

APPENDICES TO APPELLANT'S STATEMENT OF CASE

LAND AT PURTON ROAD, SWINDON, WILTSHIRE

APP/Y3940/W/21/3275053

Appendix 1



Appeal Decision

Inquiry held on 29 January 2019, 4-7, 12-14 and 27-28 February 2020

Site visit made on 7 February 2020

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2020

Appeal Ref: APP/Y3940/W/18/3202551

Land at Purton Road, Swindon, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Beechcroft Land Ltd, John Webb, Sally Ballard, Carole Ann Lindsey and Deborah Muriel Webb against the decision of Wiltshire Council.
 - The application Ref 17/08188/OUT, dated 21 August 2017, was refused by notice dated 2 March 2018.
 - The development proposed is described as “up to 81 dwellings and associated infrastructure”.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Beechcroft Land Ltd, John Webb, Sally Ballard, Carole Ann Lindsey and Deborah Muriel Webb against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application is submitted in outline form with details of the proposed access for consideration. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration.
4. The Inquiry was originally opened by a different Inspector but adjourned before hearing evidence in light of new and unanticipated ecology issues being raised by the Council, resulting in the need for further survey works. The Inquiry resumed some months later after the survey works had been undertaken and all parties had been given the opportunity to consider the new evidence.
5. Discussion between the parties took place during the course of the appeal in an effort to reduce the areas in dispute. As a result, and subject to appropriate conditions and planning obligations, the Council chose not to defend reasons for refusal 2 (planning obligations), 4 (air quality), 5 (flood risk and drainage), 6 (archaeology), 7 (design) or 8 (neighbours living conditions). Reason 7 was not defended by the Council following agreement from the appellant that the development should be restricted to no more than 79 dwellings. As such, it was not necessary to hear detailed evidence on these topics.

6. In addition, it was confirmed that concerns raised in relation to the character and appearance of the area were confined to Old Purton Road, in the vicinity of the proposed site access as expressed in reason for refusal 9. No wider issue in relation to character and appearance was pursued, notwithstanding a further reference in refusal reason 1.
7. Before the Inquiry closed, the Council resolved to adopt the Wiltshire Housing Site Allocations Plan Submission Draft Plan (July 2018) as amended by the Main Modifications and some additional minor modifications. The plan was subsequently adopted and the parties were given the opportunity to make any observations arising.
8. Following a round table session dealing with housing land supply, the parties reached agreement that the Council cannot currently demonstrate a deliverable five-year housing land supply. The parties agree that somewhere within the range of 4.42-4.62 years supply can be demonstrated against Wiltshire's Local Housing Need figure. It was further agreed that the position within this range was immaterial for the purposes of this decision. I do not disagree and it is not necessary for me to determine a more accurate figure in this case.

Main Issues

9. In light of the above, the main issues are whether the site is a suitable location for the development, having regard to the development plan; the effect on ecology; and the effect on local character and visual amenity, with particular regard to the vicinity of Old Purton Road.

Reasons

Location

10. The site is located adjacent to relatively recent residential development west of Swindon but within the neighbourhood plan area covered by the Purton Neighbourhood Plan 2017-2026 (Made November 2018) (NP). It is close to the Swindon Borough Council local authority area but within the area covered by Wiltshire Council, where the Wiltshire Core Strategy (January 2015) (CS) applies.
11. Core Policy 1 (CP1) of the CS sets out the settlement strategy for the area, identifying a hierarchy of settlements to which development will be directed with the aim of achieving sustainable development. Purton is identified as a 'Large Village', defined as settlements with a limited range of employment, services and facilities and where development will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. The proposal conflicts with this policy since the proposed housing would not meet the housing needs of Purton, or any other settlement contemplated by the CS. The appellant does not suggest otherwise, asserting that the housing would more likely serve Swindon.
12. Core Policy 2 (CP2) provides a more detailed delivery strategy, assigning a minimum housing requirement to respective housing market areas, along with an allowance at West of Swindon for 900 houses in recognition of planning permissions granted at Moredon Bridge and Ridgeway Farm, which have since been developed. Core Policy 19 (CP19) details the amount of development expected in each community area. The site falls within the Royal Wootton Bassett and Cricklade Community Area, within which around 385 houses are

expected to be delivered outside of Royal Wootton Bassett Town. There is no dispute that this number have been delivered or that the appeal proposal conflicts with these policies.

13. Saved policy H4¹ of the North Wiltshire Local Plan 2011 (LP) restricts development in the countryside, other than in specified circumstances, none of which apply to the appeal proposal. The appeal site is some distance from the built-up area of Purton and there is no dispute that it is located in countryside, in conflict with this policy.
14. The NP is recently made and provides positively for the delivery of housing in the NP area, despite the relevant CS requirements having been met. In anticipation of population growth in the village during the plan period, the NP allocates sites for a minimum of 94 additional dwellings. The allocations comprise six sites within the settlement boundary capable of accommodating around 75 dwellings and approximately a further 40 dwellings on a single site outside the settlement boundary. The supporting text makes clear that the allocations are made to accommodate necessary growth in line with local aspirations for the village and to support a plan-led approach to development in recognition of the significant development pressures in the area.
15. The NP does not seek to control development outside of the allocations made by Purton Policy 13 or 14, nor does it need to. It is a plan to be read in conjunction with the remainder of the development plan and seeks merely to plan positively for development that is considered necessary and appropriate in the plan area. It does not identify how further housing applications are to be considered beyond the allocations, because none are supported. That does not displace the suitable exceptions identified elsewhere in the development plan².
16. There would be no utility or desirability in the plan replicating policy requirements of higher-level policy, such as the CS, which already provides for the strategic approach to housing delivery. The NP does not cut across CS policies, it works with them. The appeal proposal does not expressly conflict with the wording of Purton Policy 13 or 14 but it is clear, taking the policies together and having regard to the supporting text, that the appeal scheme is entirely at odds with the NP taken as a whole and manifestly incompatible with the strategy contained within it.
17. I have had regard to the court judgements referenced by the appellant³, but since none of them involve the development plan in Wiltshire and particularly, the Purton NP, they do not alter my judgement on the facts of this case. The community has gone to significant effort to plan positively for its neighbourhood area. The proposed development would deliver housing that is clearly not anticipated or sought by the NP.
18. Notwithstanding the importance of the above policies for determining the appeal, they must be considered out-of-date because the Council cannot currently demonstrate a deliverable five-year housing land supply. In addition, the CS is now more than five years old and its strategic policies have not been reviewed and found not to require updating. As such, the Council's local housing need figure, calculated using the standard method, is the relevant

¹ Which remains part of the development plan notwithstanding adoption of the Housing Site Allocations Plan

² See CS para. 4.25

³ Including Chichester District Council v SSHCLG [2019] EWCA Civ 1640

- housing requirement for the area and attracts greater weight than the housing requirement contained in policy CP2.
19. In addition, saved policy H4 of the LP is no longer entirely consistent with the National Planning Policy Framework (the Framework) in that it is more restrictive on development in the countryside and was devised some time ago, in a different policy context and when the need for housing differed.
 20. Even having regard to the above, there remains substantial benefit in maintaining a plan-led system. The overall strategy of the CS to direct development to the most sustainable settlements remains desirable and accords with the objectives of the Framework.
 21. Even at the lower end of the range agreed between the parties, there is a relatively modest shortfall in housing land in the Wiltshire Council area. The local housing need derived from the standard method is very similar to the housing requirement contained in the CS for the relevant five-year period⁴ and so there is no reason to think that the strategy will not continue to be effective, particularly in light of recent progress in adopting the Housing Site Allocations Plan⁵. Whilst weight to the conflict with LP policy H4 is diminished for the reasons I set out above, it continues to provide an important function in recognising the intrinsic character and beauty of the countryside in accordance with the Framework. For all of these reasons, and notwithstanding that the policies are out-of-date, I attach significant weight to the conflict with policies CP1, CP2 and CP19 of the CS, and moderate weight to the conflict with policy H4 of the LP in this case.
 22. The appellant pursues a range of alternative scenarios in respect of housing land supply and policy matters, but they do not alter the conclusions I have reached. There is no disagreement between the parties that the local housing need figure should be used as the housing requirement in this case, given the age of the CS. The Framework and Planning Practice Guidance (PPG) are absolutely clear how that figure is derived and that the requirement to demonstrate a deliverable five-year housing land supply is against that requirement for each local planning authority. There is no scope for applying the housing requirements in an adjoining authority.
 23. As set out, the CS provides for an allowance of 900 houses at West of Swindon in recognition of planning permissions already granted. The plan is abundantly clear that this should not be considered to represent a housing market area and do not contribute to the housing requirements in the Wiltshire Council area.
 24. It is agreed that, at the time the CS was examined, it was expected that most, if not all of the housing would meet the needs of Swindon, given the close relationship to it. However, it is also very clear that the Council, in partnership with Swindon Borough Council, considered the need for further development west of Swindon and found that there was none, and that development in this area did not represent the most sustainable option for future growth in Swindon.
 25. There is no evidence to suggest that this position has changed and ultimately, the CS did not direct any further development in this area. The open wording

⁴ See Proof of Evidence of Chris Roe, Section 4.0

⁵ Notwithstanding that Mr Totz did not expect sites to come forward quickly during xx

in the supporting text⁶ contemplating the possibility of development beyond that already committed does not change the clear policy position. I do not accept that this should be interpreted as an invitation or expectation for further development west of Swindon of an undefined quantity and over an undefined spatial area. Supporting text could simply not have that effect, in clear conflict with the policy and strategy of the CS. There is no housing requirement defined for West of Swindon in the CS, because it is not intended that housing should be delivered there beyond the allowance identified.

26. Even if much of the proposed housing would ultimately serve the Swindon housing market, it is the Wiltshire Council local housing need that applies. The amount of housing supply in Swindon does not alter the local housing need in the Wiltshire Council area, and this is the clearly defined requirement applicable to the appeal scheme. Should it become necessary to allocate housing west of Swindon in the future, that is a matter for the plan making process⁷. Planning appeals are not the correct vehicle for assessing whether a local authority should accept development for the purposes of meeting a neighbour's housing needs and I simply do not have the appropriate up-to-date evidence before me to consider such matters.
27. It is regrettable that the Council has not produced a housing land supply position statement which uses the most recent base date, instead relying upon a statement published in August 2019, with a base date of 1 April 2018. I do not endorse the Council's extreme tardiness, given the requirement to identify and update annually a supply of specific deliverable sites to provide a minimum of five years housing land supply. Such delays result in the testing of an outdated housing land supply picture, which is not at all helpful in ensuring an appropriate and ongoing supply. However, it is the best evidence available in this case and is more useful than artificially adopting a position that no supply exists at all.
28. Based on the evidence that is available, I therefore conclude for the purposes of this appeal, that the Council can demonstrate a housing land supply in the range of 4.42-4.62 years. As this exceeds the requisite 3-year supply identified by paragraph 14 of the Framework and all other criteria are met, the adverse impact of allowing development in conflict with the NP weighs heavily against the development.
29. Overall, I conclude that the appeal site is not located in an area supported by the development plan. It would involve housing development in the countryside, remote from all settlements identified for development in the CS and not in accordance with any of the housing allocations made by the NP. There is a clear conflict with policies CP1, CP2 and CP19 of the CS; Policy H4 of the LP; and the NP, fairly read and taken as a whole.

Ecology

30. The site is located within a County Wildlife Site (CWS), designated for its species-rich neutral grassland habitat (HG2.2), a lowland meadows priority habitat within the UK Biodiversity Action Plan. The appellant accepts that the designation exists and that it should be taken into account in determining the appeal. However, some time and effort was subsequently applied in seeking to

⁶ CS Para.4.34

⁷ Whether through a review of the CS or a new Local Plan

undermine the designation, along with the evidence base underpinning it. It is not the role of a planning appeal to determine whether a County Wildlife Site is properly designated and I have not sought to answer that question in reaching a decision. It is, however, appropriate to consider the ecological value of the site based on the evidence available.

31. The appeal is accompanied by a recent survey (2019 Ecology Surveys) of the appeal site and other adjacent fields within the CWS. So far as establishing the grassland species present is concerned, it is not disputed between the parties that a Farm Environment Plan (FEP) structured walk is the most objective and appropriate method.
32. The results of such a survey are included in the appellant's evidence and was the most recent structured walk evidence before the Inquiry. It concludes that none of the fields surveyed, including Field 1, within which the appeal site is located, currently meet the minimum criteria (particularly the number of appropriate species) to constitute HG2.2 priority habitat. Nor does the evidence support qualification as any other priority habitat outside the purpose of the original CWS designation. The Council's own earlier survey (Botanical Assessment, 2018, v2) identifies that those areas which, at the time of the survey met the criteria for HG2.2, fall outside of the appeal site and within the wider field. Indeed, only an area of 0.8ha within Field 1 was shown to qualify as priority habitat at that time.
33. The appeal site itself is shown to be one of the least ecologically valuable parts of the CWS and is in fact of relatively low quality, dominated by coarse grasses as opposed to more valuable species. That is not to say that it has no ecological value or that it might not be capable of supporting the species necessary to qualify as priority habitat in the future, but there is no evidence to suggest that it would at present. The land is not currently subject to any management regime aimed at supporting ecological interests. Instead, I heard that it is used for grazing animals periodically, that chemicals are applied to support such practices and that the current landowner has considered ploughing the fields. All of this is likely to compromise the ecological value of the land. The evidence available does not indicate improving or even maintained ecological value, quite the contrary given that the latest survey identified no priority habitat.
34. The appeal proposal would result in a significant proportion of the CWS being built upon, but a large area would remain and could be made the subject of a more appropriate management regime. Appropriate cutting, over-sowing areas with species rich meadow mixture and the encouragement of species that reduce the dominance of coarse grasses are part of a proposed package of measures in a draft Landscape and Ecological Management Plan (LEMP). Species rich grassland could also be incorporated in the appeal site itself, around the water attenuation areas.
35. The close proximity of housing to the remaining fields would likely result in pressure for recreation but open spaces would be incorporated into the development and a country park provides an attractive alternative close by. As such, the use of fencing, information boards and mown paths are all measures that could mitigate such pressures. It must also be noted that the fields are already being used by members of the public for walking, albeit informally.

36. Overall, I am satisfied that suitable mitigation and enhancement measures could be put in place to ensure that the quality of the remaining fields within the CWS would be improved, potentially returning them to priority habitat status. Such improvements are unlikely to be achieved by other means and would compensate sufficiently for the loss of the area where new homes would be built. Measures could be secured by condition through a requirement for a LEMP. Furthermore, as much of the CWS would be retained and enhanced connectivity with other wildlife and ecology resources would be maintained.
37. In addition to the above matters, there are a number of faunal species identified through survey work as being in the vicinity of the site, including protected species. A variety of bats are shown to be using the site boundaries for foraging, including *Myotis* species. Within this category are a variety of sub-species, including some that are relatively rare such as Bechstein's bat which tend to be light-shy and prefer darker foraging routes.
38. The site currently provides such routes, the boundary with Old Purton Road in particular. Old Purton Road is subject to traffic restrictions such that it is mainly used as a pedestrian route. It is largely unlit, albeit that light spill from the adjacent Purton Road (B5434) does occur in places. It is lined by trees and vegetation on both sides, punctuated in places by gaps. From the bat surveys undertaken it is clear that numerous bats are using this route and whilst it is not possible to be definitive about the exact sub-species in all cases, most bats are light shy, some more than others.
39. The proposed site access would be gained from the elevated level of Purton Road, passing across Old Purton Road as it descends into the site, flanked by landscaped banking. This would necessitate re-routing Old Purton Road and the subsequent need for bats to navigate a large engineered structure. Whilst I acknowledge that this is likely to disrupt existing bat activity, particularly during construction, I am not persuaded by the evidence that such a feature would necessarily have a long-term or insurmountable adverse impact.
40. It is clear that gaps in the vegetation already exist along Old Purton Road and some contain man-made features such as a railway bridge. The illumination surveys also demonstrate that parts of the route are well lit, including in the vicinity of the proposed vehicular access. The new development could be designed to reduce impacts on bats through the introduction of extensive planting along the route, by providing tree planting within the highway island so as to shorten the gap bats are required to cross and through sensitive lighting schemes in this part of the site, minimising illumination to tolerable levels. Further measures, such as formal bat crossing points, could also be secured by condition. There is no evidence before me, that bats could not adapt to the new layout or that the proposed development would lead to long-term adverse impacts on bat species.
41. The survey work also identifies the presence of water voles and otters in the nearby River Ray, though the latter have not been identified since 2017 when a single spraint was found. Increased habitation near to the river has the potential to introduce activity to the area, including recreational users of the riverside and predation/disturbance by pets⁸. However, there is no suggestion that these species are using the stretch of the river close to the site for anything other than foraging or commuting and there is no reason to believe

⁸ Fiona Elphick referred to literature that indicated mammals might be disturbed by dogs

this transient use could not continue. The appeal site would be located over 50m from the river and the intervening space would comprise the remaining CWS grassland subject to the measures discussed above, designed to dissuade recreational use other than on defined routes. Subject to appropriate measures being secured by condition, I am satisfied that these species would not be harmed.

