



# *Cherwell*

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

## **CHERWELL DISTRICT COUNCIL**

### **TOWN AND COUNTRY PLANNING ACT 1990**

Appeal by Hollins Strategic Land against Cherwell District Council's refusal to grant outline planning permission for a resubmission of application 17/02394/OUT for a development of up to 40 dwellings (all matters reserved other than access) with associated landscaping, open space and vehicular access off Berry Hill Road, on the southern edge of Adderbury, in north Oxfordshire

Appellant	:	Hollins Strategic Land
Appeal Site	:	OS Parcel 9100, land adjoining and east of 'Last House' and north of Berry Hill Road, Adderbury, near Banbury, Oxfordshire, OX17 3HF
Appellant's Agent	:	Matthew Symons
LPA Reference	:	19/00963/OUT
Planning Inspectorate Reference	:	APP/C3105/W/20/3255419

## **COUNCIL'S STATEMENT OF CASE**

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&

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## **1. INTRODUCTION**

- 1.1 This evidence has been prepared on the Council's behalf jointly by Andrew Bateson and Max Askew. Andrew holds a BSc (Hons) degree in Town and Regional Planning and has been a full Member of The Royal Town Planning Institute since 1998. He is employed by Cherwell District Council as Team Leader for Major Developments in the Council's Development Management team, having taken the role in November 2020. He has thirty-six years professional planning experience across both the public and private sectors. Max holds an MA in Landscape Architecture and is a Chartered Landscape Architect with over twenty years' experience across the UK, Europe and southern Africa.
  
- 1.2 This Statement of Case evidence is presented on behalf of Cherwell District Council, in support of its decision to refuse outline planning permission for a proposed development by Hollins Strategic Land of up to 40 new dwellings with associated landscaping, open space and vehicular access off Berry Hill Road of a greenfield site on the edge of the village of Adderbury.

## **2. PURPOSE AND SCOPE OF THIS STATEMENT OF CASE**

- 2.1 In this statement of case evidence, Andrew has dealt with the general planning and sustainability considerations that arise in this appeal, explaining why the proposal does not accord with development plan or national planning policy, with a focus on the weight of planning policies that the Council seeks to rely on, as well as providing a contextual view of other relevant planning decisions. He concludes by setting out why he and the Council consider the appeal proposal to be unacceptable and the adverse impacts would significantly and demonstrably outweigh any benefits.
- 2.2 Although Andrew's planning evidence mentions the landscape and visual impacts of the proposals in general terms (Refusal Reason 2) as part of the planning balance considerations, detailed evidence on this issue has been provided on the District Council's behalf by Max Askew of Askew Nelson.
- 2.3 This Statement of Case primarily focusses on Refusal Reasons 1 and 2: i.e. the unsustainability of the scale of development proposed and its location and the landscape harm that would be caused by development upon the rural character and appearance of the locality and the setting of Adderbury village, which fails to comply with the Development Plan and national planning guidance. Reason 3 relates to the absence of a satisfactory s.106 Planning Obligation Agreement dealing with community, drainage and transport infrastructure requirements necessary to mitigate development impacts. Such s.106 issues can potentially be addressed through a Statement of Common Ground(s) and the Appellant's signing of an agreed Deed of planning obligations.

**3. APPEAL SITE LOCATION AND PROPOSAL**

**Appeal Site Location**

- 3.1 The appeal site extends to 4 hectares (40,000m<sup>2</sup>) and lies to the south of the village of Adderbury, on the north side of Berry Hill Road, close to its junction with the A4260 but separated from it by a single field and a public right of way. It comprises agricultural/equestrian land surrounded by field hedgerows and trees. Along the eastern side of the site is a small stable block and haybarn complex and part of the land is currently used for associated equestrian purposes. To the south and east of the site are agricultural fields, to the west is residential development in the form of a ribbon of large detached houses set back from Berry Hill Road. To the north is further agricultural land, with a sewage treatment works close to the northern boundary of the site.
  
- 3.2 Public Right of Way (PRoW) footpaths extend all along the eastern and northern boundaries of the appeal site. The southern half of the site is largely flat but falls away significantly to the north. The southern edge of the Adderbury Conservation Area extends to within approximately 120m and 200m of the site's northern edge. There are views available from Berry Hill Road across the appeal site towards the Grade I listed Church of St Mary (as shown in the images below) and the site has been deemed to have some potential for archaeological interest.





3.3 Views north towards the church are also afforded from the PRoWs and views are also afforded west and south across the appeal site from both PRoWs, as shown in the images below.



Views of the appeal site from the two PRoWs to the east and north of the site

## **The Appeal Proposal**

- 3.4 The outline application was originally submitted as a resubmission of a 2017 application for 55 dwellings but was subsequently amended to a residential development of up to 40 dwellings. All matters are reserved for later approval apart from access. The application and this subsequent appeal was originally and is now accompanied by a range of information, including technical assessments and an indicative layout (revised as part of this appeal but still illustrative) which have sought to demonstrate that the development applied for could be accommodated.
- 3.5 The appeal relates to a refused planning application (CDC Ref: 19/00963/OUT) which sought planning permission for up to 40 dwellings (all matters reserved other than access) with associated landscaping, open space and vehicular access off Berry Hill Road.
- 3.6 Although the original application description made no explicit reference to the types or sizes of development proposed, the Appellant now specifies (and presumably will confirm through a signed s.106 Deed) that the forty proposed dwellings would include 35% affordable housing (14 units) and 5% built to Lifetime Homes Standards (2 units). The illustrative layout plans and the Appellant's support documentation suggests that over half of the application site (2.3ha – i.e. the northern rear sloping portion and a strip along the eastern flank boundary) would be left clear of development as landscaped public open space, including pathways, a surface water drainage pond and children's play areas. The forty proposed houses are suggested on the front 1.7ha (42.5%) portion of the appeal site, which would represent a net development density of 23.53dph on the developed part of the site. The Appellant has suggested that views would be kept open across the appeal site from the proposed points of vehicular and pedestrian access from Berry Hill Road towards the listed church.

