



**APPEAL BY  
CALA HOMES (MIDLANDS) LIMITED**

**RELATING TO THE REFUSAL BY CHERWELL DISTRICT COUNCIL OF AN OUTLINE  
PLANNING APPLICATION FOR UP TO 200 RESIDENTIAL UNITS, ACCESS,  
AMENITY SPACE AND ASSOCIATED WORK INCLUDING NEW VILLAGE SHOP/  
HALL**

**AT LAND AT  
SOUTH LODGE, FRINGFORD ROAD, CAVERSFIELD, BICESTER, OX27 8TH**

**SUMMARY PROOF OF EVIDENCE**

Prepared by:

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Reference: BIR.4382 Date: February 2014

Appeal Ref: APP/C3105/A/13/2208385

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**1. PERSONAL BACKGROUND AND INTRODUCTION**

- 1.1 My name is Anthony Charles Bateman. I hold a Bachelor of Arts with Honours Degree in Town and Country Planning from the Victoria University of Manchester. I am a Member of the Royal Institution of Chartered Surveyors, within the Planning and Development Division; a Member of the Royal Town Planning Institute; a Member of the Chartered Institute of Management; a Member of the Institute of Directors; and also a Fellow of the Royal Society of Arts. I am currently Managing Director of the Pegasus Group and of the Pegasus Planning division.
- 1.2 Up until October 2003 I was employed by RPS as an Operational Director and had direct responsibility for the Company's Midlands Office. In this position, which I held for over seven years, part of which was as a Partner of Chapman Warren, I advised and still do advise a variety of different companies and organisations, including a number of the country's major developers.
- 1.3 For eleven years I worked for one of the country's major house building and property developers in the position of Chief Planner, being responsible for the management of the Planning Department of the Company. I was also a member of the senior management team giving detailed advice on development appraisal and investment decisions. In addition I was a member of the national planning committee of the House Builders Federation. Prior to this I worked for six years for a national firm of Chartered Surveyors and Planning Consultants, within the Town Planning and Development Department and engaged in all aspects of town planning.
- 1.4 This evidence is written on behalf of CALA Homes (Midlands) Ltd. For the purposes of the rest of this evidence CALA Homes (Midlands) Ltd constitute the appellants. This Proof of Evidence relates to land at South Lodge, Fringford Road, Caversfield.
- 1.5 The evidence contained within this proof of evidence which relates to this appeal is true and given in accordance with the guidance of my professional institutions. I confirm that the opinions expressed are my true and professional opinions.

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## **2. SUMMARY AND CONCLUSION**

2.1 This evidence has considered the reasons given by Cherwell as to why they refused the application at Caversfield, Bicester. Within my evidence I have considered the aspects identified in the reasons, the development plan position, the NPPF, relevant material considerations, housing land supply and other considerations.

### **Planning Policy Background**

2.2 The RS has now been revoked, there are policies in the District Local Plan regarding housing land requirements but these policies are out of date, therefore in accordance with the Hunston judgment housing supply needs to take account of the policy set out in the NPPF and the most up to date information that is available.

2.3 In respect of national guidance the NPPF sets out information in respect of the calculation of housing requirements and also sets out the need to boost significantly the supply of housing and ensure that the full objectively assessed needs for market and affordable housing are met in the area. In considering the supply of land sites have to be deliverable and developable. Specific deliverable sites have to be shown for 5 years together with developable sites for a further 5 years and where possible for years 11 to 15. In addition a buffer of 5% needs to be provided, or a buffer of 20% where there has been a record of persistent under delivery of housing.

2.4 Where a Local Planning Authority cannot demonstrate an up to date 5 year supply of deliverable sites then paragraph 49 states that relevant policies for the supply of housing should not be considered to be up to date and in those circumstances paragraph 14 states that permission should be granted unless there is a specific reason which restricts development.

2.5 The NPPF also sets out policies in respect of landscape, biodiversity and also the treatment of heritage assets (section 12) that are relevant to this appeal.

2.6 Also of relevance is the March 2011 Ministerial Statement which plans for growth and supports the provision of housing.

2.7 The **Cherwell Local Plan** only contains policies that deal with the situation up to 2001. The policies referred to in the reasons for refusal in the Local Plan, H15, H18, C7, C8, C28 and C30 are all policies which are either a) out of date because the plan expired in 2001, b) are out of date because they relate to policies which relate to the supply of housing land and there is an acknowledged shortfall in the five year supply of housing land, therefore paragraph 49 of the

NPPF becomes operative, c) are of little weight because they are not consistent with the framework, or, d) are design polices which can be dealt with by the reserved matters application.

- 2.8 The **emerging Cherwell Local Plan** has only recently been submitted to the Secretary of State. It is subject to a number of significant objections and can only be afforded little weight at present.

### **The Development Plan and the NPPF**

- 2.9 The Authority have accepted that they have not got a five year supply of housing. In that situation the NPPF is clear under paragraph 49 that the relevant polices for dealing with housing supply are therefore to be considered as out of date. In those circumstances reference needs to be made to paragraph 14 of the NPPF, which requires where relevant polices are out of date that applications are to be permitted unless one of two caveats apply. The situation here is that there is no specific policy which indicates that development should be restricted, so permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (taking account of the three dimensions to sustainable development).
- 2.10 In view of the fact that the Regional Strategy has been revoked the Local Plan has now expired in respect of housing supply, the 2011 based interim SNHP are the best available base evidence in order to determine the full objectively assessed housing figure.
- 2.11 Policy H15 deals with development in category 3 settlements. This does not apply to the appeal site because it should be treated as part of the Bicester urban area. In any event it is out of date. Policy 18 is also out of date, there is a clear need for housing to be provided in the countryside outside of settlement boundaries and the appeal site is well located in a sustainable location to meet those needs. In respect of Policy C7 this policy is not in conformity with the NPPF, nevertheless the proposals accord with the policy in that there will be no demonstrable harm to the topography and character of the landscape. In respect of Policy C8 the development does not constitute sporadic development in the countryside. In addition the policy is out of date and out of conformity with the NPPF.
- 2.12 Polices C28 and C30 are both design polices that can be dealt with properly through the consideration of reserved matters. The development can accord with these polices. Policy R12 deals with public open space provision in developments. The appeal proposals are in outline and the matter can be dealt with at the reserved matters stage with necessary contributions dealt with in the unilateral undertaking.