42. The appellant makes use of the DEFRA Biodiversity Metric⁹ to demonstrate a biodiversity net gain in excess of 30%. This is said to be a worst-case scenario as the tool has under-rated the anticipated net gain in past scenarios. The Council criticised some of the inputs into the tool and questioned its reliability, but no detail was provided to demonstrate that a net gain would not be achievable, even if not on the scale suggested.
43. I have had regard to the output of the tool with caution given its 'Beta' status and the criticisms made of the tool which is still undergoing a process of refinement. However, the draft LEMP demonstrates a range of ideas for enhancing the CWS, extensive tree and hedgerow planting could be secured, including new planting along the route of the railway line and new habitats could be created around water attenuation features. It seems to me, that there would be an opportunity to achieve a significant net biodiversity gain.
44. Core Policy 50 (CP50) of the CS seeks to protect and enhance biodiversity. Features of nature conservation value should be retained, buffered and managed favourably. With reference to local sites, such as the CWS, development should avoid direct and indirect impacts through sensitive site location, layout and design. Damage and disturbance are generally unacceptable, other than in exceptional circumstances. Purton Policy 4 (PP4) of the NP seeks the retention and enhancement of local sites of ecological interest wherever possible and an overall net gain in biodiversity.
45. The appeal proposal would result in development on part of the CWS, which even if not currently in favourable condition, could be improved and might become of more value in the future. It cannot be said that the development could not be reasonably avoided given my conclusions above in relation to the first main issue and so there is a conflict with policies CP50 and PP4. However, the proposed site location within the CWS, the design, ecological enhancement and management measures proposed would reduce impacts as far as possible and appropriate compensation measures could be secured. The ecological benefits that would arise would also, in my view, outweigh the loss of part of the CWS to development. Having regard to all of these matters, the ecology benefits attract significant weight, sufficient to outweigh the limited conflict with policies CP50 and PP4 in this case.

Character

46. The dispute between the parties lies in whether the proposed site access would unacceptably harm the character of Old Purton Road and the amenity of its users. Old Purton Road is a narrow road used primarily by pedestrians and cyclists. It provides a pleasant route with trees and other vegetation either side and glimpsed views of the open fields possible in places. That said, it is a relatively short route between two distinctly suburban housing estates and

⁹ DEFRA Biodiversity Metric 2.0 Calculation Tool Beta

- users are very aware of the busy elevated road running parallel, given the noise and movements of traffic close by. It is not a remote or tranquil route.
47. It is no doubt a more preferable route for pedestrians and cyclists to that of the footway alongside Purton Road (B4543) which is heavily used by vehicular traffic. The appellant's suggestion that the two routes are comparable is simply not credible. However, much of the route would remain unaltered by the development and the parties agree that the effects of the development would be extremely localised around the new site access.
48. The introduction of an elevated access across the line of Old Purton Road would undoubtedly change the appearance of the route but it would not be dissimilar to the elevated B4543, nor would the landscaped banking required either side be out of place given that it is already a feature of Old Purton Road. Diversion of the route to cross the new access road would introduce a more urban character to this part of the route, but again users would already be well aware of the established urban fringe context.
49. Landscape features would remain largely unaltered, except for the point at which the proposed access passed through the field boundary vegetation. Appropriate landscaping of the diverted route could be readily achieved by way of condition and further landscaping would be incorporated into the development. Users of the route would only really be aware of the new access once in proximity to it and would still have the opportunity to continue their onward journey beyond the new access. Much of the route would remain unaltered, with limited impact on visual amenity or enjoyment, including for recreational users.
50. Further urbanisation of part of the route and the breaking through an existing field boundary would nonetheless be detrimental to users experience of it to some extent. In addition, the views of housing on currently open fields must be seen as harmful. I agree, however, that the effects would be very localised and the harm arising would be limited. Whilst the development could be delivered sensitively, seeking to mitigate impacts as far as possible through landscaping and design, there would be inevitable adverse impacts in terms of character. These would be in conflict with Core Policy 51 (CP51), which requires development to protect, conserve and where possible enhance landscape character. Although the resulting harm is limited, this is a matter that further weighs against the appeal proposal.

Other Matters

51. The appellant identifies a range of benefits that would arise from the proposed development. These include the provision of both market and affordable housing. Given the lack of a deliverable five-year housing land supply (in both the Wiltshire and Swindon local authority areas) and the demonstrable need for affordable housing, this is a matter that attracts significant weight, notwithstanding my conclusions on the first main issue. In addition, there would be economic benefits arising, including from construction works, employment and local expenditure from new occupants. There would be a net gain in biodiversity and some benefit from improved drainage. The delivery of housing close to the large urban area of Swindon might also provide opportunities to reduce commuting distances if existing Wiltshire residents that commute to the town could move closer, an objective of the CS. These matters all weigh in favour of the proposal.

Planning Balance

52. The appeal proposal conflicts with policies CP1, CP2 and CP19 of the CS, policy H4 of the LP, and the made Purton NP. These are fundamental policies of the development plan which provide for the spatial strategy and the distribution of development across the Wiltshire Council area. The proposal is clearly in conflict with the development plan taken as a whole and I attach the conflict significant weight despite the policies being out-of-date for the reasons I have set out above.
53. This development plan conflict, which includes a carefully considered and positively prepared neighbourhood plan, is sufficient in itself to significantly and demonstrably outweigh the benefits identified, when assessed against the policies of the Framework taken as a whole. However, I have found additional limited harm to the character of the area, resulting in a conflict with policy CP51 of the CS. This further weighs against the proposal.
54. In this case, there are no material considerations that indicate a decision other than in accordance with the development plan.

Conclusion

55. In light of the above, the appeal is dismissed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Felton, Counsel (day 1)
Martin Carter, Counsel (days
2-10)

He called:

Fiona Elphick MSc	Senior Ecology Officer
Chris Roe MSc MRTPI	Spatial Planning Manager
Henning Totz	Senior Planning Officer
Catherine Blow MSc	Senior Planning Officer

FOR THE APPELLANT:

Killian Garvey, Counsel

He called:

Dominic Farmer BSc (Hons) MSc MCIEEM CEnv	Director, Ecology Solutions
Mark Hewett	Senior Partner, Intelligent Land
Andrew Cook BA (Hons) MLD CMLI MIEMA CENV	Director, Pegasus Group
Guy Wakefield BA (Hons) MRTPI	Partner, Ridge and Partners LLP

INTERESTED PERSONS:

Jacqui Lay	Councillor
Richard Pagett	Local resident and member of NP Steering Group
Elizabeth Scotford	Local resident
Darren Smith	Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Council's list of appearances
- 2 E-mails relating to use of Biodiversity Metric
- 3 Cabinet Agenda (4 February 20) and Draft Housing Site Allocation Plan and Examination Report
- 4 Appeal and costs decision (APP/G2815/W/19/3232099)
- 5 Appellant's opening submissions
- 6 Council's opening submissions
- 7 Copy of objection from Purton Parish Council
- 8 Copy of original statement by Cllr Lay and updated statement
- 9 Statement of objection from Richard Pagett
- 10 Access proposals drawing (2900.07) and accompanying e-mails
- 11 Housing Land Supply – Position Statement Addendum
- 12 Enlarged copy of Appendix 7 from the evidence of Catherine Blow
- 13 Final 5 year housing land supply statement of common ground
- 14 E-mail from Swindon Borough Council regards 5YHLS
- 15 Draft conditions agreed between the parties
- 16 Appellant's costs application
- 17 Extracts from Biodiversity net gain – Good practice principles and the Biodiversity Metric 2.0 User Guide
- 18 Neutral grassland indicators table
- 19 Appeal decisions APP/W2275/V/11/2158341, APP/K2610/W/17/3188235 and APP/N5090/W/16/3145010
- 20 Completed S106 agreement
- 21 Ecology note – size of county wildlife site post development
- 22 Amended costs application by the appellant
- 23 Council's position on 5YHLS following publication of the 2019 Housing Delivery Test results
- 24 Council's response to costs application
- 25 Wiltshire Council Highway Report
- 26 Summons to full council meeting discussing Housing Site Allocations Plan
- 27 Council's closing submissions
- 28 Appellant's closing submissions and associated legal judgements
- 29 E-mail from Mark Callaghan regarding site access and tracking diagram

Appendix 2



Appeal Decision

Hearing held on 11 March 2021

Site visit made on 12 March 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2021

Appeal Ref: APP/Y3940/W/20/3249284

Land South of Broad Town Primary School, Broad Town SN4 7RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Greystoke Land Limited against the decision of Wiltshire Council.
 - The application Ref 19/03874/OUT, dated 8 April 2019, was refused by notice dated 20 December 2019.
 - The development proposed is residential development of up to 10 entry-level affordable dwellings, with associated access roads and car parking, a community car park, a publicly accessible village green, landscaping, drainage and other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 10 entry-level affordable dwellings, with associated access roads and car parking, a community car park, a publicly accessible village green, landscaping, drainage and other associated infrastructure at land south of Broad Town Primary School, Broad Town SN4 7RE in accordance with the terms of the application, Ref 19/03874/OUT, dated 8 April 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application was made in outline with all matters reserved. The quantum of the proposal is clear from the description of development, and all drawings relating to those matters reserved for future approval have been treated indicatively. The appeal has been dealt with accordingly.
3. The appellant submitted new evidence during the course of the appeal, including further archaeological information pursuant to amplifying the Council's reference to another site that is said to have had archaeological potential, and decisions by the Council and other inspectors which engage with the application of Paragraph 71 of the National Planning Policy Framework (the Framework), among other things.
4. The new evidence was ultimately accepted on the basis it was related to the principles at play under the appeal and did not fundamentally change the nature of the proposal or undermine the consultation process or other interested party representations made to date.

5. The Council also submitted new evidence during the course of the appeal, including a judgement relating to listed building statutory duties. For the same reasons described previously, the new evidence was ultimately accepted on the basis it was related to the principles at play under the appeal and did not fundamentally change the nature of the proposal or undermine the consultation process or other interested party representations made to date.
6. The appellant made an application for costs against the Council during the appeal. However, this application was subsequently withdrawn before the close of the hearing. Consequently, the application for costs and subsequent rebuttal have not been considered further.

Main Issues

7. The main issues are:
 - (a) whether the proposal is in an appropriate location for entry level housing;
 - (b) the effect of the proposal on the character and appearance of the area;
 - (c) the effect of the proposal on non-designated heritage assets;
 - (d) the effect of the proposal on a designated heritage asset; and
 - (e) whether planning obligations are necessary and suitably provided.

Reasons

Location

8. The site is a pastoral field located in the countryside adjacent to the settlement of Broad Town, which is a small village for the purposes of the Wiltshire Core Strategy 2015 (WCS). Within the wider local authority area, there is a general need for affordable housing and this need has become increasingly more acute since 2016. Consequently, lack of affordable housing appears to be a long term issue that the existing WCS spatial strategy has not been successful in addressing and needs direct intervention to resolve.
9. There is some variance in how the affordability ratios have been arrived at between the parties, but in any event, it demonstrates that the area has an affordability ratio that is particularly challenging for those seeking entry level homes, such as first time buyers. There is no evidence that entry level homes are recorded as a subset of affordable housing more generally and therefore it is impossible to determine whether local needs are being met on this basis.
10. It has been demonstrated that the Royal Wootton Bassett and Cricklade Community Area, which is the community area wherein the appeal site falls, has exceeded its requirement for housing supply more generally. Nevertheless, community area requirements and the findings within the parish plan are indicative thresholds and should not restrict or place a cap on the delivery of housing, which should be calculated and delivered based on broader housing market area requirements, within which the majority of household moves take place, and where there is no evidence to require further disaggregation to assess need.

11. On this basis, even if the Royal Wootton Bassett and Cricklade Community Area was meeting its indicative threshold, it would not provide a sound rationale for resisting development that would meet an otherwise prevailing need within the broader housing market area, where there is only 4.29 years of housing land supply. This is because, logically, those in need could move to the community area to access housing that might not otherwise be available elsewhere in the wider housing market area.
12. The proposal would deliver up to 10 units of entry level affordable housing for first time buyers that would contribute to the local authority wide shortfall in affordable housing and the shortfall of housing within the housing market area more generally. In this context, Paragraph 71 of the Framework is clear that the Council should support the development of entry-level exception sites for first time buyers unless the need for such homes is already being met within the area. The language used is quite clear, in that there is a requirement for evidence demonstrating that the need for such homes is being met, not that a need for such homes exists.
13. It would be irrational to require a developer to demonstrate that the need for such homes is already being met as this would undermine their position. Consequently, the only logical conclusion is that within Paragraph 71 of the Framework the existence of need is implicit, and the burden to demonstrate that such a need is being met sits with the Council. In considering that the Council does not record entry level homes as a subset of affordable housing more generally, it cannot be demonstrated that the need for such homes is being met in this case.
14. As will be reasoned later in my decision, Footnote 6 of the Framework is disengaged by virtue of public benefits outweighing the harm to a designated heritage asset pursuant to Paragraph 196 of the Framework. Consequently, it follows that Footnote 34, which relies on Footnote 6 therein, would also be disengaged for the purposes of applying the relevant part of Paragraph 71 of the Framework which relates to the protection given to areas or assets of particular importance.
15. It is clear that the very nature of proposals advanced pursuant to Paragraph 71 of the Framework would deliver an implicit level of landscape change at the edge of a settlement, with a certain degree of tolerance for harm built into its provisions. Accordingly, in my mind, the starting point for considering compliance with local design policies and standards in the context of Paragraph 71 of the Framework can only logically involve detailed matters about the design of housing, not matters of principal landscape change.
16. For me to consider compliance with local design policies and standards in the context of principle landscape change would be a contradiction of the provisions within Paragraph 71 of the Framework, which allow small numbers of entry level homes to emerge at the edge of a settlement on the basis that the benefits would outweigh any limited changes and potential landscape harm.
17. With this in mind, and as will be reasoned later in my decision, the existence of fundamental landscape harm would not render the proposal incompatible with Paragraph 71 of the Framework and compliance with local design policies and standards can be achieved through the flexibility inherent in an outline proposal, including the Council's and other interested parties' continued agency in relation to future reserved matters applications.

18. In terms of the stated thresholds pursuant to Paragraph 71 of the Framework, there is no scaled plan or other evidence in front of me to demonstrate that the site exceeds the 5% limit of the settlement's existing extent, or that the 5% limit relates to the size of population instead of the extent of the built form.
19. Part of the Council's first reason for refusal in relation to the location of development relates to conflict with Core Policy 44 of the WCS and countryside exception status therein, including whether there is support from the local community, such as within the parish plan, among other things. Conflict with this policy is not disputed by the appellant.
20. Core Policy 44 of the WCS has direct linkages with the wider spatial strategy for housing insofar as it relates to rural exception sites. Accordingly, in conjunction with the persistent lack of affordable housing and shortfall in housing land supply in the housing market area, which stands at 4.29 years, the only reasonable conclusion is that the current spatial strategy is not working as intended and any weight resultant from conflict with it should be reduced.
21. Overall, the proposal would conflict with Core Policy 44 of the WCS, including interlinked Core Policies 1, 2 and 19 of the WCS's spatial strategy and Saved Policy H4 of the North Wiltshire Local Plan 2011 (NWLP). Among other things, these policies require housing to come forward where it is needed. Due to the statutory nature of the development plan, any conflict with it should carry great weight. However, when considering the persistent lack of affordable housing and current shortage in housing land supply more generally, such conflict should only carry moderate weight in this case.
22. The proposal would accord with Paragraph 71 of the Framework, wherein there is no evidence of any existing entry level affordable housing, the presumption being that needs are not being met to any quantifiable extent and therefore provision of such housing should carry great weight. This weight should be further enhanced when considering the persistent lack of affordable housing and current shortage in housing land supply more generally and should therefore carry significant weight in the overall planning balance.
23. Paragraph 71 of the Framework is geared towards smaller sites, consequently, although there are relatively limited numbers of units proposed, the proposal could deliver a quantum in line with what is allowed and therefore the weight afforded to potential benefits should not be reduced for these reasons alone.

Character and Appearance

24. The pattern of development in Broad Town is centred around Broad Town Road, which runs on a north-south axis. The built form in the south comprises the core of the original village and is greater in scale compared to the built form in the north, which comprises more recent development. Both parts of the village are separated by a network of open fields.
25. In practical terms, these fields create a countryside gap, albeit without any formal designation within the development plan. The countryside gap is an important feature preventing coalescence of Broad Town's distinct pattern of development and integral to preserving the rural character and appearance of the settlement.

26. The boundary of North Wessex Downs Area of Outstanding Natural Beauty is located approximately 500 metres to the south, however there is no evidence in front of me that there are visual linkages with it or that there is potential for effects on its setting.
27. The site currently presents itself as a large undeveloped pastoral field within the countryside gap and is adjacent to Broad Town Primary School to the north and Christ Church¹ to the east. Consequently, it contributes to the countryside gap and helps prevent coalescence between Broad Town's distinct pattern of development.
28. The proposal would comprise up to 10 units of entry level affordable housing for first time buyers alongside a village green and community car parking area, among other things. The proposal has been submitted in outline and therefore the layout currently before me is indicative of what might be possible at reserved matters stage.
29. In this context, the proposal could deliver the residential component of the development and community car parking area in a manner where it sits directly adjacent to Broad Town Primary School, forming a block around its southern and western perimeter. The village green could be delivered to the south of the residential component of the development, directly opposite Christ Church to the east.
30. In principle terms, the proposal would deliver built form where there currently is none, and within a countryside gap that has an integral function in preventing coalescence between the north and south of Broad Town. Clearly, therefore, the proposal would erode some of the countryside gap and cause a degree of harm to the rural character and appearance of the area.
31. However, based on the indicative layout it is clear that the main built form associated with the development could have a very direct relationship with the existing built form of Broad Town Primary School. Consequently, although the wider extent of the site and red line boundary does take in an appreciable amount of the countryside gap, only a small part of it would actually give rise to residential development and hard landscaping associated with the community car parking area, among other things.
32. Furthermore, in relative terms Broad Town Primary School is located towards the northern periphery of the countryside gap and has a close relationship with the built form comprised in the north of the village. Consequently, if the residential component and community car parking area of the development were delivered directly adjacent to Broad Town Primary School in the manner indicatively proposed, it would better preserve the countryside gap than if it were detached within the open field or dispersed throughout the entirety of the wider site.
33. Altogether, the residential component and hard landscaping associated with the community car parking area of the development could potentially come forward in a manner which created a limited extension to the built form of the village's northern extent and without significantly harming the inherent function of the countryside gap or heightening the risk of coalescence.