#### 4. RELEVANT PLANNING HISTORY

- 4.1 The following planning history is considered relevant to the current proposal:
- 02/01009/F** – Erection of stable and hay barn and a manège and track to existing access – Application permitted;
- 05/01468/F** – 1 no. bungalow with associated access and re-site existing stables – Application refused;
- 06/00712/OUT** – Outline application for 5 no. detached dwellings, two terraces of 6 No. dwellings for affordable housing, new access, screened parking and amenity area – Application Refused & subsequent Appeal (Ref: **APP/C3105/W/06/2032232**) Dismissed;
- 17/02394/OUT** – Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road – Application Refused & Appeal Withdrawn.
- 4.2 Application 06/00712/OUT for five detached private dwellings and twelve terraced affordable dwellings in two terraces was the subject of a planning appeal that was subsequently dismissed. The reasons for the appeal being dismissed were predominantly due to the Inspector finding that the development would have a significant adverse impact on the character and appearance of the rural area and would conflict with policies which aim to control residential development within the countryside. Also, that the proposed houses would be provided in an unsustainable location.
- 4.3 An appeal was lodged against the refused application 17/02394/OUT, which was due to be heard at a Public Inquiry. The Council had begun some early work to prepare its case, but the applicant withdrew that appeal and submitted this proposal instead. When originally submitted, it proposed the same development and was supported by the same information as the refused application 17/02394/OUT. However, following discussion, the applicant/now Appellant indicated that they wished to amend the application in an attempt to overcome the reasons for refusal of 17/02394/OUT.



## 5. PLANNING POLICY CONSIDERATIONS

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”), states that applications for development must be determined in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in paragraph 11 of the National Planning Policy Framework (“NPPF”). Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that the NPPF does not change the statutory status of the Development Plan as the starting point for decision making.
- 5.2 The Development Plan consists of The Cherwell Local Plan 2011-2031 - Part 1, which was formally adopted by Cherwell District Council on 20 July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced numerous previously ‘saved’ policies in the adopted Cherwell Local Plan 1996, though many of its policies are retained and remain part of the Development Plan. On the 7<sup>th</sup> September 2020, the Council adopted The Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need and it too now forms part of the Development Plan. However, that review plan only deals with development around the north of Oxford in Cherwell District around Kidlington, Yarnton and Begbroke and therefore has no relevance to Adderbury and this appeal.
- 5.3 Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum (a ‘made’ plan) also forms part of the statutory development plan for the area. In this case, the appeal site falls within the Adderbury Neighbourhood Plan area, which was made in July 2018.
- 5.4 The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:
- CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)
  - PSD1 – Presumption in Favour of Sustainable Development;
  - SLE4 – Improved Transport and Connections;
  - BSC1 – District Wide Housing Distribution;
  - BSC2 – The Effective and Efficient Use of Land;
  - BSC3 – Affordable Housing;
  - BSC4 – Housing Mix □ BSC8 – Securing Health and Wellbeing;
  - BSC9 – Public Services and Utilities;

BSC10 – Open Space, Outdoor Sport and Recreation Provision;  
BSC11 – Local Standards of Provision – Outdoor Recreation;  
BSC12 – Indoor Sport, Recreation and Community Facilities;  
ESD1 – Mitigating and Adapting to Climate Change;  
ESD2 – Energy Hierarchy and Allowable Solutions;  
ESD3 – Sustainable Construction;  
ESD5 – Renewable Energy;  
ESD6 – Sustainable Flood Risk Management;  
ESD7 – Sustainable Drainage Systems;  
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment;  
ESD13 – Local Landscape Protection and Enhancement;  
ESD15 - The Character of the Built and Historic Environment;  
ESD17 – Green Infrastructure;  
Policy Villages 1 – Village Categorisation;  
Policy Villages 2 – Distributing Growth across the Rural Areas; and  
INF1 – Infrastructure.

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

H18 – New Dwellings in the Countryside;  
C8 – Sporadic development in the open countryside;  
C27 – Development in Villages to respect historic settlement pattern;  
C28 – Layout, design and external appearance of new development;  
C30 – Design control; and  
C33 – Protection of important gaps of undeveloped land.

#### ADDERBURY NEIGHBOURHOOD PLAN (ANP July 2018)

AD1 – Adderbury Settlement Boundary;  
AD2 – Green Infrastructure; and  
AD16 – Managing Design in Berry Hill Road and St. Mary's Road.

#### 5.5 Other Material Planning Considerations include:

National Planning Policy Framework (NPPF);  
Planning Practice Guidance (PPG);  
The Planning (Listed Buildings and Conservation Areas) Act 1990;  
Cherwell Residential Design Guide SPD (July 2018).

- 5.6 At the end of July 2020, the Council published a Community Involvement Consultation Paper as the first stage in its review of the Local Plan, in preparation for a new Local Plan to 2040. The Council also made a 'call for sites' and invited comments on a Sustainability Appraisal Scoping Report. The Paper did not contain any proposals or policy options but highlighted needs and issues to stimulate discussion. The consultation marked the commencement of a likely 3-year process with further stages of consultation to follow where the Council will review the policies in the existing adopted Local Plan, the relationship to the emerging Oxfordshire Plan 2050 and the replacement of the remaining saved policies of the 1996 Local Plan.
- 5.7 Given the early stage in their preparation, the emerging draft Local Plan and the draft Oxfordshire Plan carry no significant weight for this appeal.
- 5.8 Insofar as Development Plan policy is concerned the 2015 Local Plan and the 2018 Adderbury Neighbourhood Plan are both up to date and carry full weight. Insofar as the 1996 Local Plan policies are concerned, whilst they are of considerable age, they are nevertheless 'saved' policies that attract weight according to their consistency with more up to date national guidance and policy.
- 5.9 At the time that the application was refused in January 2020, the Council was able to demonstrate an adequate supply of housing land. However, it is acknowledged that from 1<sup>st</sup> April 2021, Cherwell can only demonstrate a 4.7-year land supply. Accordingly, the Council accepts that paragraph 11 of the NPPF is engaged, which places a presumption in favour of sustainable development.
- 5.10 Both the NPPF (National Planning Policy Framework) and PPG (Planning Practice Guidance) form National guidance and carry full weight as material considerations in the assessment of this appeal. The NPPF sets out the Government's definition of sustainable development and the policies through which it envisages the planning system will deliver this. It reinforces the plan-led system and has at its heart a presumption in favour of sustainable development. The PPG assists in the interpretation of National Planning Policy in the NPPF and its application to both plan making and decision taking. It also provides guidance on relevant planning legislation as well as details of best practice in the planning system to assist practitioners and the public with general development management and plan making matters.

## **6. REASONS FOR REFUSAL**

6.1 The Council's Planning Committee resolved to refuse the application on 12<sup>th</sup> March 2020. The three reasons for refusal for the application are as follows:

1. The development proposed, by reason of its scale and siting beyond the built-up limits of the village, in open countryside and taking into account the number of dwellings already permitted in Adderbury, with no further development identified through the Adderbury Neighbourhood Plan 2014-2031, is considered to be unnecessary, undesirable and unsustainable development. The site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs. The proposal is therefore unacceptable in principle and contrary to Policies ESD1, BSC1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
  
2. The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village (beyond the Adderbury Settlement Boundary as defined in the Adderbury Neighbourhood Plan 2014 - 2031) causing significant urbanisation and its visual impact on the rural character, appearance of the locality and local settlement pattern, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the Church of St Mary and the harm stemming from the proposals is not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, Policy AD1 of the Adderbury Neighbourhood Plan - 2014 - 2031 and Government guidance contained within the National Planning Policy Framework.

