of responses to the other objections?

**2.5. Environmental Health** say of land contamination: 'The submitted Ground Investigation report covered flood risk and drainage matters but made no comment on the suitability of the site with regard to land contamination.' In this respect it may be noted that the undulations in a field adjacent to the potential development (nearer to the river, three across from the church) are the result of quarrying, the resultant pits having been subsequently infilled with refuse, hence the name given to that field 'Ash Pit Field'. (A. S. Fairey, 1961). The late Victorian waste and bottles in it give off gas, such that it cannot be built upon.

**2.6. BBOWT** posits an array of issues. They comment for example that 'updated bird and bat surveys should be assessed before this planning application is decided upon'.

**2.7. Thames Water** comments that the water supply is not at present adequate; that homes can only be built on condition that they are not occupied until supply problems are resolved.