¹ Grade II Listed Building

34. Indicatively, the village green would be located further south than the other components of the development, however given that there would be no built form of any scale it would not undermine the role of the countryside gap in preventing coalescence. Ultimately, my assessment is based on indicative outcomes and it is difficult to determine the extent of effects in anything other than principle terms without prejudicing the reserved matters approval process.
35. Consequently, overarching my assessment and conclusion of principle harm to the rural character and appearance of the area is the fact that the proposal is put forward in outline wherein lies a significant degree of flexibility to deliver a development that accords with local design requirements and otherwise mitigates the most serious and harmful effects. For example, the layout of units could be evolved at reserved matters and the community car parking area could be subject to robust soft landscaping measures to control the effects of built form on the countryside gap.
36. Overall, the proposal would erode part of the countryside gap and harm the rural character and appearance of the area. This would cause conflict with Core Policies 51 and 57 of the WCS and Paragraph 170 of the Framework, which among other things requires development to protect, conserve and where possible enhance landscape character, whilst mitigating negative impacts as far as possible through sensitive design and landscaping measures.
37. Notwithstanding this conflict, the flexibility inherent in an outline proposal would help mitigate this harm. Consequently, any harm derived from conflict with development plan which would normally carry great weight should be reduced to having moderate weight in this context.

Non-Designated Heritage Assets

38. Paragraph 189 of the Framework is clear that developers are required to submit an appropriate desk based assessment and, where necessary, a field evaluation. In this context, the appellant has provided an archaeological report desk based assessment and a geophysical survey field evaluation. Therefore, at a fundamental level they have complied with the provisions of Paragraph 189 of the Framework. The desk based assessment demonstrates that the site is in an area with moderate potential for Romano-British remains. The geophysical survey identified that the closest feature of possible archaeological interest was some distance away from the site.
39. Another scheme in the area, and specifically the geophysical survey therein, returned anomalies that trial trenching ground investigations helped clarify, subsequently confirming the presence of features of archaeological interest within that site. It is my understanding that these anomalies had at least some characteristics indicating that they were of possible archaeological origin, wherein further ground investigations were a proportionate course of action.
40. My understanding of the evidence submitted under this appeal and elaborated on at the hearing is that some features of archaeological interest, such as burial sites, due to their physical nature and prevailing geology, may be difficult to identify in a definitive manner. However, even if this is the case, the evidence suggests that the anomalies would still show at least some characteristics of possible archaeological origins. This logic would be consistent with the scenario from the other scheme in the area.

41. In this context, there is no evidence in front of me that there are anomalies within the geophysical survey data on this site with the necessary characteristics suggestive of features of possible archaeological origin that are of particular interest or value. The closest features of possible archaeological origin, interest or value are demonstrated to be some distance away from the site, and on the balance of probabilities I have no suspicion of significant archaeological remains on the site that would require further ground investigations to establish the principle of development.
42. In the unlikely event that features of possible archaeological origin are present, the robustness of the appellant's approach means that any such findings would likely be limited in scope and scale. Consequently, any residual risk could be addressed by a suitably worded planning condition requiring further archaeological investigations as part of the development's construction.
43. Furthermore, the flexibility inherent in an outline proposal means that in the unlikely event that features of archaeological interest are unearthed and are of such significance that would sterilise part of the site, there is scope to change the layout to balance the delivery of the development with the preservation of non-designated heritage assets.
44. Overall, the proposal would not have a harmful effect on non-designated heritage assets and would therefore accord with Core Policy 58 of the WCS and Paragraph 189 of the Framework. Among other things, these seek to ensure that heritage assets of archaeological interest are sufficiently investigated, and potential effects robustly assessed. The proposal would draw neutral weight in the planning balance in this regard.

Designated Heritage Asset

45. The site is located directly to the west of Christ Church, which derives much of its heritage significance from the artistic and aesthetic value of its construction. For example, it was constructed as an Anglian Parish Church between 1844 and 1846 out of Bath stone, tile, a stone slate roof. To a lesser degree, it also derives some heritage significance from its rural surroundings, comprising agricultural fields and low density pattern of development, all of which have slowly evolved over many years and help inform its setting.
46. In terms of views of the building in the context of the general locality, when walking along Broad Town Road from a distance, there are only glimpses due to intervening vegetation. Similarly, there are only glimpses of the building from nearby public rights of way and more distant ridgeline views for similar reasons. The building comes into more complete view when directly opposite and looking eastwards from Broad Town Road, and this is where the building's artistic and aesthetic value and heritage significance is most prominent outside of its grounds.
47. In terms of views of the building in the context of the appeal site, when walking along Broad Town Road and looking towards the building, views are mostly obscured by vegetation or held in the context of Broad Town Primary School. Consequently, the site is not necessarily contributing a great deal to the building's setting from the roadside. In addition, views in this context would be taken in the opposite direction of the site, and therefore the site itself would be peripheral. Consequently, the site's contribution to the building's setting would be further reduced.

48. It is only from within the grounds, nearby public rights of way or distant ridgeline vantage points where the site makes an appreciable contribution to the building's setting. Even in this context, views are heavily obscured by intervening vegetation and topography, held against the backdrop of existing development or otherwise diminished due to the distances involved. Consequently, there are difficulties in discerning features of heritage significance therein.
49. The proposal would deliver built form where there currently is none, and therefore would erode part of the site and rural setting of the building, harming its heritage significance in principle terms. However, based on indicative layouts, this harm would be tempered by a number of factors.
50. Outward views from the grounds of the building directly westwards would be preserved due to the potential siting of the village green. In addition, views towards the dwellings and the community car parking area would be held against the existing urbanised backdrop of Broad Town Primary School. These views could potentially be further mitigated by soft landscaping measures.
51. Views from public rights of way behind the site looking towards the building would continue to be obscured by vegetation, and these heavily filtered views would be preserved by the potential siting of the village green. Consequently, in taking these factors into account the proposal would generate less than substantial harm on the heritage significance of Christ Church.
52. In terms of public benefits, notwithstanding the merits behind the village green and community car parking area, it is not clear how they can be advanced in support of the proposal as tangible benefits when their delivery is left open ended and uncertain.
53. There is no mechanism for these components to come forward in tandem with the residential component of the proposal. Consequently, the residential component of the proposal could exist for several years before details of the village green and community car parking area are brought forward.
54. Furthermore, the appellant has made it clear that these components would not be brought forward by themselves. It follows that without a delivery body or a delivery mechanism to provide certainty that these components will come forward, they may never come forward at all. Consequently, any potential harms resultant from the development that the benefits would purportedly seek to offset would potentially be left to persist in an unmitigated fashion.
55. Accordingly, the tenuous association with the delivery of the residential component of the proposal means they cannot be regarded as real benefits. On this basis, other than concluding they should not be weighed in the balance, it would serve no purpose under the appeal for me to consider the potential merits of these components any further.
56. Overall, the proposal would conflict with Core Policy 58 of the WCS, which among other things seeks to ensure conservation of the historic environment. The harm derived from this conflict with the development plan would normally carry great weight, however given the policy does not include provision for balancing potential benefits and is therefore plainly inconsistent with Paragraph 196 of the Framework, any harm should be reduced to carrying moderate weight in this context.

57. The benefits associated with delivering entry level affordable homes pursuant to Paragraph 196 of the Framework, that were quantified earlier in my decision, generate significant weight in favour of the proposal. Great weight is afforded to less than substantial harm to the significance of designated heritage assets pursuant to Paragraph 193 of the Framework.
58. Consequently, the balancing exercise required by Paragraph 196 of the Framework, wherein I have given considerable importance and weight to the statutory duty to preserve the building, would conclude in the proposal's favour, acting as a material consideration to be weighed in the overall planning balance.
59. Notwithstanding the significant weight generated through the delivery of entry level affordable housing pursuant to Paragraph 71 of the Framework, in volume housebuilding terms, the proposal is relatively small scale. Consequently, construction related benefits, such as employment among other things, would be limited.
60. In terms of biodiversity and planting benefits, there is no quantifiable evidence in front of me (through the adoption of an appropriate metric analysis or similar) to demonstrate the existing value of diversity and potential net gains. Consequently, these benefits would carry limited weight and have not been determinative when undertaking the balancing exercise under Paragraph 196 of the Framework.

Planning Obligations

61. In accordance with Paragraph 56 of the Framework and pursuant to the Community Infrastructure Levy Regulations 2010, planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, among other things.
62. In the context of my assessment of the potential benefits of the proposal earlier in my decision, it is clear that the benefits associated with the delivery of entry level affordable housing are sufficient to make the proposal acceptable in planning terms independent of other potential benefits.
63. In this context, the planning obligations relating to the community car parking area and village green, irrespective of whether the delivery mechanism is sufficiently robust to realise the purported benefits, would fail the relevant test of necessity under Paragraph 56 of the Framework, thus triggering any related 'blue pencil clauses' within the submitted unilateral undertaking.
64. Affordable housing planning obligations are necessary to ensure that the entry level homes proposed and advanced as benefits in favour of the development are secured in perpetuity. They are directly related to the development having been advanced pursuant to Paragraph 71 of the Framework and related in scale and kind to the policy provisions therein.
65. Furthermore, the affordable housing planning obligation in Schedule 1, not to submit any reserved matters application without having (at least one month previously) submitted an affordable housing scheme to the Council is necessary to ensure that such a scheme is agreed so that the provision of affordable housing within subsequent reserved matters is adequate.

66. At the hearing, it was disputed whether or not contributions towards monitoring costs were necessary. I have not seen any such obligations within the unilateral undertaking or additional commentary within the updated compliance statement on what sum should be paid and whether it is fairly and reasonably related in scale and kind to the development. Consequently, I have not dealt with the matter further. For the avoidance of doubt, my assessment of the planning obligations is based on the unilateral undertaking and component parts dated 24 March 2021.

Planning Balance

67. The proposal would conflict with the development plan in terms of its lack of exception site status and general lack of conformity with the spatial strategy. However, the perennial shortage of affordable homes in the area, in conjunction with the current lack of sufficient housing land supply more generally would mean the harm derived from conflict with the development plan would be reduced to carrying moderate weight.
68. The proposal would also conflict with the development plan in terms of its effects on a countryside gap and character and appearance of the area. However, due to flexibility inherent in an outline proposal, any harm derived from conflict with the development plan which would normally carry great weight should be reduced to having moderate weight in this context.
69. The proposal would also conflict with the development plan in terms of its effects on designated heritage assets. However, there is no provision to consider public benefits and this is inconsistent with Paragraph 196 of the Framework. Consequently, any harm derived from conflict with the development plan which would normally carry great weight should be reduced to having moderate weight in this context.
70. The proposal would accord with the development plan in terms of effects on non-designated heritage assets and generate neutral weight, insofar as there is no compelling evidence of possible features of archaeological interest and where the flexibility inherent in an outline proposal in conjunction with conditions would help mitigate any potential harmful effects.
71. Overall, the proposal would conflict with the development plan when taken as a whole. Furthermore, the cumulative effect of the identified conflicts, which individually carry moderate or neutral weight, would elevate the harm so that when taken together any harm becomes significant.
72. The proposal would accord with Paragraph 71 of the Framework, wherein there is no evidence of any existing entry level affordable housing, the presumption being that needs are not being met to any extent and therefore provision of such housing should carry great weight. This weight should be further enhanced when considering the perennial lack of affordable housing and current shortage in housing land supply more generally and should carry significant weight as a public benefit in this context.
73. This significant weight as a public benefit overcomes the less than substantial harm to the significance of Christ Church as a designated heritage asset and the great weight it is afforded in the balancing exercise under Paragraph 196 of the Framework.

74. In this context, resultant from the lack of housing land supply Paragraph 11 d) of the Framework is engaged. The outcome of the balancing exercise under Paragraph 196 of the Framework, and pursuant to Paragraph 11 d) i. means that the application of policies in the Framework that protect areas or assets of particular importance does not provide me with a clear reason for refusing the development proposed. Consequently, Paragraph 11 d) ii is engaged.
75. The proposal would generate both significant harm and significant benefit in roughly equal measure, and in essence this would have a neutralising effect within the planning balance. Consequently, the only logical conclusion is that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Accordingly, and overall, the proposal would benefit from a presumption in favour of sustainable development that would tip the overall planning balance in its favour.

Other Matters

76. A large number of representations have been received in response to the application and appeal objecting to the proposal. A significant proportion of the matters raised have been covered when dealing with the main issues. However, there are a number of other matters raised not disputed by the main parties. In terms of biodiversity, a preliminary ecological survey was carried out on the wider site, which identified poor semi-improved grassland habitat, among other things. Subsequent studies were carried out for other protected species such as bats, reptiles, and water voles. There is no evidence that the proposal would have an unacceptable effect on biodiversity in this context.
77. The proposal in front of me is for a single development up to 10 dwellings and there is no evidence of an intention to add additional phases of development. In any event, if further proposals were to come forward, this would be a matter for the Council in the first instance under standard planning application procedures. The planning history of the site, or the planning history associated with other sites in the area, may involve some of the same principles, but the exact details of each case are different. The case in this instance has been determined on its own merits, in accordance with the evidence presented, the development plan and other material planning considerations.
78. In principle terms, there is no evidence in front of me that there is a particular parking problem along Broad Town Road or that the proposal, at its potential maximum, would be of a scale that would introduce parking or other highway related capacity issues. More detailed transport matters, including the final number of dwellings and parking provision for future occupants would be dealt with under reserved matters, as would details of lighting and security, among other things. In terms of flooding, the size of the site in conjunction with its position within a lower tier flood zone means that the risk of flooding is low, and no formal assessment was required. A drainage strategy pursuant to managing surface water has been provided and there is no evidence that this is deficient.

Conditions

79. The Council originally suggested 21 conditions, whilst the appellant provided comments in response. These were all considered against the Framework and Planning Practice Guidance. Conditions were subject to minor amendments in the interests of consistency, clarity and running order.

80. Some conditions were removed to avoid duplicating provisions dealt with by planning obligations. All the conditions set out in the attached schedule are considered necessary to make the development acceptable in planning terms.
81. In broad terms, the inference of my conclusion on the necessity of planning obligations, where the proposal could come forward without the potential benefits of the village green and community car parking area, is that planning conditions of a similar kind that control the timing of these components of the development would also be unnecessary.
82. Accordingly, as the residential component of the permission does not rely on the village green or community car parking area it would be unreasonable to prevent it coming forward in advance of these other components. I am satisfied with the appellant's suggested amendments to the Council's schedule of conditions, in that the submission of reserved matters (and other conditions where there were originally interdependencies within the Council's drafting) can relate to constituent parts of the proposal without detriment.
83. Standard conditions setting out the time limits, and securing compliance with the approved plans, are necessary to provide certainty. The statutory time limits should apply in this case as there is no evidence suggesting that a reduction in such time limits should be advanced against Paragraph 71 type housing.
84. Restricting dwelling numbers is necessary to define the extent of the permission to be granted pursuant to the description of development. Removing the housing mix requirements is necessary to avoid duplicating planning obligations submitted within the unilateral undertaking. Further details on site levels and restrictions on building heights are required to ensure that development comes forward in a manner that integrates with the surrounding topography, built form and natural features of the site.
85. Measures to protect and mitigate the effects of construction as a result of the development are necessary in the interests of preserving and enhancing the ecological integrity of those receptors identified as part of the proposal. Similarly, measures for controlling external lighting are necessary in the same context, particularly in relation to protected species such as bats.
86. A written programme of archaeological investigation is necessary to amplify the desk based assessment and geophysical survey undertaken as part of the proposal to date, and to provide certainty in relation to potential archaeological features at the site. This will also enable the proposal to react flexibly and preserve any unidentified features.
87. The Council's drafting of the written programme of archaeological investigation requirements is deemed fairly and reasonably relevant to the development being permitted because it is necessary to identify potential archaeological remains across the whole site subject to ground works, such as utility works, and not just principal areas of site development, such as areas for housing. Otherwise, such ground works could commence without prior investigation, potentially to the detriment of unidentified archaeological features.
88. An arboricultural method statement is necessary to amplify the details submitted in support of the proposal to date, and to ensure the protection of trees on site during construction.

89. Further details on what the village green, community car parking area and landscaping should include are necessary to guide the submission of reserved matters. As already reasoned, triggers for the submission of details relating to the village green and community car parking area do not need to be dependent on the residential component of the proposal.
90. Details on the maintenance of open space are necessary to ensure that any such space that comes forward as part of the development is appropriately maintained and does not deteriorate or detract from the character and appearance of the area over time. The appellant's negatively worded drafting is reasonable and in accordance with Planning Practice Guidance² which allows such conditions to prohibit development authorised by the planning permission until a specified action has been taken.
91. A construction management plan is necessary to ensure that effects of construction are suitably controlled in a manner that protects the environment, for example by preventing pollution through surface water runoff, among other things. A scheme for surface water drainage is necessary to ensure that the proposal incorporates sustainable drainage and preserves the water environment. The appellant's drafting of the condition is reasonable as it is consistent with the disaggregation of the component parts of the proposal, the principle of which has already been reasoned earlier in my decision.
92. Paragraph 53 of the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this context, the site is on the edge of settlement and any additional harms resultant from the urbanisation of the site need to be strictly controlled so that the integrity of the overall planning balance is preserved. Consequently, restrictions to permitted development rights are necessary in this case.

Conclusion

93. There is conflict with the development plan, but Paragraph 11d of the Framework is a material consideration that has been decisive in this case, indicating that a decision should be taken otherwise than in accordance with the development plan. Consequently, the appeal is allowed, and planning permission is granted subject to conditions in the attached schedule.