3. In the absence of the completion of a satisfactory S106 Planning Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan (2011-2031) Part 1 and the advice within the National Planning Policy Framework.

6.2 Reason for Refusal No.3 is the subject of ongoing negotiation with the Appellant to agree mitigation and financial obligations sought by Oxfordshire County Council and Cherwell District Council. Should a satisfactory planning obligation be completed, as we would hope, the Council could then withdraw the third reason.

6.3 The Council's decision to refuse was supported by Adderbury Parish Council, West Adderbury Residents Association and by several residents. The basis of their objections was summarised in paragraph 6.3 of the Committee report and are repeated below for ease of reference.

- Impact on character and appearance of area: The site is beyond the built-up limits of the settlement of Adderbury outside the residential settlement boundary as per the adopted Adderbury Neighbourhood Plan and would damage the landscape. The land is elevated overlooking the centre of the village. The proposal does not comply with Policy ESD13 of the Cherwell Local Plan.
- The village is struggling to maintain a sense of community taking into account other new developments. The village feels fragmented in terms of east and west. Green spaces within and between settlements are essential to retain the character of villages. Further urbanisation will destroy the villages rural atmosphere enjoyed by villages and visitors and would change the nature of West Adderbury. The development would be out of keeping with the character of Berry Hill Road and would affect the amenity of the adjoining properties.
- Previous developments have affected the character of the village and this is the last remaining uninterrupted view of the church and basin of the village. □ Principle of development: The site was rejected in the 2014 Strategic Housing Land Availability assessment and the 2017 Housing and Economic Land Availability Assessment.



Cherwell District Council has a five-year housing land supply and so there is no justification for committing development on unallocated land.

- Historically planning permission has been refused on the site and dismissed at appeal.
- Sustainability: It is in an unsustainable location. It is divorced from the centre of the village and the facilities the village has to offer and residents will be reliant on the car. The school is not in walking distance and is at capacity. Other facilities in the village are far from the site. The site has limited access to the village centre as the footpaths referred to are not well used and overgrown and are unsuitable for cycling or pushchairs.
- The village facilities have reduced with the closure of the village shop.
- Local bus services have reduced.
- Traffic & transport: There will be a significant increase in traffic including an increase in traffic movements exiting Berry Hill Road onto the A4260. There have been a number of accidents at this junction. Increased traffic would result in increased disturbance and pollution.
- Concerns over the conclusions of the transport statement compared to traffic surveys completed on behalf of the Parish Council.
- A new pathway is shown in a highly dangerous position taking into account traffic entering the village from both directions. The proposed crossing point in Horn Hill Road is close to the junction of three-way traffic and a blind corner.
- The footway at 2m wide would visually dominate and urbanise the well-maintained lawns. The position of the crossing at the Horn Hill Road end of the village is in a dangerous place with limited visibility and this is in the conservation area and adjacent to listed buildings and would impact negatively.
- Heritage: Views are available towards the historic St Mary's Church and Conservation area and this should be preserved.
- Archaeology: The site has some archaeological potential and so field evaluations should be undertaken.

Other matters raised:

- Flats must be the answer to housing.
- Concerned about the noise and disturbance the building work would cause.
- The school has struggled with space and has inadequate parking.
- There is an increased risk of flooding.
- Development will be detrimental to local wildlife.
- How does this proposal respond to climate change matters?

- The land is identified as Grade 2 agricultural land and a gasometer was removed so some pollution may be expected.
- Concern regarding the potential for the increase in crime.

6.4 The objections made by Adderbury Parish Council, as summarised in paragraph 7.2 of the Council's Committee report, were:

- There is no requirement for further development in the rural areas such as Adderbury and CDC has a 5.6-year housing land supply [that is no longer the case].
- The site is outside the village built up area and is contrary to CDC policies and Policy AD1 of the Adderbury Neighbourhood Plan.
- The proposal is an overdevelopment of the site.
- Development would detract from important views of the Church and the original and historic centre of the village.
- It would be detrimental to the amenity value of a number of footpaths and bridleways which cross this part of the parish.
- The proposed design does not reflect the character of the linear layout of existing dwelling along Berry Hill Road (subject of Adderbury Neighbourhood Plan policy AD16).
- The application could set a precedent.

If CDC was minded to approve the proposal, the PC requested that there should be provision for community benefit and a list of requests was made, including the following specific points:

- The new footpaths along Horn Hill Road are welcomed but residents should be consulted, and it should be narrow and in keeping with the area.
- The Parish Council has plans for traffic calming on Berry Hill Road and S106 funding for this would be welcomed.
- S106 contributions towards the Parish Council project on the Milton Road is sought.

6.5 Statutory consultees made numerous comments in respect to the development proposals and those are set out in paragraphs 7.3 to 7.29 of the Council's Committee report.

## **7. THE COUNCIL'S CASE**

7.1 In this section references made to matters concerning Refusal Reasons 1 and 3 have been prepared by Andrew Bateson and those in respect to Refusal Reason 2 have been prepared by Max Askew. The 'planning balance' considerations referencing all three reasons for refusal and the weighted balance of harmful and beneficial impacts has been prepared by Andrew Bateson. Planning permission for the proposed development was refused at the Planning Committee meeting on 20<sup>th</sup> January 2020 for the reasons detailed at paragraph 6.1 above. The Officer report and Minutes of the Committee were included in the Council's Appeal Questionnaire response.

### **Scale and Sustainability of Location – Refusal Reason 1**

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Insofar as this appeal site is concerned, the Development Plan for Cherwell includes the Cherwell Local Plan 2011-2031 (adopted in July 2015), the saved policies of the Cherwell Local Plan 1996 and the Adderbury Neighbourhood Plan 2014-2031 ("ANP"), which was 'made' on the 16 July 2018 following a referendum held on the 21 June 2018. These are all material in the consideration of planning proposals in the Parish of Adderbury and carry considerable weight.

7.3 The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and is not previously developed other than the current stables, which occupy just a small area on the eastern periphery of the site. The site sits outside the built-up limits of the village and beyond the defined Adderbury Settlement Boundary as set out in the made Neighbourhood Plan.

7.3 The application site is outside the built-up limits of Adderbury, and saved Policy H18 of the Cherwell Local Plan 1996 restricts development outside the built-up limits of settlements except in a number of defined circumstances; but none of which are applicable to this current appeal proposal. The proposals therefore conflict with Policy H18. In recognition of the fact that there is a need within the rural areas to meet local and Cherwell-wide housing needs, the Cherwell Local Plan 2011-2031 at Policy BSC1 allocates 2,350 homes for the 'Rest of the District'. Of those, 1,600 homes are allocated by Policy Villages 5 at the Former RAF Upper Heyford base leaving 750 homes

identified for windfall development elsewhere and Policy Villages 2 provides for these 750 homes to be delivered at Category A villages, which includes Adderbury. Category A villages are identified under Policy Villages 1 of the Cherwell Local Plan Part 1. Policy Villages 1 provides a categorisation of the District's villages to ensure that unplanned, small scale development within such settlements is directed towards those that are best able to accommodate limited growth. The Category A villages are those identified as being the most sustainable in the hierarchy of villages.