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- 2.13 There are no policies dealing with the conservation area in the local Plan. However the appeal proposals will not result in any harm to the setting of the conservation area. They therefore preserve the setting of the conservation area. In addition the proposals will not result in any harm to the setting of the listed buildings.
- 2.14 The emerging plan policies are of little weight in respect of the consideration of this appeal. Policy ESD 13 is considered not to be consistent with the NPPF notwithstanding this point the development does respect the local landscape character. Policy ESD 15 deals with Green Buffers it is also a policy that is not consistent with the NPPF, in that it also seeks to restrict development in a manner that does not accord with the approach set out in the NPPF. In addition the appeal proposals does not conflict with the purposes of the Green Buffers either as set out in the Bicester masterplan or as set out in the Bicester Green Buffer report. There is also no conflict with ESD16, ESD 18 or Villages 1 and 2.
- 2.15 I have shown in the evidence that the appeal proposals constitute sustainable development. In respect of Paragraph 14 of the NPPF the appeal proposals are to be considered against the second bullet point of paragraph 14. There are no policies in the NPPF which indicate that development should be restricted. Permission should therefore be granted unless the adverse impacts significantly and demonstrably weigh against the benefits.
- 2.16 The material considerations set out in this evidence which in the planning balance weigh in favour of the appeal proposals are:
- The development constitutes sustainable development
  - Paragraph 14 of the NPPF is clear that development proposals that accord with the development plan should be approved without delay
  - Paragraph 49 of the NPPF states that where there is a lack of a five year supply of housing land then relevant policies for the supply of housing should not be considered up to date
  - Where policies are not up to date then paragraph 14 of the NPPF applies and planning permission should be granted unless the impacts significantly and demonstrably outweigh the benefits or unless there are specific policies in the NPPF which restrict development
  - Bicester is a main focus for development in the Authority
  - That Caversfield forms part of the Bicester urban area
  - There is less than a five year supply of housing available
  - There is an identified need for affordable houses
  - The encouragement within the March 2011 Ministerial Statement and the NPPF for LA's to grant permission for housing to encourage economic growth
  - The need to boost significantly the supply of housing set out in the NPPF
  - There is no harm to the RAF Bicester Conservation Area

- There is no, or at the worst minimal harm, to a designated heritage asset as a result of this development, it preserves the setting of the listed buildings
- The capacity of the landscape around the site to accept the proposed development together with the improvements in landscape resources
- There are clear benefits in respect of ecology that arise from the development proposals
- The lack of any constraint that cannot be accommodated by S106 obligations that would prohibit development now
- The lack of availability for housing on existing brownfield sites that requires the release of greenfield land

### **Supply of Housing Land**

- 2.17 The Local Authority acknowledge that they cannot show a five year supply of housing
- 2.18 The tables in my Appendix indicate a number of ways of calculating housing supply based on housing requirement figures using policy advice and based on the most up to date information. In respect of the appellants supply figure, there is between **1.74 to 1.98 years supply** taking account of the 20% buffer required by NPPF.
- 2.19 Utilising the Local Authority supply figures the years supply situation improves to between **2.59 years and 2.95 years supply** taking account of the 20% buffer.
- 2.20 The NPPF is clear that where there is not a five year supply of housing land the policies should not be considered to be up to date. In those circumstances planning permission should be granted provided that the development is not restricted by other policies in the NPPF.

### **Affordable Housing**

- 2.21 There is a significant under provision of affordable housing against the established need figure and an urgent need to provide affordable housing in Cherwell. Given the continuing shortfall in affordable housing provision, the provision of this affordable housing is a clear material consideration of weight that mitigates in favour of the site being granted planning permission.

### **Legal Agreement Requirements**

- 2.22 The appeal proposals seek to make full provision for those elements that are reasonably related to the proposed development.

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### **Other Material Considerations**

- 2.23 It is not considered that there are any issues that have been raised by local residents or other objectors that create material considerations that would indicate that permission should not be forthcoming on this site.

### **Planning Balance and Sustainable Development**

- 2.24 The evidence has shown that there would be limited harm to landscape and no harm to the conservation area.
- 2.25 In favour of the appeal proposals are a number of aspects. There is a need to rectify a significant shortfall in the five year supply of housing in the District. There is the significant shortfall in affordable housing provision in the District and the contribution this site will make to that shortfall in provision. The development as a whole would be well located in terms of proximity to the existing settlement and within easy reach of local services and facilities. Also of importance is that the NPPF seeks to boost significantly the supply of housing. Lastly it would have benefits to both the national and local economy. The evidence has considered the three dimensions of sustainable development and found that the proposals accord with these elements. The planning balance weighs in favour if a grant of permission on this site.

### **Conclusion**

- 2.26 The proposal which constitutes sustainable development falls to be considered against paragraph 14 of the NPPF. In a consideration of the overall balance relating to planning issues on this site, there is not a five year supply, the related housing policies are not to be considered to be up to date and therefore permission should be granted in accordance with paragraph 14 of the NPPF, the adverse impacts of the development proposals not being sufficient to significantly and demonstrably outweigh the benefits of the appeal proposals. In my view planning permission should be granted for this development.