Liam Page

INSPECTOR

² Paragraph: 005 Reference ID: 21a-005-20190723

Schedule of Conditions

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) No development shall commence within any part of the site until details of the following matters (in respect of which approval is expressly reserved) for that part of the site have been submitted to, and approved in writing, by the Local Planning Authority:
 - a. The scale of the development;
 - b. The layout of the development;
 - c. The external appearance of the development;
 - d. The landscaping of the site;
 - e. The means of access to the site.

The development shall be carried out in accordance with the approved details.

- 3) Applications for the approval of all of the reserved matters for the residential element of the development hereby permitted as shown indicatively on drawings P18-2550_07 Rev D or Rev E shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Applications for approval of all of the reserved matters for the car park and village green elements of the development hereby approved as shown on the same plans shall be made to the Local Planning Authority before the expiration of five years from the date of this permission.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise varied by details submitted to and approved in writing by the Local Planning Authority in accordance with the conditions of this planning permission: Location Plan P18-2550_03 – submitted on 16th April 2019
- 5) The number of dwellings hereby permitted shall not exceed 10.
- 6) No development shall take place until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads and footpaths), in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) No dwelling hereby approved shall exceed 8 metres in height as measured from finished floor level and shall not exceed two storeys.

- 8) Prior to commencement of development, an Ecological Construction Method Statement (ECMS) will be submitted to the Local Planning Authority for its written approval. The document will address the protection and detailed mitigation measures of all receptors within or adjacent to the site likely to be affected by the development process as detailed in the Preliminary Ecological Appraisal Survey Report Version 002 (Acorn Ecology, April 2019) and the Ecology Note Email from Alexander Heath (Grassroots Ecology, 11 November 2019). The ECMS will also detail that no external lighting will be permitted during the construction phase unless details are first submitted to and agreed in writing by the Local Planning Authority. The construction of the development shall only be carried out in accordance with the approved ECMS.
- 9) Together with the first reserved matters application, a plan showing the locations and specifications of all measures labelled as ecological enhancements in Section 5.4 the Preliminary Ecological Appraisal Survey Report Version 002 (Acord Ecology April 2019), together with a schedule of works to ensure the measures are retained and maintained in the approved form shall be submitted to and approved in writing by the Local Planning Authority. All reserved matters applications shall accord with the approved details and the development shall be undertaken in strict accordance with those details. The approved measures shall be retained and maintained in the approved form without modification.
- 10) No external lighting shall be installed in the publicly accessible areas of the site unless or until plans, showing the type of light appliance, the height direction and position of fitting, illumination levels and light spillage in accordance with the appropriate environmental zone standards set out by the Institute of Lighting Engineers in their publications "Guidance Notes for the Reduction of Obtrusive Light (ILE, 2005)" and Guidance Note 08/18 Bats and Artificial Lighting in the UK (which shall take precedence) have been submitted to and approved in writing by the Local Planning Authority. The submission shall:
 - a. Identify those areas / features on the whole site that are particularly sensitive for foraging / commuting bats;
 - b. Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, including a Lux plot) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and
 - c. Specify luminaries, heights and positions of fittings, direction and other features, e.g. cowls, louvers or baffles

The approved lighting shall be installed and thereafter maintained in accordance with the approved details and no additional external lighting shall be installed in the publicly accessible areas of the site.

- 11) Prior to the submission of the first reserved matters application, a written programme of archaeological investigation, on land outlined in red as shown on the Location Plan P18-2550_03, including a timeframe for onsite work and off site work such as the analysis, publishing and archiving of the results, shall be submitted to and approved in writing by the Local Planning Authority.

For the avoidance of doubt the results of the trial trenching agreed as part of the written programme of archaeological investigation shall be submitted together with the first reserved matters application including the details of the measures to ensure that any archaeological interest found in the trial trenching, with are demonstrably of national significance shall be preserved in situ in accordance with the agreed scheme.

Following an initial phase of trenching, no development, including any ground works shall take place on any part(s) of the site where it is necessary to preserve in situ heritage assets of archaeological interest which are demonstrably of national significance.

In the case of remains of lower significance being located in the trenching, a written programme of archaeological investigation for archaeological excavation will be required to be approved and implemented prior to the commencement of any groundworks on site. The programme shall be carried out in accordance with the approved timeframe.

- 12) No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:
- a. A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing;
 - b. A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;
 - c. A schedule of tree works conforming to British Standard 3998: 2010;
 - d. Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
 - e. Plans and particulars showing the siting of the service and piping infrastructure;
 - f. A full specification on how the construction of the access road and parking spaces will be achieved within the RPA of T16 including details of any no-dig method. Details of the length of

G1 to be removed to facilitate the pedestrian access along with clarification of the impacts on G17.

- g. Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
 - h. Details of all other activities, which have implications for trees on or adjacent to the site.
 - i. In order that trees to be retained on-site are not damaged during the construction works and to ensure that as far as possible the work is carried no demolition, site clearance or development should commence on site until a pre-commencement site meeting has been held, attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Planning Authority, to discuss details of the proposed work and working procedures.
 - j. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.
- 13) For the avoidance of doubt, the village green as submitted as part of the reserved matters applications pursuant to conditions 2 and 3 shall include details of:
- a. Proposed tree planting both to the boundaries and within the space;
 - b. Surfacing materials (if applicable) and species planting, including areas of turfing to allow for its use as a village green;
 - c. Any seating areas, minor artefacts, means of enclosure ;
 - d. Existing and proposed contours if applicable;
 - e. Envisaged proposed community uses and demonstration the design of the area is conducive to the community uses, in consultation with Broad Town Parish Council and the community in the parish of Broad Town the congregation of the Christ Church and Broad Town School.

Once provided the village green shall be retained and maintained in the approved form without modification.

- 14) For the avoidance of doubt, the details of the community car park as submitted as part of the reserved matters applications pursuant to conditions 2 and 3 shall include:

- a. Proposed tree planting both to the boundaries and within the space;
- b. Surfacing materials, including denotation of up to 35 parking spaces, turning areas, circulation areas to enable school drop off during peak times pedestrian access to Broad Town Road and towards the entrance gates of Broad Town Primary School and lighting;
- c. Proposed landscaping both within the site and to the car park boundaries;
- d. Any proposed means of enclosure, signage
- e. Management plan to prevent overuse by occupiers of the new dwellings
- f. A statement to demonstrate the design of the area is conducive to the community uses, in consultation with Broad Town Parish Council and the community in the parish of Broad Town, the congregation of the Christ Church and Broad Town School

Once provided the community car park shall be retained and maintained for the use of car parking maintained in the approved form without modification.

- 15) All soft landscaping comprised in the approved details of landscaping necessary for the residential element of the scheme shall be carried out in the first planting and seeding season within or following the first occupation of the dwellings hereby permitted or the completion of the residential element of the development whichever is the sooner.

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

All hard landscaping for the residential element of the development shall also be carried out in accordance with the approved details prior to the occupation of any dwelling or in accordance with a programme which shall first have been approved in writing by the Local Planning Authority.

The hard and soft landscaping related to the village green and community car park elements of the development shall not be implemented other than in strict accordance with a programme which shall first have been submitted to and approved in writing by the Local Planning Authority.

- 16) Before the development hereby permitted is commenced, a plan for landscape management (covering a period of no less than 15 years), in respect of all the land within the red line shall have been submitted to and approved in writing by the Local Planning Authority.

The landscape management plan shall include a programme for implementation, long term design objectives, long term management responsibilities including funding and maintenance schedules for all landscape areas (including hedgerows and other incidental areas) other than privately owned domestic gardens. The site shall subsequently be managed in accordance with the approved scheme.

For the avoidance of doubt the scheme shall include provisions that deal with landscape management and maintenance of the village green and community car parking area as shown indicatively on plans P18-2550_07 Rev D or Rev E (i) prior to the implementation of those components as permitted, and (ii) following implementation of those components as permitted.

- 17) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a. the parking of vehicles of site operatives and visitors;
- b. loading and unloading of plant and materials;
- c. storage of plant and materials used in constructing the development;
- d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e. wheel washing facilities;
- f. measures to control the emission of dust and dirt during construction and prohibition on burning of materials;
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- h. measures for the protection of the natural environment.
- i. hours of construction, including deliveries; and
- j. drainage arrangements during the construction works;
- k. vehicle routing for construction vehicles including site access management strategy to manage access during construction works;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved details.

- 18) No development shall commence until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage measures and a maintenance schedule for those drainage systems for the lifetime of the development and arrangements for the adoption by any public or statutory undertaker and any other arrangements to secure operation of

the scheme throughout its lifetime, has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall not be implemented unless in accordance with the approved details prior to the occupation of the first dwelling on site or in accordance with a phased programme which shall first have been approved in writing by the Local Planning Authority.

- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no buildings or structures (other than development permitted under Schedule 2, Part 1, Class E), or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

End of Schedule

Appearances

For the Appellant

Mr Killian Garvey - Barrister

Mr David Hutchison – Planning Consultant

Ms Gail Stoten – Built Heritage and Archaeological Consultant

Mr John Gregory – Solicitor

For the Council

Mr Jonathan Easton - Barrister

Ms Catherine Blow – Planning Officer

Ms Helen Garside – Conservation Officer

Ms Melanie Pomeroy-Kellinger – County Archaeologist

Interested Persons

Ms Judy Conybeare – Local Resident

Mr Brian Joyce – Local Parish Councillor

Documents Submitted at the Hearing

Document 1

Magnetometer Survey Report at Land East of Sam's Lane, Broad Blunsdon 2018

Document 2

Consultation Response from Ms Melanie Pomeroy-Kellinger pursuant to
Magnetometer Survey Report at Land East of Sam's Lane, Broad Blunsdon 2018

Appendix 3

Appeal Decision

Hearing held on 8 and 9 February 2020

Site visit made on 10 February 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal Ref: APP/Y3940/W/19/3243873

Land south of Westwells Road, Neston, Corsham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by HD Town Planning against the decision of Wiltshire Council.
 - The application Ref 18/09884/OUT, dated 12 October 2018, was refused by notice dated 20 September 2019.
 - The development proposed is for residential development (Class C3) of up to 81 dwellings including roads, footpaths, balancing area and open space.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development (Class C3) of up to 81 dwellings including roads, footpaths, balancing area and open space at Land south of Westwells Road, Neston, Corsham, in accordance with the terms of the application Ref 18/09884/OUT, dated 12 October 2018, and subject to the conditions set out in Annex B to this decision.

Preliminary Matters

2. The third reason for refusal is in relation to ecology. However, the appellant submitted further information to the Council in this regard in the lead up to the hearing. In light of that additional information, the Council did not pursue this reason for refusal.
3. The fourth reason for refusal is in relation to securing adequate provision for on and off-site infrastructure. A completed and engrossed s106 Unilateral Undertaking, dated 17 February 2021 (the UU) was submitted, following discussions both in the lead up to the hearing and in the hearing itself. Subject to this, the Council confirmed that it would not be pursuing this reason for refusal either.
4. The application was submitted in outline with all matters reserved. Some of the supporting documentation in support of the appellants case suggested that access had been applied for in full. However, it was clarified at the hearing that this was in error and that the appeal scheme is in outline for all matters.

Main Issues

5. The main issues are whether or not:
 - the site is previously developed land;

- the site is a former military establishment and associated considerations about whether or not the appeal site is an appropriate location for development of this type; and
 - adequate arrangements are made for the disposal of surface water from the site.
6. In addition to these, the weight to be attached to the provision of affordable and self-build/custom build housing are key components of both parties cases. However, the provision of affordable housing and self-build/custom build housing, in principle, amount and detail, is not contested. I cover this in the Planning Balance and Conclusion section below.

Reasons

Planning policy

7. The development plan includes the North Wiltshire Local Plan 2001, the Wiltshire Core Strategy 2015 (the CS), and the Corsham Neighbourhood Plan 2016-2026, November 2019 (the NP). Policy CNP H1 of the NP was deleted in **line with the recommendations of the Examiner's Report and therefore is not part of the 'made' version of the NP.**
8. It is agreed between the parties that the Council cannot demonstrate a five-year housing land supply. The Council considers that it has a supply of 4.56 years. The appellant believes this is the most that it could be. Paragraph 11d) of the National Planning Policy Framework (the Framework) is therefore engaged.

Previously developed land

9. Several buildings were constructed all over the site on concrete hard standing bases during World War II (WWII). Access roads, drainage and other services were also constructed. It is no longer possible to say precisely how the buildings were constructed. Whatever the initial intention for their permanence, **they were retained and occupied until at least the late 1950's and potentially 1960.** On that basis, they can be considered as permanent structures. Having had regard to the definition of previously developed land in the Framework, the associated bases and access roads, which still mostly exist, comprise associated fixed surface infrastructure.
10. The concrete bases and access roads are clearly visible on the site, with the bases protruding above the underlying vegetation and the vegetation is also cut back from much of the access roads. Evidence has been provided that this has not always been the case and that in the past the site was more overgrown. However, as it stands today, the remains of the fixed surface infrastructure have not blended into the landscape. The site is therefore previously developed land, as defined by the Framework.

Former military establishment and location

11. The appeal site is adjacent to Westwells village, **which is a 'small village' as defined in Policy CP1 of the CS.** Policy CP1 restricts residential development in **'small villages' to that needed to meet the housing needs of the village.** The housing needs of the village are not defined, but Policy CP11 sets out that in the Corsham Community Area, which covers not only Westwells but several

other villages as well, around 175 homes should be provided outside of Corsham. The Council provided evidence that 343 homes have already been provided in these areas in the Plan period.

12. **'Small villages' do not have defined settlement boundaries. Policy CP2 of the CS states that development at 'small villages' will, among other factors, be limited to infill within the existing built area, and that it should not elongate the village.** The appeal site is arguably not in the village in any case, merely adjacent, and therefore outside of a settlement for the purposes of the CS. Even if it were considered to be in the village, the proposal is for a greater scale than could be considered infill development. It would also elongate the village. The proposal therefore conflicts with Policies CP1, CP2 and CP11.
13. The original buildings on the site were constructed during WWII for military purposes, either by the Ministry of Works or the Ministry of Defence (MoD). They were then most likely used in the post-war years for accommodation for displaced persons, linked to the aftermath of WWII. Since their demolition in **either the late 1950's or 1960, the site has lain vacant. The origins of** the site are clearly military. The most recent use, although a long time ago, was also linked to the military. Consequently, the site is a former military establishment. I am aware that the Inspector in an appeal decision in 1989¹ did not place any great weight on the former use of the site during WWII. However, this decision pre-dates the adoption of the current CS and the policies within it relating to military sites.
14. In this regard, Policy CP37 of the CS supports the redevelopment of redundant MoD sites provided they are well related to an existing settlement in terms of both location and scale. Whilst the policy focuses on employment-led development, it does not preclude residential development. It requires that development of redundant sites should enhance the overall character of the site.
15. Westwells is a relatively small village. Two borders of the appeal site are shared with the edge of the village. Beyond the residential core of the village are large commercial areas and development, running north-west along Westwells Road. The appeal site sits at the junction of these two different character areas and directly borders the nearest commercial development to the west. It is also previously developed land and has fairly extensive existing fixed surface infrastructure across the majority of the site in the form of access roads and concrete bases. The proposal for up to 81 dwellings and associated landscaping would not be out of keeping given this context, helping to bridge the residential part of the village to the commercial areas to the north-west.
16. The Inspector in the 1989 appeal decision concluded that development on the appeal site would result in the loss of a buffer site between the village and the MoD land. Since then, however, much of the commercial development to the north-west has been constructed, changing the character and appearance of the area and the relationship between the residential part of the village, the appeal site, and the commercial areas.
17. The appeal site is not isolated and, in the context of the extensive, immediately adjoining commercial development, the proposal is not out of scale with the character of the area. The appeal site is currently vacant, comprising partial

¹ Ref T/APP/J3910/A/88/098283/P3, determined 25 July 1989

scrub land with disused areas of concrete in a poor state of repair. Were the appeal to succeed, a condition could control the outline proposal to limit the number of proposed dwellings to 81 of no more than 2-storeys in height and to provide sufficient public open space. This would be further controlled by the submissions of reserved matters. Subject to this, the proposal would enhance the character and appearance of the appeal site.

18. Policy CP37 of the CS encourages a masterplanning approach with the local community be undertaken. Whilst no masterplanning has been undertaken with the local community, I am content that the proposal would enhance the overall character and appearance of the site. In this context, I do not see the lack of public involvement in the masterplanning process as fatal to the scheme.
19. The appeal site lies within the area covered by the NP. The NP does not allocate the site for development. Policy CNP BE3 of the NP supports development that contributes to strengthening the vitality and identity of West Corsham including the creation of an active frontage on to Westwells Road. Whilst it is not made clear in the NP, I tend towards the view that this is likely to refer to the appeal site because this is the only area along Westwells Road that is not already developed, and because West Corsham is not well defined and could include the area near Westwells where the appeal site is located. Although this policy relates to commercial development, it nonetheless indicates support from the NP for development on the appeal site. There is certainly nothing in the NP which precludes development of the appeal site for housing.
20. Consequently, the proposal complies with Policy CP37 of the CS as the redevelopment of a former military establishment site with a proposal well related to an existing settlement in terms of both location and scale, and which enhances the character and appearance of the site. It does not conflict with the NP, which is silent on residential development on the site. Whilst it fails to comply with Policies CP1 and CP11 of the CS, the relevant policy to consider for a former military site is Policy CP37, which provides an exception to the restrictions set out in those policies.
21. The proposal also fails to comply with Policy CP2 of the CS. Again, however, this is subservient to Policy CP37 because the appeal site is a former military establishment. In addition, this policy is inconsistent with the Framework by being overly restrictive for development outside of defined limits. Paragraph 170 of the Framework recognises the intrinsic character and beauty of the countryside but does not provide a blanket prohibition on development outside of settlements. Paragraph 78 of the Framework also encourages the location of housing where it would enhance or maintain the vitality of rural communities, which would be the case for the appeal site because it is directly adjacent to the residential part of the existing Westwells village.