- 7.4 The appeal proposal does not, however, comply with the type of development identified as being appropriate under Policy Villages 1 due to the fact that the site is outside the built-up limits and outside the settlement boundary as defined by Policy AD1 of the ANP. Also, the proposed scheme of 40 dwellings would not represent minor development, being over the Policy Villages 1 10-dwelling threshold.
- 7.4 Policy Villages 2 identifies the Category A villages as being where planned development to meet District housing requirements to help meet local needs should be directed, subject to a detailed assessment as to the proportionate impact of development proposed upon the settlement in question and an assessment of the suitability of the specific site proposed. Policy Villages 2 is therefore the appropriate policy against which to assess this proposal. The intention of this policy approach is to protect and enhance services, facilities, landscapes and natural and historic built environments of the villages and their rural hinterlands whilst recognising the need for some development. The policy advises that these sites should be identified through the preparation of a Local Plan Part 2 (which has not yet been progressed) and through the preparation of Neighbourhood Plans and the determination of applications for planning permission. The policy lists a number of criteria that must be assessed when considering the development potential of sites, whether through plan making or the planning application process.
- 7.5 Adderbury's Neighbourhood Plan (ANP) was made in 2018, after the 2015 Local Plan and after the previous application for development on this site was refused. It includes policies that are material to the consideration of this appeal proposal, since it forms part of the Development Plan and was found to be consistent with both the Local Plan by the LPA and with national guidance by the neighbourhood Plan Examiner. The key policy in respect to this proposal is Policy AD1, which allocates the Adderbury Settlement Boundary and is defined on the ANP policies map.

- 7.6 AD1 states that *“development proposals will not be supported outside the Adderbury Settlement Boundary unless it is demonstrated they will enhance, or at least not harm, local landscape character. New isolated homes in the countryside will not be supported except in special circumstances described in paragraph 55 of the Framework. Proposals for the provision of affordable housing on rural exception sites immediately adjacent to the Adderbury Settlement Boundary will be supported where they meet an identified local need and relate well to the built form of the existing settlement”*.
- 7.7 In the Examiner’s report on the ANP, the Examiner concluded that policy AD1 *“is in general conformity with the strategic Policies of the Adopted Cherwell Local Plan Part 1 and provides an additional level of detail or distinct local approach to that set out in the strategic policies”*. He also concluded that it seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Examiner did not require the Plan to allocate further sites for housing development, noting that in the supporting text to policy AD1, reference is made to the scale of recently completed housing schemes and of the schemes that were shortly to be built out over coming years. The support text explains that the District Council did not consider it desirable or necessary for any additional major contribution from Adderbury on greenfield land on the edge of the village to meeting the needs of Local Plan Policy Villages 2 in the plan period. The Examiner noted the number of new dwellings already permitted in Adderbury at the time, acknowledging that the contribution from those sites amounted to a significant boost to the supply of housing. He also noted that there was potential for additional dwellings to be provided on infill plots or through redevelopment of sites within the settlement boundary, as the ANP does not place a limit on the number of homes that can be provided within its settlement boundary.
- 7.8 The LPA acknowledges that since the ANP was made and the application was refused the housing land supply position in Cherwell has changed. The District can presently only demonstrate a 4.7-year supply. The ANP confirms that in the event of the District’s housing supply strategy having to change before the end of the plan period, then its implications will need to be considered by the Parish and District Councils and the ANP may need to be reviewed. In practice, given the land supply position only emerged on 1<sup>st</sup> April, it has not been possible to review a formal policy response in the 5-week period running up to this appeal Hearing, particularly bearing in mind it is the pre-election period when purdah arrangements prevent consideration of substantive policy issues. The appeal proposal necessarily needs to be considered on its own merits, with relevant weight afforded to policies in the context of the position we now find ourselves in.



- 7.9 The NPPF confirms that there is a presumption in favour of sustainable development and for decision making this means approving proposals that accord with the development plan without delay. Where a proposal is not in accord with the Development Plan, as is the case here, the NPPF advises that there are three dimensions to sustainable development that require assessment; economic, social and environmental. With regard to housing, the NPPF supports the need to boost housing supply significantly to meet the full, objectively assessed need for housing. It requires LPAs to identify and annually update a supply of specific, deliverable sites sufficient to provide 5-years' worth of housing against the housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land. The Council's 2020 Annual Monitoring Report (AMR) confirms that the District can demonstrate a 4.7-year housing land supply (for the current period 2021-2026) with a 5% buffer, i.e. a 509-dwelling shortfall in the target figure of 7,643 over the period. The 'tilted balance' referenced at paragraph 11 d) of the NPPF is therefore acknowledged to be engaged.
- 7.10 That does not mean, however, that this appeal should automatically be allowed. Substantial weight is afforded to the benefit of providing more housing (40 in this instance, including 14 affordable) but that and any other benefit of development has to be balanced against the harmful impacts to determine whether development would be sustainable and if permission should be granted.
- 7.11 Adderbury is acknowledged as one of the largest Category A villages in Cherwell District in terms of size and it is one of the more sustainable in terms of its range of facilities and the transport connections available. Since 2014, the village has seen four large sites developed producing a total of 185 new dwellings. That represents virtually a quarter of the entire Policy Villages 2 rural requirement over the plan period and it is for this reason that the ANP does not allocate any further site for development at the village and why the LPA and Examiner both supported that decision., particularly bearing in mind the potential for further development or redevelopment within the built-up village limits.
- 7.12 The Council's latest 2020 AMR notes that over 3,000 new dwellings (>35%) have been completed in the last ten years outside the two principal settlements of Banbury and Bicester, which are proposed as the principal foci for development. This includes 1,766 (20.5%) on small non-strategic sites and a further 687 (7.9%) on larger windfall sites, in accordance with Policy Villages 2. That represents >90% of the 750-figure referenced in the policy in the first two-thirds of the plan period.

- 7.13 Allowing a further 40-dwelling urban expansion of Adderbury as an incursion into open countryside would exacerbate the divergence from the Plan's sustainable strategy of accommodating most new development at the principal settlements and restricting development elsewhere. It would also serve to further concentrate the rural development needs from across the entire District at just one of its villages.
- 7.14 Taking into account the above policy position with regard to the Council's overall housing strategy, delivery of the rural housing allowance, including all the new homes previously constructed at Adderbury, this proposal does not comply with the Development Plan taken as a whole. There is no need for development of this scale in open countryside.
- 7.15 Whilst the appeal site has straight-line proximity to Adderbury village centre and a number of its facilities, which would appear to suggest relative accessibility by foot or by cycle, the appeal site is still peripheral to the village and those facilities. The natural topography and nature of the most direct routes to the centre are not conducive to attracting significant usage, particularly during inclement weather when the PRowS become muddy and slippery. We maintain that most people with a choice of transport modes would choose to drive for most of their trips from such a location. The development would therefore cause harm and would not comply with the various policies of the Development Plan including the criteria of Policy Villages 2.
- 7.16 This conclusion was shared by the last appeal Inspector, Mr Rawle, who concluded at paragraph 15 of his decision letter by stating: *"Although the village does have a good provision of local facilities, these are located some distance away from the appeal site. As a result, the future occupants would undoubtedly rely on their own private cars to commute and to pick up their shopping. Thus, the proposal would lead to a material increase in car-borne commuting and would result in a development that significantly compromises the principles of sustainable development."* This situation has not changed substantively in the fourteen years since that decision.

### **Suburban Form & Landscape and Heritage Impacts – Refusal Reason 2**

- 7.16 Policy AD1 of the ANP includes a settlement boundary for Adderbury village and the appeal site lies beyond that boundary in open countryside that is distinctly rural in character. The Policy requires that any development outside the settlement boundary should not be permitted unless it would enhance, or at least not harm, landscape character. This reinforces policy ESD13 in the Cherwell Local Plan Part 1, which

requires new development to respect and enhance local landscape character. New proposals are assessed against several criteria: development should not cause visual intrusion into the open countryside; it must be consistent with local character; must not harm the setting of settlements, buildings or structures. Policy Villages 2 also requires consideration to be given as to whether significant landscape impacts could be avoided and assessment of whether proposals would contribute to enhancing built environment.

7.17 A key part of the environmental role of sustainable development, as set out in the NPPF is to contribute to protecting and enhancing the natural, built and historic environment. Policy BSC10 of the Cherwell Local Plan Part 1 2011-2031 states that the Council will ensure sufficient quantity and quality of open space, sport and recreation provision by protecting existing sites and enhancing existing provision. Supporting paragraph B.159 explains that development proposals that would result in the loss of sites will be assessed in accordance with guidance in the NPPF and the PPG.

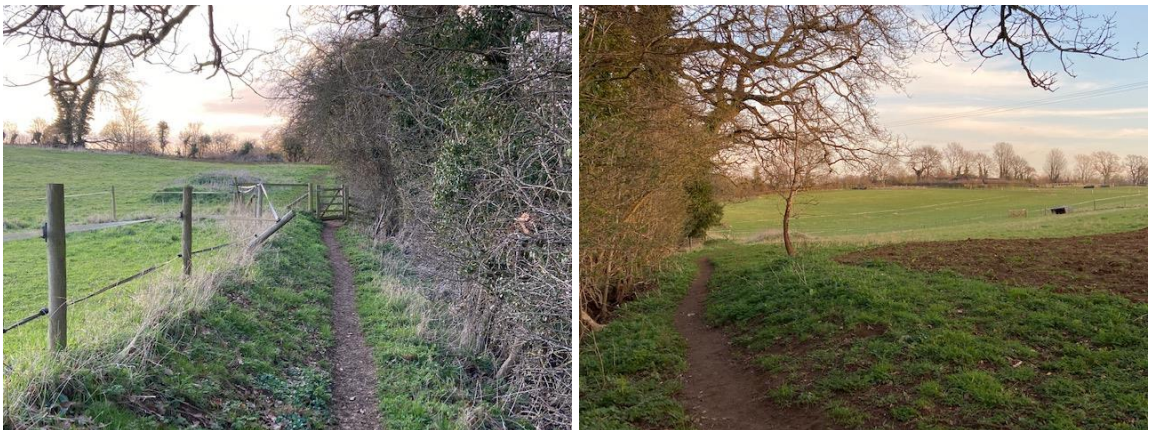
7.18 As can be seen from the images below, the approach to the southern edge of the village via Berry Hill Road from the A4260 or to the centre of the village via the PRoWs is distinctly rural in character and appearance. Open countryside exists along both sides of the approaches, which are lined by trees and hedgerows but that still afford views through to undeveloped and open land beyond. The proposed development would be detrimental to that rural character of, and approach to, the village. This would involve significant urbanisation and would result in a development that poorly integrates with the existing built form due to its conflict with the local village settlement pattern and therefore would fail to reinforce local distinctiveness. The site is particularly important in the rural setting of the village and development would be harmful at the entrance to the village extending into the open countryside.



**Views west and east along Berry Hill Road showing the rural nature of the village approach**



7.19 The two PRow footpaths that run along the eastern flank and northern rear site boundaries are similarly rural in character and appearance, as can be seen in the images below.



**Views north and south & west and east along the PRowS, showing their rural character/appearance**

7.20 Following the Council's refusal of outline application 06/00712/OUT for seventeen dwellings along the frontage of this same site, an appeal (APP/C3105/A/06/2032232) was dismissed with Inspector Rawle describing the appeal site at paragraph 8 of his decision letter in the following manner: *“The appeal site comprises existing fields surrounded by open countryside to the north and east. There is an existing row of development to the west. Last House adjoins the appeal site to the west and is appropriately named as it clearly demarcates the boundary between the built up limit of the settlement and the countryside. The appeal site represents a particularly pleasant part of the open countryside. Moreover, the appeal site allows an attractive view of the village church. To my mind the appeal site represents an important green open area on the edge of the settlement that makes a significant contribution to the character and appearance off [of] this part of Adderbury.”*

- 7.21 The Inspector continued at paragraph 10 of his decision to state: “*The introduction of the proposed dwellings would represent an entirely unwelcome urban form which would significantly diminish the character and appearance of the area and which would not integrate well into this particular setting. Rather, the proposal would result in an unacceptable extension of development along the road which would not relate satisfactorily to its surroundings*”. He continued at paragraph 11 by stating: “*In addition, the proposal would not conserve or enhance the environment and would diminish an Area of High Landscape Value. Moreover, the siting of the proposed dwellings would result in the loss of an important view towards the church. Furthermore, the proposal would result in the introduction of two rows of houses, which would have an orientation unlike any other within the area. Such an arrangement would be at odds with the prevailing development pattern*”.
- 7.22 This latest appeal proposal involves an even greater number of dwellings developed in depth, which is alien to the ribbon nature of the relatively limited number of large detached dwellings currently in Berry Hill Road, to the west of this site. The Appellant’s latest illustrative layout plan for the site suggests that views could be maintained from two locations on Berry Hill Road towards the church (i.e. from the proposed vehicular and pedestrian access points). However, even if narrow vistas could be maintained, which is questionable in the layouts presented, such views would be extensively framed by the suburban development proposed in the foreground, which would significantly diminish their value.
- 7.23 Cherwell Local Plan policy ESD13 advises that development is expected to respect and enhance local landscape character and a number of criteria are highlighted including: development should not to cause visual intrusion into open countryside; must be consistent with local character; and must not harm the setting of settlements, buildings or structures. Policy Villages 2 goes on to require that: consideration be given to whether significant landscape impacts could be avoided; and whether development would contribute towards enhancing the built environment.
- 7.24 Saved policy C28 in the Cherwell Local Plan 1996 exercises control over all new developments to ensure that standards of layout, design and external appearance are sympathetic to the character of the context. Policy C8 seeks to limit sporadic development beyond the built limits of settlements and policy C27 expects that development proposals in villages should respect their historic settlement pattern.