Drainage

22. The appeal site is 3.6 hectares (ha), of which 0.7 ha are impermeable areas, such as the access roads and concrete bases. As the appeal is in outline, it is not known at this stage what the impermeable area would be following development. For the purposes of the drainage calculations, the appellant has assumed 1.87 ha of impermeable areas following development. It is proposed to provide significant attenuation, at 2,383 m³, including permeable paving, swales and a fairly large flood basin to the boundary with Westwells Road.
There was an error in the appellant's submission regarding the calculation of

- the volume of attenuation, but this was clarified at the hearing as being sufficient to meet the requirements of the development allowing for the amount of proposed permeable and impermeable land.
23. The proposed attenuation measures and flow control through hydro-brakes would result in a significant betterment of surface water run-off, compared with the existing situation, from 96 litres per second (l/s) to 5 l/s. The appellant claims that the 5 l/s velocity is the minimum level that allows the site to self-cleanse whilst the Council claims that a 2 l/s velocity still allows a site to self-cleanse. In any event, 5 l/s is both lower than the greenfield rate of 11.3 l/s and significantly lower than the existing run-off rate of 96 l/s. Achieving a lower rate than 5 l/s is not a requirement of policy.
24. The attenuation plan includes an allowance for infiltration, which might be able to increase following further ground investigation works. It follows the surface water drainage hierarchy of prioritising infiltration first, then by providing attenuation measures such as the proposed attenuation pond. Even allowing for this, there would still be some exceedance flows from the site, which would rely on off-site drainage. It is proposed to use existing drainage, which runs from the site to the Spring Lane watercourse, some 0.5km away from the appeal site.
25. The existing drainage infrastructure is in a poor state of repair as confirmed by a CCTV survey. The survey is incomplete and the precise quantity of work required to repair the drainage is not known. However, it is agreed between the main parties that fairly substantial works would be required. Equally, because the proposal would result in reduced discharge from the site, if the repair works were completed, then the network could satisfactorily accommodate the proposed flows from the development, so as not to unacceptably effect the downstream network and/or flood risk elsewhere.
26. The repair works would involve carrying out works to drains underneath third-party land, potentially involving up to 13 different landowners. This would need to be controlled by a negatively worded, Grampian type condition. In this regard, the Planning Practice Guidance² (the PPG) confirms that such conditions **can be used unless there are 'no prospects at all' of the works being carried out within the time-limit imposed by the permission.**
27. The actual works to the drainage infrastructure would be outwith the planning regime and subject to private law considerations. There is a likelihood that an agreement would need to be reached to progress the improvements with many, potentially all, the third-party land owners, which may prove difficult. Potentially, very difficult. Although the Council may have the powers to insist on access being granted for these works, it has indicated that, in practice, it may be reluctant to use them for the purposes of facilitating the proposed development, as opposed to maintenance of existing drains for existing development. Taking everything into consideration, whilst the off-site works **are likely to be difficult to accomplish, that is not to say that there are 'no prospects at all' of the works being carried out in a timely manner. A Grampian type condition is therefore acceptable in this instance and would allow for the necessary upgrading to the drainage infrastructure to take place.**

² Paragraph 009 ID 21a-009-20140306

28. Consequently, through the proposed on-site measures which can be secured by condition, and by prohibiting occupation until the off-site works have been carried out, the proposal would reduce the rate of surface water run-off and would not unacceptably affect the downstream network or increase flood risk elsewhere. The proposal therefore complies with the relevant parts of Policy CP67 of the CS. It also complies with Paragraphs 163 and 165 of the Framework which, amongst other criteria, seek to ensure that flood risk is not increased elsewhere, and that development incorporate suitable sustainable drainage systems where appropriate.

Other Matters

Ecology

29. The site is located approximately 1 km south-east of the Box Mines Site of Special Scientific Interest which forms part of the Bath and Bradford on Avon Bats Special Area of Conservation (the SAC). The appeal site supports core roosts for the three bat species. The conservation objectives of the SAC are, in relation to the three identified bat species, to maintain or restore their habitats, the supporting processes on which their habitats rely, their populations, and their distributions within the site.
30. The habitats for the species are to the southern and western boundaries of the site. Lighting, both of the highways and from the proposed houses, could disturb bat flight paths and roosts. There could also be disturbance during construction. Landscaping and any associated changes to vegetation could lead to a reduction in the amount of roosting and foraging habitat. Accordingly, development on the appeal site would be likely to have significant effects on the conservation objectives of the SAC. In such circumstances, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) requires that, as the Competent Authority, I undertake an Appropriate Assessment (AA). Sufficient evidence was submitted at the hearing to enable me to undertake that and Natural England was consulted.
31. A Bat Mitigation Strategy by Ecology Solutions, dated February 2020, has been submitted by the appellant. This proposes mitigation measures through the provision of darkened bat corridors, parameters for a lighting strategy to minimise lux levels where necessary, retention of key landscape features such as the scrub line, a commitment to the provision within the proposed landscape scheme of increased foraging opportunities for bats, such as the attenuation basin with associated wildflower seeding. This can be secured by condition. Control over the construction process is also required with regard to lighting and damage to habitats, which can also be secured by condition.
32. Natural England advised that there would be no adverse effects on the integrity of the SAC, subject to the relevant mitigation measures being secured by condition. On that basis, I am content that the proposal would have no adverse effect on the integrity of the protected site or the protected species.

Neighbours

33. A number of objections have been received from neighbours and other parties, including Corsham Town Council and the Neston Action Group. The objections are wide ranging in scope, although the biggest areas of concern relate to the character and appearance of the area, suitability of the location for housing

including reference the use of the land for military purposes, and drainage issues particularly regarding the access to third-party land. Other concerns relate to the potential for flash flooding, loss of a valuable piece of open space to the village, effects on Public Rights of Way (PRoW), increase in traffic, and highway safety.

34. I have taken all of these factors into consideration. Most were addressed in the **officer's report**, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Others are addressed in my reasoning above, can be addressed by conditions or are dealt with by the planning obligations secured. In particular, conditions can control flooding and drainage, and require the provision of sufficient open space within the proposed layout along with appropriate measures in relation to PRoW. They can also mitigate the effect from construction traffic and secure safe vehicular and pedestrian junctions. The UU secures further mitigation including details of the proposed open space and contributions towards local infrastructure.

Conditions

35. A list of planning conditions was suggested by the main parties and these were discussed at the hearing. My consideration has taken account of Paragraph 55 of the Framework and advice in the PPG. In particular, I have had regard to the **Government's intention that planning conditions should be kept to a minimum** and that pre-commencement conditions should be avoided unless there is clear justification. I have amended the suggested wording in some cases, and amalgamated conditions or parts of conditions in other cases, to ensure that the conditions are precise, focused, comprehensible and enforceable. The appellant has confirmed acceptance in writing of those pre-commencement conditions that have been imposed.
36. The timing of the self-build/custom build homes proposed is not in the control of the appellant and agreeing details of these properties should not prevent works progressing on the rest of the scheme. It is therefore necessary to require a Phasing Plan condition to agree the delineation between the self-build/custom build homes and the other dwellings. The Phasing Plan can then **also be used to provide split 'triggers' for other conditions, as required.**
37. The reserved matters condition is necessary to control their future submission. The reserved matters timing and the implementation conditions are necessary to ensure that the submissions and then the subsequent works are undertaken in a timely manner. The Council requested that the time limit be shortened from its standard three years to two years for submissions and two years to one year for implementation, because of the pressing need in light of the shortfall of five-year housing land supply. However, the difference the tightening of timescales of delivery by one year could make to the speed of the delivery of housing would be negligible in the context of the entire housing land supply in the District. It is not therefore necessary to shorten the standard timescales.
38. The standard drawings reference condition provides certainty.
39. Control of the number of dwellings and amount of public open space is necessary to ensure the proposal is in keeping with the character and

- appearance of the site and the wider area. The vehicular access element of this condition is necessary to ensure highway safety.
40. The tree protection condition is necessary to ensure that trees and other vegetation are suitably protected during construction, in the interest of visual amenity.
 41. It is necessary to specify the landscaping details to be submitted as part of the reserved matters in order to protect and enhance the character and appearance of the area, and to ensure highway safety and necessary accessibility, including to both on-site and nearby off-site PRow. This specifically applies to PRow CORM 135, 136 and 140, all of which are on the appeal site and would likely be used by future occupiers. Although a condition was proposed relating to the implementation and management of landscaping, that is more appropriate at reserved matters stage than outline and I have not imposed it.
 42. The Construction Method Statement condition is necessary to mitigate/minimise the effect of construction on the living conditions of nearby residents, on highway safety, and on traffic congestion. This condition also encompasses the scope of the Construction Environment Management Plan condition as requested by the main parties, which is therefore not required as a separate condition.
 43. Travel Plans are an important means by which more sustainable travel options can be achieved and a condition is therefore justified in this regard.
 44. The surface water and sewage conditions are necessary to avoid pollution and to prevent increased risk from flooding.
 45. A condition is necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from contamination are properly dealt with in order to protect the health of future occupiers and to prevent pollution of the environment.
 46. The photographic record of extant military and quarry features condition is necessary because a slope shaft, air shaft and underground tunnels within the site are identified as having heritage significance.
 47. The noise condition is necessary to protect the living conditions of the future occupiers of the development, particularly from noise from the nearby commercial and mine uses.
 48. The Landscape and Ecology Management Plan and lighting conditions are necessary in the interests of biodiversity and the protection of wildlife.
 49. The archaeological condition is necessary to ensure that works appropriately protect and record archaeology on the site.
 50. Conditions in relation to visibility splays both for the main access to the site and for internal junctions were put forward by the main parties. Further conditions were also put forward regarding the construction and provision of pedestrian and vehicular access to each dwelling. However, these factors can be controlled by a combination of the reserved matters submissions, the landscaping condition, and the Rowan Lane element of the development parameters condition. I have not therefore attached these conditions.

Planning Obligation

51. I have considered the various obligations set out in the final UU with regard to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in Paragraph 56 of the Framework.
52. The UU secures 30% of the proposed dwellings, i.e. 24 out of the 81 homes, to be affordable housing, with a split of 60% affordable rent and 40% shared ownership. The affordable rented housing is to have rents at no more than 80% of open market rent. The shared ownership housing is to be for sale or rent at rates above affordable rented housing but below open market levels. Detail of the precise location and mix of the affordable housing has not been provided but is to be agreed prior to commencement of development. The UU also requires that the affordable housing be indistinguishable from the market units in terms of outlook, design, and appearance, and that no more than 15 affordable units be clustered together. This is necessary, reasonable and related to the development.
53. A contribution of £7,500 is secured towards improvements to the surface of PRoW BOX49, to be paid prior to occupation. PRoW BOX 49 runs from just outside the site around nearby countryside land. It is likely to be used by future occupants of the proposed development and upgrading the footpath is necessary, reasonable and related to the development.
54. A contribution of £91 per home, to be paid prior to commencement of the development, is secured towards expanding waste and recycling facilities in Corsham, including waste containers on site. The proposal would give rise to additional waste and recycling from its future occupants and this contribution and proposed works would mitigate that effect. It is necessary, reasonable and related to the development.
55. The principle of a contribution is secured towards the provision of infrastructure at Corsham Primary School, related to a planned expansion of the school. This is to be calculated based on the child yield from the development and is to be paid prior to commencement of the development. The proposal would increase pressure on child places at the primary school and the future agreement of payment to mitigate this in accordance with the child yield, as will then be calculable, is necessary, reasonable and related to the development.
56. A contribution of £300 per home, payable prior to commencement of the development, is secured towards providing work(s) of public art within Corsham pursuant to Policy CP3 of the CS which, amongst other criteria, **requires developer contributions towards 'place-shaping infrastructure', which includes public art.**
57. A landscape plan, to be agreed prior to commencement of the development, is secured and will require details of the materials, specifications and management of the open space and playspace. The playspace and open space is to be constructed prior to 70% of the homes being occupied. It is either to be transferred to the Council or, if it remains with the appellant, ongoing maintenance is to be paid for by a management/rent charge levied on the future occupiers of the proposed homes. In this instance, the maintenance would be carried out in accordance with a management scheme to be agreed with the Council. This is necessary, reasonable and related to the development.

58. Eight of the residential units are secured as self-build/custom build housing. The area, design principles, marketing, and development of these plots is controlled by the UU. After 12 months of reasonable efforts and marketing, these homes can revert to market residential homes. The Council contends that this is not necessary because self-build/custom build housing is not a requirement of policy. However, whether a requirement of policy or not, self-build/custom build housing is a part of the proposal and the UU secures delivery mechanisms for them. This is therefore necessary, reasonable and related to the development.

Planning Balance and Conclusion

59. For the reasons set out above, the proposal complies with Policy CP67 of the CS in relation to drainage. The proposal does not conflict with the NP. Whilst it fails to comply with Policies CP1, CP2 and CP11 of the CS, these policies are subservient to Policy CP37 of the CS in the consideration of a proposal on a former military establishment site. I have found that the proposal complies with Policy CP37. In addition, Policy CP2 is inconsistent with the Framework by being too restrictive for development outside of defined limits. I therefore place limited weight on the conflict with these policies.
60. The creation of 81 dwellings would help the Council to meet its housing land supply. It would bring temporary economic benefits during the construction process, and longer-term economic benefits from the boost to local services from future occupiers. I place substantial positive weight on these factors.
61. The UU secures 30% of the proposed homes as affordable housing, with a 60/40 split of affordable rented to social rented provision. The Council is not currently meeting its targets for affordable housing provision, with a shortfall of 489 homes, or 23%, against its objectively assessed need. The provision of 24 affordable units as part of the proposed development would help to redress this. The provision only complies with Policy CP43 of the CS, rather than exceeding it, but this does not diminish the fact that the proposal would result in the provision of 24 much needed affordable homes. The Council has stated that the conflict with Policies CP1 and CP2 reduces the weight to be applied to the provision of affordable housing. However, as set out above, I place limited weight on the conflict with these policies. I therefore attach substantial positive weight to the proposed provision of affordable housing.
62. The Self-Build and Custom Housebuilding Act 2015 (the Act) as amended **places a statutory duty on Council's to keep a register of people and groups** who want to construct a self-build/custom build property, and to have regard to that register when making planning decisions. The Act also states that a Council must give sufficient permissions for self-build/custom build housing to **meet demand within each 'base period'.** Each 'base period' is one year. **Councils are provided with three years grace from the end of each 'base period'** to provide the required planning permissions.
63. The Council has provided evidence that it is meeting its requirement to give sufficient planning permissions for self-build/custom build housing. However, these calculations include all planning permissions for single dwellings. Very few of these are secured by a s106 agreement to be self-build/custom build housing or have applied for the relevant CIL exemption for self-build/custom build projects. Not all of them include specific references to self-build/custom build within the planning applications. Once this is factored in, the Council has

a shortfall in planning permissions for self-build/custom build homes against its **requirement for the current 'base period' monitoring period** – Base Period 2.

64. The PPG sets out³ that these are the types of methods that may be used to determine if an application or permission is for self-build/custom build housing. I acknowledge that using this specific data collection methodology is not a requirement. However, I have not been provided with any convincing evidence in other forms to override the data provided by these methods. The UU secures eight of the proposed houses to be self-build/custom build, although this is only for one year, following which they may revert to market homes. In the context of the current failure of the Council to meet its statutory duty to provide sufficient planning permissions to meet its requirements, but acknowledging that the self-build/custom build units have not been secured in perpetuity, I place moderate positive weight on the proposed provision of self-build/custom build housing as part of the appeal scheme.
65. The UU secures contributions towards expanding waste and recycling facilities in Corsham, improvements to the surface of public right of way BOX49, providing work(s) of public at within Corsham, and the provision of infrastructure at Corsham Primary School. Although aimed at mitigating the impact of the development proposed, existing local residents would also benefit from these improvements. The proposed playspace would also be available for use by the public as well as the future residents of the proposal. I place moderate positive weight on these factors.
66. The proposal complies with Policy CP37 of the CS, which is the policy directly relevant to proposals on former military establishment land. The provision of housing, including affordable housing and self-build/custom build housing, and contributions towards local infrastructure all weigh positively in the planning balance. As does the boost to the local economy both during construction and longer term from the future occupiers. There would be conflict with Policies CP1, CP2 and CP11, but this conflict has limited weight for the reasons set out above. All in all, I consider that the proposal would comply with the development plan when considered as a whole. Even were I to have found that the policy conflicts meant that the scheme did not comply with the development plan as a whole, the Council cannot demonstrate a five-year housing land supply. As such, the so-called **'tilted balance'** of Paragraph 11d) would be engaged, adding further weight in favour of the development proposed, leading to the same outcome.
67. For the reasons above, I conclude on balance that the appeal be allowed.