- 7.25 This outline proposal with all matters reserved other than access does not enable a proper assessment to be made as to whether or not a development would be sympathetic to its character or context, but the illustrative plans submitted by the Appellant clearly demonstrate an alien form that would not comply with any of these saved policies.
- 7.26 The NPPF highlights that the protection and enhancement of natural, built and historic environments is part of the environmental role of sustainable development and one of the core planning principles also refers to recognising the intrinsic character and beauty of the countryside. The NPPF also emphasises the importance of development responding to character and history with good design being a key aspect of sustainable development.
- 7.27 The site is visually part of the open countryside and is an important open space at the edge of the village in contributing to the rural setting of Adderbury, as was identified by the Inspector who dismissed the appeal in 2007 for development on the site. PRow run alongside the site boundaries with clear views of the site available to path users who would appreciate the rural setting of the village.
- 7.28 The proposed development would involve a large-scale development on the land. The indicative layout demonstrates dwellings fronting towards Berry Hill Road (set behind the existing hedgerow) with the remaining proposed dwellings arranged in suburban cul-de-sac estate fashion extending northwards on the site. That would be distinctly different to the prevailing pattern of development along the developed part of Berry Hill Road.
- 7.29 The Appellant's evidence suggest that the retention of existing boundary hedgerows would allow development to be accommodated without causing unacceptable impacts. However, the southern roadside hedgerow is not substantial and allows views through onto the land and across the valley towards the village and prominent church spire beyond. The Appellant's evidence also suggests that *"the surrounding vegetation on three sides as well as the woodland and hedgerows, including that along the elevated former railway, provide substantial separation of the site from its context, and in particular the village of Adderbury"*. The recognition in the LVA as to substantial separation is acknowledged and agreed. It reinforces our concerns as to the unsuitability of the site in terms of its impact upon the character of the locality.

- 7.30 Section 16 of the NPPF sets out guidance relating to the historic environment including archaeology. Development is expected to preserve the significance of designated heritage assets within proximity. It also states at paragraph 192 that: “LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness”. The NPPF sets out the tests to be applied where harm to heritage assets is identified.
- 7.31 Policy ESD15 of the Cherwell Local Plan 2011-2031 also refers to heritage assets expecting development to conserve, sustain and enhance designated and non-designated heritage assets. One of the criteria of Policy Villages 2 requires consideration as to whether development would avoid significant adverse impact on heritage. Policy C33 of the Cherwell Local Plan 1996 states that the Council will seek to retain any undeveloped gap of land which is important in preserving the character of a loose knit settlement structure or in maintaining the proper setting for a listed building or in preserving a view or feature of recognised amenity or historical value.
- 7.33 In addition, there is a legal requirement, under s.66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 for LPAs to have regard to the desirability of preserving a listed building or its setting. Whilst the appeal site does not contain any listed buildings and does not form part of a conservation area, Adderbury’s conservation area lies between 120-200m north of the appeal site and views are afforded from within the site, from Berry Hill Road across the site and from the adjoining PRoW of the centre of the village with its conservation area and numerous listed buildings. The Grade I listed Church of St Mary is particularly prominent in those views and the last appeal Inspector concluded that the siting of dwellings on the land would result in the loss of an important view towards the church. Unsurprisingly, that opinion is not one shared with the Appellant, who maintains, erroneously in our opinion, that the site does not make a contribution to the significance of the listed church as the site has no historic or visual relationship with the asset. Whilst the Appellant acknowledges that there are views of the church spire, it is suggested that they are not clearly visible from Berry Hill Road as the substantial boundary distorts the view. The Inspector will see from any site inspection that is simply not the case. The Appellant’s further suggestion that views of the church from the south could be improved through the provision of open space with a play area defies belief. The views already exist from Berry Hill Road and they would largely be lost or severely urbanised by development of this land with 40 homes.

### **Lack of a s.106 Deed – Refusal Reason 3**

- 7.34 As the planning application was refused before any legal agreement could be drafted, there could be no certainty at the time that the Appellant (and any other parties with an interest in the land) would have committed to the necessary covenants to secure appropriate mitigation and the infrastructure required.
- 7.35 The Council will submit a statement with its evidence setting out the justification for the commitments expected to be made within any planning obligation, having regard to the statutory tests in Regulations 122 and 123 of the CIL Regulations 2010 (as amended). This is expected to be broadly in line with the recommended heads of terms for a planning obligation as listed in the Officers report to Planning Committee, taking account of any material changes in circumstances since that date.
- 7.36 The Council's evidence has demonstrated that the lack of a satisfactory s.106 obligation to secure the necessary infrastructure and contributions would result in a proposal which would substantively fail to mitigate adequately the likely impact of the development and as such would result in an unsustainable form of development, contrary to Development Plan policies and the NPPF. Nevertheless, it is noted within the Appellant's evidence that it will undertake to negotiate a planning obligation in order to overcome this reason for refusal. The Council will maintain this reason for refusal pending submission of an acceptable obligation but will negotiate positively and proactively to seek to resolve this matter and overcome the refusal reason before the appeal Hearing.
- 7.37 At the time of writing, the Heads of Terms for the s.106 included the following:
- Affordable Housing – 35% overall – split 70% social rent and 30% intermediate;
  - Provision of a LAP on site to be constructed by the Appellant in accordance with CDC's technical standards and arrangements for its long-term management and maintenance. Such LAP to be located preferably centrally within the developed area of the site or alternatively in the adjacent open space area. To be transferred to the LPA after 12-months of satisfactory maintenance by the Appellant;
  - Open space requirements to include the laying out and regulation of such areas and arrangements for the long-term management and maintenance including the provision of commuted sums towards open space, hedgerows, mature trees, surface water SUDS drainage features – figures for each to be provided from the recent Bicester Gateway agreement (which includes the most up to date contract rates);

- Contributions towards offsite outdoor sport provision, specifically the development of sports pitches and changing facilities off Milton Road, Adderbury – a sum calculated as follows: 40 dwellings in qualifying application x £2,017.03 (index linked from 2Q17);
- Contributions towards offsite indoor sport provision towards the expansion of/ improvement to Spiceball Leisure Centre in Banbury – a sum calculated as follows: 40 dwellings in qualifying application x 2.49 x £335.32 (index linked from 2Q17);
- Contribution towards the development of new community hall facilities off Milton Road in Adderbury – a sum calculated as follows: 40 dwellings in qualifying application x 2.49 x £520 (index linked from 2Q17);
- Contribution towards the enhancement of existing local primary medical care facilities within the Banbury area to meet the needs of the growing population – a sum calculated as follows: 40 dwellings in qualifying application x 2.49 x £360 (index linked from 2Q17);
- Requirement for an apprenticeship and skills training plan to secure 2 apprenticeship starts, as specified in the application Committee report;
- Contributions towards waste and recycling bins to serve the development - £111 per dwelling (comprising of £106.00 for the provision of waste bins and £5.00 towards the provision of recycling banks in the District Council's area);
- A contribution of £40,000 (Index linked from January 2018) towards enhancement of public transport services serving the site – specifically towards pump priming of bus services on the A4260;
- A contribution of £10,000 (Index linked from January 2018) towards the provision of two sets of bus stop poles and premium route standard flags and bus shelters (£4,000 of which will be transferred to Adderbury Parish Council as a commuted sum for maintenance of the shelter);
- A contribution of £20,000 (index linked from January 2018) towards access mitigation measures on the footpaths to the east and north of the site (Adderbury footpaths 13, 6, 5, 24 and Bridleway 9) to fund surface improvement, signing and furniture along the routes;
- A contribution of £3,120 (index linked from June 2019) towards the administration costs of a Traffic Regulation Order to enable the relocation of the existing 30mph/ derestricted speed limit on Berry Hill Road from its current location to a point further south by the junction with the A4260, to bring the entire Berry Hill Road under 30mph;

- An obligation to enter into a s.278 agreement prior to the commencement of the development – provision of two bus stop hardstanding's to be provided near to the proposed site entrance/exit on Berry Hill Road, site access arrangements and pedestrian footway improvements and pedestrian crossing;
- A contribution of £331,593 (index linked from 2Q17) towards expanding Primary and Nursery provision at Christopher Rawlins C of E (VA) Primary School;
- A contribution of £200,771 (index linked from 2Q17) towards expanding Secondary provision at The Warriner School;
- Contributions of £1,000 and £5,300 towards on-going monitoring costs of CDC and OCC, respectively; and
- Reimbursement of all legal costs in the preparation of the s.106 obligation.

7.37 Insofar as suggested conditions of approval are concerned, in the event that the appeal should be allowed, the LPA has suggested the following draft conditions on a without prejudice basis, which the Appellant has provisionally commented upon as follows:

1. No development shall commence until full details of the layout, scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
2. In the case of the reserved matters, application for approval shall be made not later than the expiration of 12 months beginning with the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of one year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.
4. The total number of dwellings accommodated on the site shall not exceed 40 and shall include 35% affordable dwellings in accordance with Development Plan policy and 5% Lifetime Living Homes.
5. Prior to the commencement of the development, details for the construction of the site access arrangement shall be submitted to and approved in writing by the Local Planning Authority. Details shall be in accordance with the Site Access Arrangement (Drawing number xxxx) and the approved Site Access Arrangement shall be implemented prior to first occupation of the first dwelling, in accordance with the Oxfordshire County Council design guide for Residential Roads.

6. No structure exceeding 1m metre in height measured from carriageway level shall be placed within the visibility splays of the site access.
7. Prior to the first occupation of each dwelling hereby approved, the parking areas shall be constructed, laid out, surfaced, drained and completed in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority, and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.
8. Prior to first occupation a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be implemented in accordance with the approved plan.
9. Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of each building to which the scheme relates. The drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".
10. Prior to the commencement of the development hereby approved, full details of the construction of the surface water balancing pond and timing for implementation, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved balancing pond shall be constructed in accordance with the approved details.
11. No works of site clearance or development shall take place until an Ecological Enhancement Scheme, including timing for implementation, has been submitted to and approved in writing by the Local Planning Authority. The Ecological Enhancement Scheme shall be implemented in accordance with the approved details.

12. No removal of mature trees shall take place until such time as they have been checked for bats immediately prior to removal. Should bats be found to be present in a tree due for removal, a bat mitigation scheme must be submitted to and approved in writing by the Local Planning Authority prior to the removal of the trees concerned. Development shall be carried out in accordance with the mitigation measures approved as part of the scheme.
13. As part of the Reserved Matters, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:
  - a. details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas;
  - b. details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation;
  - c. details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.
14. As part of the Reserved Matters, a landscape management plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas, other than for privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscape management plan shall be carried out in accordance with the approved details.
15. Prior to the commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.
  - a. Written confirmation of the contact details of the project Arboriculturalist employed to undertake the supervisory role of relevant arboricultural issues;

- b. The relevant persons/contractors to be briefed by the project Arboriculturalist on all on-site tree related matters;
  - c. The timing and methodology of scheduled site monitoring visits to be undertaken by the project Arboriculturalist;
  - d. The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents;
  - e. Details of appropriate supervision for the installation of load-bearing 'structural cell' planting pits and/or associated features such as irrigation systems, root barriers and surface requirements (e.g.: reduced dig systems, arboresin, tree grills).
16. All tree works granted consent shall be carried out in accordance with British Standard 3998: Recommendations for Tree Works and all subsequent revisions thereof and shall be undertaken by suitably qualified and insured arboricultural contractors.
17. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity and the local environment, and shall include construction vehicle management, routing, wheel washing and hours of operation, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP.
18. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.



19. Following approval of the Written Scheme of Investigation referred to in condition 18 and prior to any demolition on site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.
20. A housing mix condition – wording to be agreed.

## **8. OVERALL PLANNING BALANCE & SUSTAINABLE DEVELOPMENT**

### **Assessment of Environmental Impacts**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.
- 8.2 As previously referenced, the Development Plan for Cherwell District includes the Cherwell Local Plan 2011-2031 (adopted in July 2015) and saved policies from the Cherwell Local Plan 1996 plus, in this area, the made Adderbury Neighbourhood Plan (July 2018). The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan. Also, it is not previously developed land, although it is currently used for equestrian purposes and a small part is occupied by a stable block, hay barn and manège. The site sits outside the built-up limits of Adderbury, in open countryside. Great weight is afforded to this non-compliance with the Development Plan.
- 8.3 The normal presumption whereby development that is not in accord with the adopted Development Plan needs to be justified as an exception to policy on the grounds that its benefits would outweigh its policy conflicts and its other harmful impacts, as described in the Council's refusal reasons, has now been set aside by the imposition of the 'tilted balance' following engagement of NPPF paragraph 11 and the Council's recent confirmation that it cannot currently demonstrate a 5-year housing land supply (presently a 4.7-year supply). The Appellant must still demonstrate that its proposals represent sustainable development, but the LPA must also now demonstrate how the harmful impacts of development would outweigh the benefits. This too carries great weight in the balancing exercise.
- 8.4 The site itself is positioned some distance from the main services and facilities within the village and therefore future occupiers are likely to be reliant on the private car, which conflicts with Government Guidance in the NPPF and Policies ESD1, BSC1, Villages 1

and Villages 2, which all seek to guide rural housing development to locations which reduce the need to travel and reduce the impact on climate change.