O S Woodward

INSPECTOR

³ At Paragraph: 038 Reference ID: 57-038-20210508

ANNEX A: APPEARANCES

FOR THE APPELLANT:

Richard Kimblin QC	No. 5 Chambers
Nina Pindham, of Counsel	No.5 Chambers
David Pritchard	Partner, Marrons Planning
Matthew Roe	Senior Planner, Marrons Planning
Matthew Cheeseman	RSK Group
Andy Moger	Tetlow King
Paul Hunt	Howes Percival

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Guest	Planning Officer
Daniel Everett	Principal Engineer
Mark Henderson	Senior Planning Officer
Stella Davies	Principal Drainage Engineer
Sarah Marshall	Senior Solicitor

INTERESTED PERSONS:

Steve Abbott	Chairman, Corsham Town Council
Tim Awmack	local resident
Morgyn Davies	local resident

ANNEX B: SCHEDULE OF CONDITIONS

APPEAL REF APP/Y3940/W/19/3243873

- 1) No development shall commence until a Phasing Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Phasing Plan shall draw a distinction between the part of the scheme that does not comprise self-build/custom build homes and the part of the scheme (including individual plots) that will accommodate the self-build/custom build homes. The development shall be carried out in accordance with the approved Phasing Plan.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the Local Planning Authority before any development takes place with respect to each phase of the development as shown on the approved Phasing Plan. The development shall be carried out as approved.
- 3) With respect to each phase of the development as shown on the approved Phasing Plan, application(s) for the approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 4) With respect to each phase of the development as shown on the approved Phasing Plan, the development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The development hereby permitted shall be carried out in accordance with the following approved drawings: P17-2682_003_01 Rev C; Design & Access Statement (Addendum 2 by Pegasus Group, dated May 2019) – PARAMETER PLAN: USE AND AMOUNT; PARAMETER PLAN: ACCESS AND MOVEMENT; PARAMETER PLAN: CHARACTER AND APPEARANCE.
- 6) The development hereby approved shall make provision for the following:
 - i. No more than 81 dwellings, none of which shall exceed 2-storeys in height;
 - ii. At least 0.62 hectares of public open space to include a children's playspace and green corridor links utilising existing and proposed footpath links; and
 - iii. A vehicular access from Rowan Lane only (other than an emergency vehicular access from Moor Green) and a pedestrian access from Westwells Road only.
- 7) No development, including any site works or operations relating to the development hereby permitted, shall commence until an Arboricultural Method Statement to ensure the satisfactory protection of retained trees, shrubs and hedgerows during the construction period has been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved statement.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved

in writing by, the Local Planning Authority. The Statement shall provide, but not be limited to:

- i. details regarding parking of vehicles of site operatives and visitors;
- ii. details regarding loading and unloading of plant and materials;
- iii. details regarding storage of plant and materials used in constructing the development;
- iv. details regarding the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. details regarding wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii. delivery, demolition and construction working hours and a named person for residents to contact;
- ix. a description of management responsibilities;
- x. a description of the construction programme;
- xi. communication procedures with the local community regarding key construction issues, e.g. newsletters, fliers etc.;
- xii. confirmation that no burning shall be undertaken on site at any time; and
- xiii. details regarding all precautionary measures to be implemented during the construction period to safeguard wildlife and the habitats that support them.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) No development shall commence until a scheme for the disposal of sewage, including the point of connection to the existing public sewer, has been submitted to, and approved in writing by, the Local Planning Authority. No dwelling shall be occupied unless and until the scheme has been completed in accordance with the approved details and connected to the public sewer.
- 10) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with BS 10175: Investigation of potentially contaminated sites - Code of Practice and the **Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11)** (or equivalent British Standard and Model Procedures if replaced), has been submitted to, and approved in writing by, the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to, and approved in writing by, the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to, and approved in writing by, the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures

for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 21 days of the report being completed, and approved in writing by, the Local Planning Authority.

- 11) No development shall commence until a full survey, including analysis, and photographic record of all extant military and quarry features has been submitted to, and approved in writing by, the Local Planning Authority.
- 12) No development shall take place in any phase as shown on the approved Phasing Plan unless and until a scheme for protecting occupiers of the dwellings within that phase (or, in the case of any of the dwellings in the self-build/custom build phase, until a scheme or schemes for protecting the occupiers of all or each of the dwellings within that phase) from noise from the operation of adjacent industrial uses has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include details of any scheme of mitigation required to meet internal and external amenity standards in accordance with BS8233:2014 and BS4142:2014 (or equivalent British Standards if replaced). The scheme shall also include a survey of mine workings within the locality and, where mine workings are close to the site, noise and vibration assessments shall be undertaken to assess the potential effects. Appropriate mitigation measures, if required, must be set out. All works which form part of the scheme shall be completed before the relevant dwellings are occupied and must be retained thereafter.
- 13) The landscape details to be submitted pursuant to condition 2 above shall be accompanied by a Landscape and Ecology Management Plan (LEMP). No development shall commence until the LEMP has been approved in writing by the Local Planning Authority. The LEMP shall detail management prescriptions and responsibilities to ensure that habitats within the site are maintained for the benefit of biodiversity - with particular reference to bats. The LEMP shall be based on and incorporate the mitigation measures set out in the Bat Mitigation Strategy by Ecology Solutions, dated February 2020, and in particular the '**Ecological Parameters Plan**' (Ref ECO2). The LEMP shall be implemented as approved in perpetuity thereafter.
- 14) Prior to the commencement of development, an external lighting strategy for those parts of the site other than the area set aside for the self-build/custom build units shall be submitted to and approved in writing by the Local Planning Authority. This will include a lux plot demonstrating that all boundary features and other ecologically sensitive receptors will not be subject to light levels exceeding 0.5 lux. The development shall be carried out in accordance with the approved strategy. A separate lighting strategy or strategies shall be submitted to, and approved in writing by, the Local Planning Authority prior to development of all or each of the self-build/custom build units. The development shall be carried out in accordance with the approved separate strategy or strategies.
- 15) No groundworks shall take place until a Written Scheme of Archaeological Investigation (WSI) has been submitted to, and approved in writing by,

the Local Planning Authority. The WSI shall include details of archaeological excavation of the site; a post-investigation programme of archaeological, artefactual and environmental analysis of excavated material; production of a report on the archaeological excavation and post-excavation analyses; and details for publishing and archiving the results. For land that is included within the WSI, no work shall take place other than in accordance with the agreed WSI.

- 16) No dwelling shall be occupied until a Travel Plan, which shall include notification of an appointed Travel Plan Co-ordinator for the development, has been submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan shall include but is not limited to:
- i. The key actions and timescale as outlined within the submitted Framework Travel Plan (TP1 V1 October 2018);
 - ii. A timetable for implementation; and
 - iii. How the Action Plan and the Review Measures secured will be implemented throughout the lifetime of the development.

The approved Travel Plan shall be implemented in accordance with the implementation timetable.

- 17) No building hereby permitted shall be occupied until surface water drainage works, incorporating works required off-site to the existing drainage connection to Spring Lane, have been implemented in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and
 - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 18) The landscaping details to be submitted pursuant to condition 2 above shall include, but are not limited to:
- i. a statement setting out the design objectives and how these will be delivered;
 - ii. earthworks showing existing and proposed finished levels or contours;
 - iii. means of enclosure and retaining structures;
 - iv. boundary treatments;
 - v. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - vi. vehicle parking layouts;
 - vii. other vehicle and pedestrian access and circulation areas;

- viii. hard surfacing materials;
- ix. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.);
- x. details of: the proposed on-site footpaths and cycle paths, link paths to existing public footpaths (such as CORM136), the potential use as shared footpaths/cycle paths for CORM135 and 136 within the site, and consolidated surfaces for CORM 136 and 140 within the site; and
- xi. proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant).

----- END OF SCHEDULE -----

Appendix 4



Ministry of Housing,
Communities &
Local Government

Miss S Eastwood
Avison Young
3 Brindleyplace
Birmingham
B1 2JB

Our ref: APP/Q3115/W/19/3230827
Your ref: P17/S4254/O

23 April 2020

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY OXFORD BROOKES UNIVERSITY
OXFORD BROOKES UNIVERSITY, WHEATLEY CAMPUS, COLLEGE CLOSE,
WHEATLEY, OXFORD OX33 1HX APPLICATION REF: P17/S4254**

1. I am directed by the Secretary of State to say that consideration has been given to the report of D M Young BSc(Hons), Ma MRTPI MIHE, who held a public local inquiry between 22 and 31 October 2019 into your client's appeal against the decision of South Oxfordshire District Council to refuse your client's application for outline planning permission with all matters reserved for subsequent approval except details of vehicular access, for demolition of all existing structures and redevelopment of the site with up to 500 dwellings and associated works including; engineering operations, including site clearance, remediation, remodelling and deposition of inert fill material arising from demolition on site; installation of new and modification of existing services and utilities; construction of foul and surface water drainage systems, including SuDS; creation of noise mitigation bund and fencing; creation of public open space, leisure, sport and recreation facilities including equipped play areas; ecological mitigation works; construction of a building for community/sport use and associated car parking; construction of internal estate roads, private drives and other highways infrastructure and construction of pedestrian footpaths, in accordance with application ref: P17/S4254/O dated 19 January 2018.
2. On 12 July 2019 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions except where stated, and agrees with his recommendation. He has decided

to allow this appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the Environmental Statement addendum dated October 2018, and the ES Addendum Review letter dated 6 June 2019. Having taken account of the Inspector's comments at IR1.8, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Procedural matters

6. The Secretary of State considers that the matters described in IR1.6 have been overtaken by events since the Inquiry, and he deals with these matters in paragraphs 13-16 of this letter below. The Secretary of State agrees with the Inspector for the reasons given in IR1.7 that no injustice would be caused due to consideration of the plans as amended after the Council's decision was issued.

Matters arising since the close of the inquiry

7. The Secretary of State received a representation from John Howell MP dated 10 March 2020, sent on behalf of a number of residents of the village of Wheatley subsequent to the issuing of the Wheatley Neighbourhood Plan Examiner's report dated 27 February 2020. A further representation was received by email dated 6 April from South Oxfordshire District Council confirming their decision to accept the modifications recommended by the Examiner and proceed to referendum.
8. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these representations may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of saved policies in the "*South Oxfordshire Local Plan 2011*" (the LP) adopted 2006 and the "*South Oxfordshire Core Strategy 2012*" adopted 2012 (the CS). The Secretary of State considers that relevant development plan policies include those set out at IR3.12-3.15 and in the Planning Statement of Common Ground.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Oxfordshire Housing and Growth Deal (OHGD) updated 14 September 2018 and the Written Ministerial Statement "Housing Land Supply in Oxfordshire", published on 12 September 2018. The revised National Planning Policy

Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

13. The emerging local plan (eLP) comprises “*Local Plan 2034*”. On 3 March, the Secretary of State lifted the holding direction he issued on 9 October 2019. This had prevented the Council taking any further action in relation to their submitted Local Plan, including withdrawal of the plan, whilst he considered use of his intervention powers. His letter of 3 March also made legally binding directions that require the Council to progress their plan through examination and adoption by December 2020, pursuant to powers in section 27(2)(b) of the Planning and Compulsory Purchase 2004 Act.

14. The Examiner’s report on the emerging “*Wheatley Neighbourhood Plan*” (eWNP) was issued on 27 February 2020, and concluded that, subject to modifications, the Wheatley Neighbourhood Plan meets all necessary legal requirements. South Oxfordshire District Council has made the decision to progress the plan to referendum. Policy SPOBU – WHE25 of the referendum version of the emerging Neighbourhood Plan states that the comprehensive redevelopment for residential purposes of the Wheatley Campus site will be supported where they conform with certain development principles, including:

- the development of the site is underpinned by a masterplan addressing infrastructure, access, landscaping, and recreation/open space issues;
- the layout, design and height of the new buildings take account of the openness of the Oxford Green Belt and as identified generally in national planning policy (NPPF145g);
- the development of the site should incorporate the provision of affordable housing to the most up-to-date standards of South Oxfordshire District Council;
- the development of the site should incorporate high quality public realm and open space; and
- the development of the site should address opportunities to incorporate safe, convenient and attractive pedestrian and cycling access to and from Wheatley

15. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.

16. In light of the lifting of the Holding Direction on the eLP, the Secretary of State considers that it carries limited weight, given that it is yet to proceed to Examination. In accordance with the revisions to Planning Practice Guidance of 7 April 2020, the Secretary of State

considers that the emerging Wheatley Neighbourhood Plan is now a material consideration of significant weight.

Main issues

17. The Secretary of State agrees with the Inspector that the main issues with regard to the determination of this case are those set out at IR13.2.

Most important policies

18. For the reasons given in IR13.3-13.17 the Secretary of State agrees with the Inspector at IR13.17 that the majority of the most important policies for determining this appeal are out of date. He therefore concludes that paragraph 11(d) of the Framework is engaged which indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. The appeal site is located outside the built limits of Wheatley and Holton where large-scale development would not normally be appropriate, and would therefore conflict with policies CSS1 and CSH1. However, the Secretary of State finds these policies to be out of date where they are used to restrict development outside settlement boundaries (IR13.8-13.9). He also finds the following policies to be out of date: Policies relating to Landscape, Protection and Enhancement of the Environment and Green Belt CSEN1 (IR13.10), G2 (IR13.10) and GB4 (IR13.12); Policies relating to heritage and archaeology CSEN3 (IR13.13); CON5 (IR13.14) and CON11 (IR13.14).

Green Belt

19. The Secretary of State agrees with the Inspector at IR13.18 that, although the site is proposed to be removed from the GB and allocated for development in the eLP, given that Plan has yet to proceed to Examination and attracts only limited weight, the site currently remains in the Green Belt. He also agrees with the Inspector at IR13.18, that, in the absence of up to date Green Belt development management policies, the proposal should be considered against advice in the Framework.
20. For the reasons given in IR13.22-13.24 the Secretary of State considers that the central and eastern sections of the proposal site, together with the sports pitches and circulation areas around them can be considered previously developed land (PDL) and can therefore be considered against para 145g and Annex 2 of the Framework.
21. Further he agrees with the Inspector at IR13.25 that, as no development is proposed in the north-west quadrant, the principle Green Belt objection relates to the south-west quadrant only which accounts for approximately 14% of the site. The Secretary of State agrees with the Inspector for the reasons given at IR13.26 that the south-west quadrant is not curtilage and cannot therefore be considered PDL as defined in the Framework.
22. For those parts of the site that are considered to be PDL, the Secretary of State agrees with the Inspector for the reasons given in IR13.27-13.33 that the development would address an affordable housing need, would have a broadly neutral effect on openness as experienced from within the appeal site, and that there would be a significant net-beneficial effect on the openness of the wider Green Belt through the removal of the tower. He concludes that, save for the south-west quadrant, the development would not

be inappropriate development in the Green Belt. Like the Inspector at IR13.110, the Secretary of State finds that the significant visual benefit to openness over a wide area of the South Oxfordshire Green Belt resulting from the removal of the tower and other large, unsightly structures on the site carries very substantial weight in favour of the scheme.

23. The Secretary of State agrees with the Inspector at IR13.34 that the proposed development in the south-west quadrant would be inappropriate development, and that such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Secretary of State considers that the harm arising from that part of the development which would be inappropriate must be afforded substantial weight, in line with the Framework.

Character and Appearance

24. The Secretary of State has carefully considered the Inspector's assessment at IR13.35-13.48. He notes at IR13.38 that the site is not a designated or a 'valued' landscape in the terms set out in the Framework, and that it was common ground between the parties that the removal of the tower and other dilapidated structures would be beneficial in landscape terms.
25. For the reasons given in IR13.39-13.41, the Secretary of State agrees with the Inspector that the illustrative masterplan does not necessarily conflict with the requirement to "focus" development on the previously developed area. While Policy STRAT14 of the eLP indicates that development on the western part of the site will not be considered appropriate with the exception of an access route and functional green space, given the progress of the eLP, this is a consideration of only limited weight.
26. For the reasons given in IR13.42-IR13.45 the Secretary of State agrees with the Inspector that the scheme is in general accordance with the recommendations of the Kirkham Study, and that the character of the southwest quadrant is not particularly sensitive in landscape or visual terms such that it should be excluded from development. For the reasons given in IR13.46-13.48 he further agrees with the Inspector that there would be an overall net-gain in landscape and visual terms over the wider area, that the development would not therefore harm the character and appearance of the area, and that there would be no conflict with CS Policy CSEN1 or LP Policies G2, C4 and C9 insofar as they seek to protect the district's countryside and settlements from adverse development.

Heritage assets

27. For the reasons given in IR13.50-13.60 the Secretary of State agrees with the Inspector that while there would be some limited harm to the setting of the Scheduled Monument (SM) arising from the encroachment of housing and from the spine road on its southern flank, this would be towards at the lower end of "less than substantial" harm, and would be clearly outweighed by a combination of the proposed landscape improvements in the north-west quadrant, the SM improvement scheme and also the removal of the existing university buildings which form a stark backdrop in eastward views of the SM. Accordingly, the Secretary of State concludes that there would be an overall heritage benefit to the SM.
28. For the reasons given in IR13.61-13.65 the Secretary of State agrees with the Inspector at IR13.66 that as houses would not encroach into the sensitive open area between Holton Park and the SM, and as the appeal scheme would retain and enhance the

openness of the north-west quadrant through a landscaping scheme that would return this part of the site to something more akin to its original parkland setting, the appeal scheme would lead to an enhancement to the setting of Holton Park.

29. For the reasons given in IR13.67-13.69, the Secretary of State agrees with the Inspector that the removal of the tower would improve views southwards from the churchyard of St Bartholomew's Church, and would represent a heritage benefit.
30. The Secretary of State therefore concludes, like the Inspector at IR13.73, that no overall heritage harm has been found. He has not therefore found it necessary to undertake the heritage balancing exercise required by paragraph 196 of the Framework. Like the Inspector at IR13.113, he concludes that the heritage benefits arising from the on-site mitigation, the removal of the existing buildings and the opening up of the site and the SM to public appreciation, carries significant weight in favour of the proposal.

Accessibility

31. For the reasons given in IR13.75-13.84, the Secretary of State agrees with the Inspector that, bearing in mind the rural nature of the area, the site and particularly the south-west quadrant are well located to services and facilities in Wheatley, and that accordingly, there would be no conflict with CS Policies CS1, CSS1, CSM1 and CSM2 of the CS or Policies T1, T2 and T7 of the LP. He further agrees that the extensive nature of the off-site highway works, and the bus service contribution mean that there would be accessibility gains to the local community. He concludes that these benefits should carry significant weight in favour of the scheme.