- 8.5 The proposal would result in significant environmental harm in proposing development on an important open site on the edge of the village, outside of the Adderbury Settlement Boundary as defined by policy AD1 of the ANP, intruding into the open countryside, causing urbanisation and being harmful to the rural setting of the village. The development would have a poorly integrated relationship with the prevailing character of Berry Hill Road by virtue of its scale, depth and suburban character and this, combined with harm to the rural character of this part of the village would fail to reinforce local distinctiveness. This harm carries considerable weight and such harmful impact would also be contrary to policies AD1 of the Neighbourhood Plan, policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 and saved policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, which now carries some weight, but no longer great weight given the application of NPPF paragraph 11.
- 8.6 The site affords positive views across the landscape towards the grade I listed Church of St Mary, in the centre of Adderbury's conservation area. The development of the site would change the rural setting of this part of the village and obscure views of the church. Whilst it is possible that some views could be achieved and negotiated through a reserved matters application, there would nevertheless be material harm caused through the urbanisation of setting and substantial narrowing of the vista, contrary to both the Development Plan and national planning guidance. The importance of such harm would be substantial.

### **Assessment of Economic Impacts**

- 8.7 In terms of benefits, development would contribute affordable housing (including social rented units) and this as well as the construction of dwellings (of an appropriate mix in terms of dwelling size) would bring economic and social benefits. Given the engagement of NPPF paragraph 11, such benefits would be afforded great weight.
- 8.8 The proposals would also provide a large area of landscaped open space, which could facilitate public views towards the listed church from the northern part of the site and could potentially afford bio-diversity enhancement. The public views from the open space areas would have only modest benefit bearing in mind the same views are

already afforded from Berry Hill Road and from the PRoWs. The bio-diversity enhancement would be a more significant benefit but ought to be tempered by the fact that it would be a necessary requirement of development in any case.

- 8.8 The proposal would also make s.106 contributions towards various local infrastructure, which could bring social benefits albeit of a proportionate level arising to meet the needs of the development itself. Therefore, the benefit derived would have only slight weight, as it is a requirement necessarily needed to mitigate otherwise harmful impact.
- 8.9 The proposal has the potential to generate economic benefits for the local economy and wider region through investment and job creation but given the scale of development proposed is only up to 40 dwellings, such benefits would be limited. The proposed development would lead to some small benefits in terms of jobs and expenditure in the local area during both the construction (temporary) period.
- 8.10 The primary objective of the Local Plan (SO1) is to facilitate economic growth and employment in the District, with a particular emphasis given to attracting higher technologies. This proposal would be unlikely to produce many permanent high tech/skilled jobs, although some could potentially be created in the short-term during planning and construction phases. Some of the permanent, longer-term roles for new residents could be in professional and managerial roles but it is unlikely to be a significant benefit, with a proportionate number employed in lower-skilled occupations, which would not reflect the desired direction suggested in either the Oxfordshire Industrial Strategy or Cherwell's own emerging Industrial Strategy.
- 8.11 Notwithstanding that there would be some economic benefits associated with the proposed scheme, the levels of benefit derived would be small and it is not accepted that this would in itself outweigh the in-principle objections and environmental harms identified. No substantive evidence has been presented that this site is a truly sustainable location.

### **Assessment of Social Impacts**

- 8.12 From a social perspective, the provision of up to 14 affordable dwellings and up to 2 homes built to Lifetime Homes standard could be argued to help support community

health, social and cultural well-being, which is a benefit. However, it would do little to support building strong, vibrant and healthy communities given its peripheral location, would not foster the creation of well-designed and safe built environments and would not be particularly accessible, which are all dis-benefits.

- 8.13 Whilst highway improvements could be provided locally to enhance connectivity by non-car modes between the site and Adderbury village the proposals would be harmful to the character of the local rural lane and PRowS and the rural setting, character and appearance of Adderbury, which would be a significant dis-benefit.

### **Overall Assessment**

- 8.14 Overall, the normal Development Plan conflict, combined with the previous conclusions of the last appeal Inspector would render these proposals completely unacceptable. However, as NPPF paragraph 11 is currently engaged and the weight afford to the provision of housing, especially affordable housing is great, there is a balancing exercise to be undertaken. The harmful impact upon the rural character and appearance of the open countryside and the approach setting to Adderbury village from the south would be considerable. Had the extent of housing land supply shortfall in the District been less than 3-years for example, then I suggest that the housing benefits could well have outweighed the harmful environmental effects but bearing in mind the shortfall only currently stands at 0.3 years, my professional judgement is that the balance of impacts weights against this development. The combination of economic and social benefits derived from development and their relative weight would, I suggest be at very least countered by the harmful effect upon the views afforded to and the heritage setting of the Grade I listed Church of St Mary and the as yet unknown heritage significance of the site itself.

- 8.15 On balance, the LPA contend that the appeal should be dismissed.

## **9 CONCLUSIONS**

- 9.1 The National Planning Policy Framework (NPPF) at paragraph 14 states that, at its heart, is “a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking”. The three dimensions of sustainable development – economic, social and environmental, must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 9.2 The Council’s evidence demonstrates that the development of the appeal site would fail to deliver a sustainable development. Both the principle of development and the harm which would be caused would be contrary to adopted Development Plan policies and national policy as set out in the NPPF.
- 9.3 Notwithstanding the economic and social benefits of the proposals and the fact that some of the likely impacts of development could be mitigated and controlled by condition, the substantial environmental impacts coupled with the overwhelming conflict with Development Plan policies overall, all combine to render the appeal proposals unsustainable and unacceptable.
- 9.4 For these reasons, the Inspector is respectfully requested to dismiss this appeal. Without prejudice to this request, a set of draft conditions, which are to be agreed with the Appellant and are referenced at paragraph 7.37 above, are suggested to be imposed on any potential approval that the Inspector might be minded to grant. In order to further mitigate development impacts, overcome the third reason for refusal and render the development as sustainable as possible, certain planning obligations should be offered via a s.106 Deed, as referenced in the Heads of Terms at paragraph 7.36 above.