Housing Land Supply – Housing Need

32. The Secretary of State notes at IR13.86 to 13.90 that there is no dispute over the Council's ability to demonstrate a 5 year housing land supply.

Other considerations

33. In paragraph 23 of this letter, the Secretary of State has concluded that the proposed development in the south-west quadrant would be inappropriate development. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Like the Inspector at IR13.93, the Secretary of State has not identified any other harm in addition to the harm by virtue of inappropriateness.
34. The Secretary of State has concluded in paragraph 22 of this letter that the significant visual benefit to openness over a wide area of the South Oxfordshire Green Belt resulting from the removal of the tower and other large, unsightly structures on the site is a consideration that carries very substantial weight.
35. While he has concluded that the council are able to demonstrate a 5 year supply of housing land, the Secretary of State agrees that, for the reasons given in IR13.97 to 13.102, the proposed development would contribute significantly towards the Council's affordable housing shortfall. Given the seriousness of the affordable housing shortage in South Oxfordshire, described as "acute" by the Council, he agrees with the Inspector at IR13.111, that the delivery of up to 500 houses, 173 of which would be affordable, are considerations that carry very substantial weight.

36. The Secretary of State also agrees with the Inspector's assessment of the economic benefits of the scheme at IR13.103, except in relation to New Homes Bonus revenues, where, as he has seen no evidence of the proposed usage of the Bonus, he does not give them any weight in relation to his decision. He agrees with the Inspector at IR13.112 that the economic benefits of the scheme should be afforded significant weight.
37. At paragraphs 27 to 31 of this letter, the Secretary of State has considered the development in terms of its impact on heritage assets and on accessibility. For the reasons given in IR13.104 and 13.106-13.107, he has concluded, like the Inspector at IR13.113-114 that both issues are benefits which should be afforded significant weight.
38. For the reasons given in IR13.105, the Secretary of State considers, like the Inspector at IR13.115, that the net benefit to biodiversity that would be delivered by the scheme is a consideration of moderate weight in favour of the scheme. He also finds for the reasons given in IR13.108, that the reinvestment of the proceeds arising from the sale of the land into the education sector is a benefit of the proposal which should be afforded significant weight (IR13.115).
39. The Secretary of State agrees with the Inspector at IR13.116 that the overall benefit to the openness of the Green Belt alone would be enough to outweigh the harm by reason of inappropriateness. Like the Inspector at IR13.117, he considers that the 'other considerations' identified above clearly outweigh the 'definitional harm' to the Green Belt by virtue of inappropriateness identified in this case. He therefore concludes that very special circumstances exist, which would justify development in the Green Belt, and that the proposal would not conflict with CS Policy CSEN2, LP Policy GB4 or Green Belt policy in Section 13 of the Framework.

Planning conditions

40. The Secretary of State has given consideration to the Inspector's analysis at IR11.1-11.8, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

41. Having had regard to the Inspector's analysis at IR12.1-12.14, the planning obligation dated 15 November 2019, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given that, with the exception of:

- the £96,001 active communities contribution in Schedule 2 (IR12.5-12.7);
- the street naming contribution of £134 per 10 dwellings in Schedule 2 (IR12.8); and
- the provision of "expert advice" in relation to the construction of the sports pavilion, bowling green and cricket pitch (IR12.10-12.11);

the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

42. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with the following policies of the development plan: CS Policy CSEN2, LP Policy GB4. He has identified an overall benefit to heritage assets, so has found no conflict with heritage policies CSEN3, CON5 and CON11. He has found no conflict with CS Policy CSEN1 or LP Policies G2, C4 and C9 insofar as they seek to protect the district's countryside and settlements from adverse development. While he has found conflict with policies CSS1 and CSH1 regarding the amount and spatial distribution of housing, he has found these policies to be out of date. He has therefore concluded that the appeal scheme is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
43. At IR13.118, the Inspector, having concluded that the proposed development would not conflict with the development plan, states that it should be approved without delay in accordance with paragraph 11c) of the Framework. The Secretary of State disagrees. Paragraph 11 c) of the Framework refers to "development proposals that accord with an up-to-date development plan". As the Secretary of State has concluded that the policies which are most important for determining this appeal are out-of-date, he considers that paragraph 11 c) of the Framework does not apply.
44. Paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
45. The Secretary of State considers the harm to the Green Belt on that part of the site where development is considered inappropriate carries substantial weight.
46. The Secretary of State considers that the significant visual benefit to openness over a wide area of the South Oxfordshire Green Belt and the delivery of up to 500 houses, 173 of which would be affordable, are both considerations that carry very substantial weight.
47. The Secretary of State considers that the economic benefits of the scheme should be afforded significant weight.
48. The Secretary of State has considered the development in terms of its impact on heritage assets and on accessibility and considers that both offer benefits that should be afforded significant weight.
49. The net benefit to biodiversity that would be delivered by the scheme is a consideration of moderate weight, and the reinvestment of the proceeds arising from the sale of the land into the education sector should be afforded significant weight.
50. Given his findings in this letter, the Secretary of State considers that the proposal meets the emerging Neighbourhood Plan site-specific development principles in respect of Green Belt, affordable housing and accessibility, and public open space.
51. Having concluded at paragraph 39 of this letter that very special circumstances exist the Secretary of State considers that there are no policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development proposed. He also concludes that any adverse impacts of granting

permission do not significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

52. Overall the Secretary of State considers that the material considerations in this case indicate a decision in line with the development plan.

53. The Secretary of State therefore concludes that the appeal should be allowed, and planning permission granted.

Formal decision

54. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission subject to the conditions set out in Annex B of this decision letter, with all matters reserved for subsequent approval except details of vehicular access, for demolition of all existing structures and redevelopment of the site with up to 500 dwellings and associated works including; engineering operations, including site clearance, remediation, remodelling and deposition of inert fill material arising from demolition on site; installation of new and modification of existing services and utilities; construction of foul and surface water drainage systems, including SuDS; creation of noise mitigation bund and fencing; creation of public open space, leisure, sport and recreation facilities including equipped play areas; ecological mitigation works; construction of a building for community/sport use and associated car parking; construction of internal estate roads, private drives and other highways infrastructure and construction of pedestrian footpaths, in accordance with application ref: P17/S4254 dated 29 January, amended as described in IR1.7.

55. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

56. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

57. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

58. A copy of this letter has been sent to South Oxfordshire District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Authorised by the Secretary of State to sign in that behalf

Annex A List of representations

General representations

Party	Date
John Howell OBE MP	10 March 2020
South Oxfordshire District Council	6 April 2020

Annex B List of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4) The development hereby approved shall be carried out in accordance with the following approved plans:

Site Location Plan (Drawing no: 7590-L-17RevA)

Parameters Plan 1: Land Use (Drawing no: 7590-L-18RevG)

Parameters Plan 2: Green Infrastructure (Drawing no: 7590-L19Rev F)

Parameters Plan 3: Building Heights (Drawing no: 7590-L-20RevF)

Reason: For the avoidance of doubt.

- 5) No development shall take place until a Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide the following information for each phase or sub phases:
 - a) The number and mix (bedroom number) of market dwellings;
 - b) The number and mix (bedroom number) and gross internal floor areas of affordable housing to meet the latest evidence of affordable housing need (the total amount of affordable housing to cumulatively be 34.57% of the total amount of housing across the site);
 - c) The tenure of each affordable unit;
 - d) The number of accessible and adaptable homes to be built to Building Regulations Part M4(2) category 2 for both market (which shall be a minimum of 10% overall) and affordable sectors;
 - e) Location and boundaries of public open space, play areas, green infrastructure, leisure and sports pitches/pavilion, associated parking areas to be provided and a scheme for their future management;
 - f) Key infrastructure including means of vehicular and pedestrian and cycle access and links to serve each phase;
 - g) Drainage and landscaping works including future management arrangements;
 - h) Existing and proposed ground and ridge levels;

An updated Phasing Plan shall be provided with each subsequent reserved matter application showing how each of these elements of the development is to be phased. The development shall be implemented in accordance with the approved Phasing Plan/s.

Reason: In order to secure the satisfactory development of the site

- 6) Prior to commencement of the development, details of the works to the site accesses onto Waterperry Road and Holton Park Drive, shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details and timescales.

Reason: In the interest of highway safety in accordance with Policy T1 of the Local Plan 2012.

- 7) Prior to the commencement of any development (including demolition works), a Construction Method Statement, incorporating a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Statement will have been prepared in the light of Outline Construction and Demolition Environmental Management Plan dated January 2018 and shall include details of the following:
 - a) Vehicle parking facilities for construction workers, other site operatives and visitors;
 - b) Site offices and other temporary buildings;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used during construction;
 - e) Vehicle wheel washing facilities;
 - f) Measures to control the emission of dust and dirt;
 - g) A scheme for recycling and/or disposing of waste materials arising from the demolition and construction works;
 - h) Installation and maintenance of security hoarding/fencing;
 - i) Hours of construction

The development hereby approved shall be undertaken in accordance with the details approved in accordance with this condition and complied with throughout the construction period

Reason: In the interests of visual and residential amenity and highway safety (Policies D1, and T1 of the Local Plan.

- 8) No development hereby permitted shall begin until surface and foul water drainage schemes for the site have been submitted to and agreed in writing by the Local Planning Authority. The surface water scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The schemes shall subsequently be implemented in accordance with the approved details.

Reason: To ensure the effective drainage of the site and to avoid flooding (Policy DC14 of the adopted Local Plan).

- 9) Prior to the commencement of the development hereby approved an Archaeological Written Scheme of Investigation, relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.

Following the approval of the Written Scheme of Investigation 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.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with Policy CSEN3 of the Core Strategy and Policies CON11, CON13 and CON14 of the Local Plan.

- 10) Prior to the commencement of the development a phased risk Assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to and approved in writing by the Local Planning Authority. Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and if significant contamination is identified to inform the remediation strategy. A remediation strategy shall be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use and the development shall not be occupied until the approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground, water and associated gas contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use.

- 11) Either prior to, or concurrent with the submission of each reserved matters application a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
 - a) Risk Assessment of potentially damaging construction activities;
 - b) Identification of biodiversity protection zones;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;
 - d) A mitigation strategy for all protected species ensuring that each species long term conservation status is protected and enhanced;
 - e) The location and timing of sensitive works to avoid harm to biodiversity features;
 - f) The times during construction when specialist ecologists need to be present on site to oversee works;
 - g) Responsible persons and lines of communication, and
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure the protection of habitats and species on the site, in accordance with Policy CSB1 of the Core Strategy and Policy C8 of the Local Plan.

- 12) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The plan should demonstrate how the development can achieve a no net loss of biodiversity overall compared to the

biodiversity value of the site prior to development. The plan should include both habitat and species enhancements and should use a suitable form of biodiversity accounting to prove that no net loss can be achieved. The BEP should include:

- a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required;
- b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate;
- c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species;
- d) Selection of specific techniques and practices for establishing vegetation;
- e) Sources of habitat materials (e.g. plant stock) or species individuals;
- f) Method statement for site preparation and establishment of target features;
- g) Extent and location of proposed works, and
- h) Details of the biodiversity offsetting metric calculations that clearly demonstrate that the proposals contained in the plan avoid a net loss of biodiversity.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to final occupation.

Reason: To avoid a net loss of biodiversity in accordance with Policy CSB1 of the Core Strategy and government guidance as stated in paragraphs 170(d) and 175 of the Framework.

- 13) No development shall take place until the tree protection measures detailed in Appendix B of the Arboricultural Assessment dated January 2018 are erected around any trees affected by construction activity.

Reason: To safeguard trees which are visually important in accordance with Policies CSEN1 and CSQ3 of the Core Strategy 2027 and Policies G2, C9 and D1 of the Local Plan 2011.

- 14) Before any dwelling hereby permitted is first occupied, the proposed vehicular accesses, driveways and turning areas that serve that dwelling shall be constructed, laid out, surfaced and drained in accordance with the specification details that have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works.

Reason: To ensure a satisfactory residential environment in accordance with policy D1 and EP2 of the Local Plan.

- 15) Prior to the occupation of the first dwelling hereby permitted a Travel Plan in general accordance with the Framework Travel Plan dated 5 January 2018 shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: To promote the use of non-car modes of transport in accordance with Policy CSM2 of the Core Strategy.

- 16) Prior to first occupation of any dwelling or building to which they relate electric vehicle charging points shall be installed and be operational in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory standards of air quality for the residents of the development and surrounding residential properties in accordance with Policies G2 and EP1 of the Local Plan, CSQ2 of the Core Strategy and paragraphs 105 and 181 of the Framework.

- 17) Prior to the occupation of the first dwelling hereby approved details of the means by which the dwellings may be connected to the utilities to be provided on site to facilitate super-fast broadband connectivity have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To facilitate homeworking and to reduce the need to travel in accordance with Policies CSM1 and CSM2 of the Core Strategy.

- 18) Prior to first occupation of any dwelling a noise mitigation strategy including full details of the proposed noise bund to be erected along the southern boundary of the site, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and retained thereafter.

Reason: To minimise the noise levels from the adjacent A40 and to ensure a satisfactory residential environment in accordance with policy D1 and EP2 of the Local Plan.

- 19) Prior to the occupation of the first dwelling, details of a scheme for the enhancement and protection of the on-site Scheduled Ancient Monument on the site shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall include details of the following;
- a) strimming / mowing and removal of scrub vegetation and self-set trees from the monument;
 - b) a management plan for the preservation / maintenance of the monument in the future, prepared with the objective of removing the need to secure scheduled monument consent to carry out future maintenance of the monument;
 - c) consultation with Historic England and the Local Planning Authority Archaeology Officer in respect of research into the history and the origins of the monument;
 - d) Design and location of an interpretation and information board in respect of the monument. The board shall include information in respect of the monument. It shall also include details of the statutory protection and security measures that the monument benefits from and the repercussions for any individuals who damage the monument through illegal or unauthorised activities, such as metal detecting, and
 - e) Design and location of a seating area, comprising at least one bench and associated hard standing, adjacent to, but outside, the perimeter of the monument. The perimeter of the monument is defined as the extremities of ditch, plus an additional two metre buffer zone.

The interpretation board and seating area shall be installed and the SAM maintained in accordance with the details set out in the SAM enhancement scheme as approved by the Council and shall be maintained thereafter for the lifetime of the development unless otherwise agreed in writing by the LPA.

Reason: To ensure adequate mitigation of a designated heritage asset in accordance with Policy CSEN3 of the Core Strategy.



Report to the Secretary of State for Housing, Communities and Local Government

by D M Young BSc (Hons) MA MRTPI MIHE

An Inspector appointed by the Secretary of State

Date: 27 December 2019

TOWN AND COUNTRY PLANNING ACT 1990

SOUTH OXFORDSHIRE DISTRICT COUNCIL

APPEAL MADE BY

OXFORD BROOKES UNIVERSITY

Inquiry Held on 22-25, 29-31 October 2019

Oxford Brookes University, Wheatley Campus, College Close, Wheatley, Oxford OX33 1HX

File Ref: APP/Q3115/W/19/3230827

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GLOSSARY

5YHLS	5 Year Housing Land Supply
3YHLS	3 Year Housing Land Supply
CD	Core Document
CIL	Community Infrastructure Levy
DAS	Design and Access Statement
DPD	Development Plan Document
dph	dwellings per hectare
eLP	Emerging Local Plan
EIA	Environmental Impact Assessment
eWNP	emerging Wheatley Neighbourhood Plan
ES	Environmental Statement
GI	Green Infrastructure
HE	Historic England
HLSS	Housing Land Supply Statement
HMA	Housing Market Area
ID	Inquiry Document
JSSP	Joint Spatial Structure Plan (Oxfordshire Plan 2050)
LPA	Local Planning Authority
LVIA	Landscape and Visual Impact Assessment
NIC	National Infrastructure Commission
OAN	Objectively Assessed Need
OCC	Oxfordshire County Council
OHGD	Oxfordshire Housing and Growth Deal
PDL	Previously Developed Land
PoE	Proof of Evidence
PPG	Planning Practice Guidance
RfR	Reason for Refusal
S106	Section 106 of the Town and Country Planning Act 1990
SM	Scheduled Monument
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoCG	Statement of Common Ground
SODC	South Oxfordshire District Council
SoS	Secretary of State
SuDS	Sustainable Drainage System
TA	Transport Assessment
WMS	Written Ministerial Statement

Appeal Ref: APP/Q3115/W/19/3230827

Oxford Brookes University, Wheatley Campus, College Close, Wheatley, Oxford OX33 1HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Oxford Brookes University against the decision of South Oxfordshire District Council.
- The application Ref P17/S4254/O dated 19 January 2018 was refused by notice dated 13 December 2018.
- The development proposed is a Outline planning application, with all matters reserved for subsequent approval except details of vehicular access, for demolition of all existing structures and redevelopment of the site with up to 500 dwellings and associated works including; engineering operations, including site clearance, remediation, remodelling and deposition of inert fill material arising from demolition on site; installation of new and modification of existing services and utilities; construction of foul and surface water drainage systems, including SuDS; creation of noise mitigation bund and fencing; creation of public open space, leisure, sport and recreation facilities including equipped play areas; ecological mitigation works; construction of a building for community/sport use and associated car parking; construction of internal estate roads, private drives and other highways infrastructure and construction of pedestrian footpaths.

Summary of recommendation: the appeal be allowed

1. Procedural Matters

- 1.1 The appeal was recovered by the Secretary of State (SoS) for his own determination by means of a Direction dated 12 July 2019¹. The reasons for the Direction are that the appeal involves proposals for residential development over 150 units or on sites over 5 hectares in the Green Belt, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
- 1.2 The Inquiry sat for 7 days between 22 and 31 October 2019. The venue was located on the appeal site and therefore I undertook numerous site visits during the course of the Inquiry. In addition, I carried out an unaccompanied visit to the site and surrounding area on 21 October 2019. Having heard all the relevant evidence in relation to landscape, Green Belt and accessibility matters I undertook an accompanied site visit on 28 October.
- 1.3 Although the application was submitted in outline with only access to be determined, it was accompanied by an illustrative masterplan and set of parameter plans as well as a raft of supporting technical documentation contained in an Environmental Impact Assessment (EIA)². This material is broadly accepted by technical consultees and demonstrates that a number of matters are capable of being satisfactorily dealt with either by condition or planning obligation.
- 1.4 The application was refused against officer recommendation for 5 reasons. Reason for Refusal (RfR) 1 alleges the development would be inappropriate

¹ See main file

² See Appendix 2 of Planning SOCG for full list of amended plans and documents (CD16.1)

development in the Green Belt and cause harm to its openness with no very special circumstances identified to outweigh this harm. RfR 2 considers that the development would harm the setting of nearby heritage assets with little public benefit to offset the harm. The Council accept that the wording of RfR2 erroneously refers to Policy CON15 instead of Policy CON11 which relates to nationally important archaeological remains. RfR3 focuses on the location of the development and alleges that it would be poorly related to local settlements and facilities leading to an over reliance on car borne trips. RfRs 4 and 5 relate to the absence of a planning obligation to secure affordable housing and infrastructure.

- 1.5 A signed and dated agreement under s106³ of the Town and Country Planning Act 1990 (S106) was submitted after the close of the Inquiry. Amongst other things, this contains obligations to both South Oxfordshire District Council (the Council) and Oxfordshire County Council (OCC) in respect of affordable housing, off-site sports facilities and highway works. A draft version of the agreement was discussed at the Inquiry⁴. All the proposed obligations need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later. On the basis of the S106 RfRs 4 and 5 fall away.
- 1.6 On 9 October 2019, the SoS issued a Holding Direction⁵ to prevent the Council taking any further action in relation to the emerging South Oxfordshire Local Plan (the eLP), including its withdrawal, whilst he considers use of his intervention powers, under s21A of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). This direction remains in force until the SoS withdraws it or gives a direction under section 21 of the 2004 Act in relation to the Plan. Section 21A (2) of the 2004 Act indicates that; “*A document to which a direction under this section relates has no effect while the direction is in force*”. The eLP therefore has no effect whilst the Holding Direction remains in place and, consequently, policies within the plan are of no effect also. I return to the matter of the evidence base later in my report.
- 1.7 During the determination period, the scheme was amended to reflect discussions between the Appellant and Council officers. Amongst other things the amendments included the introduction of a retail shop⁶. After the Council issued its decision, the requirement for a retail shop was omitted from the January 2019 version of the eLP. The appeal scheme was hence amended a second time to remove the shop. The Appellant conducted a further round of public consultation between 9 May and 4 June 2019 to give interested persons the opportunity to comment on this amendment. Having regard to the principles set out in the Wheatcroft judgement⁷, and bearing in mind the original scheme did not include a shop, I do not consider the post-decision amendment materially alters the substance of the proposal. In any event, given the Appellant’s consultation exercise, I am satisfied that local residents as well as the Council have had ample opportunity to comment on the change. In these

³ See main file

⁴ ID26

⁵ <https://www.gov.uk/government/publications/south-oxfordshire-local-plan-holding-direction-letter-to-council>

⁶ This was included to reflect the requirements of Policy STRAT10 of the ‘Publication Version’ of the eLP, dated October 2017.

⁷ *Bernard Wheatcroft Ltd v SSE (JPL 1982) (CD9.1)*

circumstances, I am satisfied that no injustice would be caused if I were to consider the revised plans.

- 1.8 As the proposal is EIA development, the various amendments resulted in the submission of an Environmental Statement (ES) Addendum dated October 2018 and an ES Addendum Review letter dated 6 June 2019⁸. The conclusions of both documents were that the findings of the original ES are unchanged by the amendments. The Council do not disagree. I am therefore satisfied that the ES remains robust and does not require amendment.
- 1.9 A pre-Inquiry Case Management Conference was held on 14 August 2019 to discuss the arrangements for the Inquiry and deadlines for the submission of various documents. A summary of the conference was subsequently sent to the main parties⁹.

2. The Site and Surroundings

- 2.1 The appeal site covers a total area of 21.5 hectares located immediately north of the A40 dual-carriageway, approximately 3.5km east of Oxford. To the south of the site, beyond the A40 London Road, lies Wheatley which is a relatively large, rural village with a good range of facilities and amenities. Waterperry Road adjoins the eastern site boundary and serves as the main point of vehicular access to the site. To the north, there are agricultural fields which separate the site from the rural settlement of Holton. To the west lies an education and leisure complex comprising the John Watson/Wheatley Park schools and the Park Sport Centre and gym. Holton Park, sometimes referred to as Old House, is a Grade II Listed Building¹⁰ situated at the eastern end of the complex adjacent to the site's western boundary.
- 2.2 The site itself is currently in use as a university campus although Oxford Brookes University (OBU) intends to vacate the site by 2021/2022. Prior to the current use, the site was used as a military hospital during the Second World War and before that it once formed part of a medieval field system which subsequently became a deer park around the late 18th Century remaining until the early part of the 20th Century.
- 2.3 As it is today, a range of buildings are located within the eastern and central parts of the site, most of which date from the mid/late 20th Century. The heights of the existing buildings range from single storey to a 12-storey tower block approximately 35m tall. There are 2 residential properties located within the eastern part of the site, and a row of houses located within the centre of the site known as College Close. The campus also includes a range of informal recreational green spaces along with various grass and artificial playing pitches which are predominantly located on the western side of the site. In the north-west quadrant lies a Scheduled Monument¹¹ (SM) which comprises a circular, ditched, landscape feature. The south-west quadrant is a visually distinct, undeveloped green space that accounts for approximately 13.75% of the site¹².

⁸ CD3.2

⁹ Summary of Case Conference (CD18.2)

¹⁰ List Entry No. 1369201

¹¹ Ref: SM1018425

¹² Table 2, Bolger PoE

- 2.4 The site is generally well vegetated particularly along its site boundaries with a number of existing mature trees, hedgerows and shrubs which are the subject of a Tree Preservation Order¹³ (reference 35/2005). The landscaping most of which would be retained along with local topography provides for a degree of visual containment such that the majority of existing buildings are not visible outside the site boundaries.

3. Planning Policy and Guidance

- 3.1 Section 38(6) of the 2004 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the Framework, which can override development plan policy if it is not consistent with the Framework's provisions. I therefore summarise the national planning policy context first, before turning to look at relevant development plan policies.
- 3.2 The latest version of the Framework was issued in February 2019. Like earlier versions it emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development, through 3 over-arching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 3.3 To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the Framework. Paragraph 11 explains that for decision-taking this means, firstly, approving development proposals that accord with an up-to-date development plan without delay. If there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, then planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 3.4 Of particular relevance in this case are those parts of the Framework which deal with Green Belt, heritage assets and housing provision. Section 13 of the Framework is entitled "Protecting the Green Belt", with paragraph 136 making it clear that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Paragraph 143 reaffirms that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved, except in very special circumstances.
- 3.5 Paragraph 144 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

¹³ Council ref: 35/2005

- 3.6 With regard to housing, paragraph 59 of the Framework confirms that it is the Government's objective to significantly boost the supply of homes and to ensure that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. In considering ways to boost supply, paragraph 72 advises that the supply of large numbers of new homes can often be best achieved through planning for larger-scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well-located and designed, and supported by the necessary infrastructure and facilities.
- 3.7 Paragraph 73 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.
- 3.8 Paragraph 190 states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In those circumstances where less than substantial harm is identified, this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 3.9 Other relevant paragraphs in the Framework are referenced, as appropriate, later in this Report. The Planning Practice Guidance (PPG), initially published in 2014, is also a material consideration in the determination of this appeal.

The Development Plan

- 3.10 The Development Plan comprises saved policies in the "*South Oxfordshire Local Plan 2011*"¹⁴ (the LP) and the "*South Oxfordshire Core Strategy 2012*"¹⁵ (the CS).
- 3.11 The LP was adopted in 2006 and covered the relatively short period up to 2011. The housing requirements for the LP were derived from the now defunct Regional Planning Guidance¹⁶ (RPG) for the South East (as amended) which was adopted in 2001 and the Oxfordshire Structure Plan which was adopted in August 1998. Various policies in the LP were saved by the SoS in 2008. Following the adoption of the CS, the LP was reviewed, and those policies found to be superseded by or inconsistent with the CS were 'struck through'.
- 3.12 The Planning SoCG¹⁷ identifies 36 'relevant' LP policies. Of these, only 7 are referred to in the contested RfRs, these are: GB4 (Visual Amenity of the Green

¹⁴ CD5.1

¹⁵ CD5.2

¹⁶ ID14: RPG Revocation Order 2013 No. 427

¹⁷ CD16.1

Belt), CON5 (Setting Of Listed Buildings), CON11 (Archaeological remains), T1 (Safe, Convenient And Adequate Highway Network For All users), T2 (Unloading, Turning and Parking For All Highway Users) and T7 (Improvements And Extensions To Footpaths And Cycle Network).

- 3.13 Whilst the LP is time expired, that does not mean the aforementioned policies and any other relevant policies are necessarily inconsistent with the Framework. I will return to the issue of consistency later in my report.

The Core Strategy

- 3.14 The CS was adopted in 2012 following the publication of the original version of the Framework. It sets out the vision for South Oxfordshire to 2027. Although the Examining Inspector found the CS to be generally consistent with the provisions of the Framework¹⁸, much of the evidence base underpinning the plan and the Examination hearings themselves pre-dated the March 2012 Framework. The housing requirement of the CS was based upon the constrained supply contained in the RPG which remained in force at the time of adoption and therefore the Examining Inspector (and Council) were obliged to rely on it under the transitional arrangements set out in paragraph 218 of Annex 1 of the 2012 Framework.
- 3.15 The Planning SoCG includes a list of 19 relevant CS policies of which the following 6 are cited in the RfRs: CSEN2 (Green Belt), CSEN3 (Historic Environment), Policy CSM2 (Transport Assessments and Travel Plans), Policy CSM1 – Transport, CS1 (Presumption in favour of sustainable development) and CSS1 (The overall strategy). As paragraph 1.10 of the CS makes clear, the aforementioned policies are of a strategic nature and are intended to be supplemented by more detailed policies in a Development Management Policies DPD. That document was abandoned at an early stage in favour of a new local plan.

The eLP

- 3.16 The eLP¹⁹ was submitted for Examination on 29 March 2019. Despite the advanced stage of preparation at the time of the Council's decision, none of the RfRs refer to policies in the eLP. Even before the SoS's Holding Direction, it was common ground that the eLP carries only limited weight in the determination of this appeal.
- 3.17 Notwithstanding the current status of the eLP, it has been submitted for Examination and the SoS has publicly confirmed his support for it²⁰. Although the Cabinet has recommended that the plan is withdrawn²¹, the Council's planning witness confirmed that it is still committed to the eLP for plan-making purposes. In these circumstances, I consider the evidence base which has been thoroughly and diligently compiled over several years is a material consideration in this appeal.

¹⁸ Paragraph 144-146, of the Examining Inspector's Report (CD5.3)

¹⁹ CD6.1

²⁰ CD15.4, CD15.11 & CD15.15

²¹ Council Cabinet's decision 3 October 2019

- 3.18 In relation to housing growth in the district over the plan period, the evidence base supports an annual housing requirement of 775 homes per year or an overall requirement of 17,825 homes between 2011 and 2034. This represents the midpoint in the annualised housing requirement range identified for South Oxfordshire District in the Strategic Housing Market Assessment (SHMA)²².
- 3.19 The evidence base also supports Policy STRAT 14 (formerly STRAT10) which proposes to remove the appeal site from the Green Belt and allocate it for a development to deliver at least 300 new homes within the plan period.

The Wheatley Neighbourhood Plan

- 3.20 Part of the appeal site falls within the emerging Wheatley Neighbourhood Plan²³ (the eWNP) area designated on 31 March 2016. The second draft of the eWNP was published for consultation in May 2019. On 3 September 2019 it was submitted to the Council under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. This document was then the subject of statutory consultation ending on 18 October 2019.
- 3.21 The eWNP sets out the community's vision for the future of the area during the plan period (2019 - 2033) and provides a land use framework for development in the area. The vision confirms that a main objective of the plan will be to *"provide a range of different types of new houses across all tenures to meet the needs of all income and age ranges, including key workers, within Wheatley and its catchment area using design guidance..."*. It identifies that the main housing needs are for affordable housing, starter homes and supported housing for the elderly²⁴. It aims to promote the provision of 40% affordable homes, in line with the policy of the eLP.
- 3.22 The eWNP acknowledges the importance of bus services to Wheatley²⁵ and seeks to locate new homes within walking distance of the village centre which is described in the following terms:
- "The retail activities in Wheatley centre are mainly food shops (the Co-op, Costcutter, a well-established baker and butcher) and catering (pub, restaurant, chip shop and take away). Among other High Street services there is the post office, hairdressers, pharmacy, dog grooming, estate agent, a laundrette and a tattooist. Above the High Street on Church Road services include another pub, an architect's business, garage, dentist, the library, the parish church and a further estate agent. A car tyre supplier operates on Holloway Road and a veterinary practice can be found on Roman Road. On the village perimeter, there is a motel complex, an ASDA store and petrol station, a car sales outlet, a coach depot and 2 garden centres. The seven pubs of 1975 have now been reduced to two (and one private club). There are four worshipping congregations: Anglican, Catholic, United Reform and Community Church."*²⁶
- 3.23 Policy SPOBU-WHE25 supports the release of the appeal site from the Green Belt and its allocation as a strategic housing site. It goes on to advise that

²² CD10.6 & CD10.7

²³ Chapter 9 (CD6.2)

²⁴ Paragraph 8.8 (CD6.2)

²⁵ Paragraph 4.22 (CD 6.2)

²⁶ Paragraph 4.16 (CD 6.2)

alterations or replacement of existing buildings should be focused on the previously developed part of the site and should avoid an adverse impact on the SM. In general, development on undeveloped parts of the site will not be considered appropriate with the exception of access routes and functional green spaces.

- 3.24 Some of the requirements of SPOBU-WHE25 relate to the area outside of Wheatley parish and the plan is subject to a number of unresolved objections in that regard. Accordingly, it was common ground at the Inquiry that only limited weight can be given to the eWNP at this time.

The Growth Deal

- 3.25 In 2016 the Government instructed the National Infrastructure Commission (NIC) to undertake a review of the potential for growth in the geographic corridor containing Oxford, Milton Keynes and Cambridge. Sitting at the Western end of the arc, Oxfordshire has a major role to play in delivering on the Government's ambitions for this area, and beyond. The NIC's final report²⁷ was published in late 2017. It found that Oxford with other cities in the arc is successful and fast-growing. However, a sustained shortfall in housing supply has led to high house prices and low levels of affordability which is having a constraining effect on future growth.
- 3.26 The Oxfordshire Housing and Growth Deal (OHGD)²⁸ is a response to those problems and seeks to unlock the growth potential of the area. It requires the Council along with, Oxford City Council, Vale of White Horse, Cherwell and West Oxfordshire District Councils to plan and deliver 100,000 homes by 2031 in exchange for £215m of Government investment. The OHGD requires the constituent authorities to submit and adopt a joint statutory spatial plan (JSSP) covering all 5 district councils in Oxfordshire by 2021.
- 3.27 In addition to the investment, the Government has committed to certain time-limited planning flexibilities for the relevant authorities. In a Written Ministerial Statement (the WMS), published on 12 September 2018²⁹, the SoS implemented a temporary change to the Framework's housing land supply policies as they apply in Oxfordshire. It confirmed that:

"For the purposes of decision-taking under paragraph 11(d), footnote 7 of the National Planning Policy Framework will apply where the authorities in Oxfordshire cannot demonstrate a 3-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). This policy flexibility does not apply to the Housing Delivery Test limb of footnote 7 of the National Planning Policy Framework nor plan making policy in paragraph 67. If a local authority intends to fix their land supply under paragraph 74 they will still be required to demonstrate a minimum of 5 year supply of deliverable housing sites, with the appropriate buffer."

- 3.28 The WMS is a material consideration in planning decisions and applies to South Oxfordshire provided the timescales agreed in the OHGD are adhered to. It

²⁷ Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc (CD20.5)

²⁸ CD10.4

²⁹ CD10.3

confirms that the SoS will monitor progress with plan-making and keep the planning flexibilities under review. The OHGD is not an assessment of housing need and as such does not identify a housing requirement for each district, nor does it attempt to apportion any housing needs from one authority to another. The overall aspirational housing target in the deal is derived from the SHMA.

4. The Application Proposal

- 4.1 The appeal proposal seeks outline planning permission for the development of up to 500 houses. 2 points of vehicular and pedestrian access are proposed from Waterperry Road in the east and Holton Park Drive in the west. In addition to housing, the development includes generous areas of green infrastructure including; a Local Equipped Area of Play (LEAP), bowling green, cricket pitch, sports pavilion, structural landscaping and an ecological area. The green infrastructure would amount to at least 10.69ha, approximately 50% of the site.
- 4.2 An illustrative layout plan³⁰ which is to be read alongside 3 parameter plans³¹ show how the site might be developed. These plans were supplemented at the appeal stage by a suite of photomontages³². The principle components of the layout are a central spine road which links the 2 access points. Areas of housing are interspersed between the areas of landscaping. The majority of existing trees on the site would be retained.
- 4.3 The central and eastern sections of the site would be dominated by 3 and 4-storey housing. This is where the largest buildings are currently located. Low density 2-storey housing would be confined to the south-west and north-central quadrants. The north-west quadrant which is currently occupied by sports pitches would be kept largely free of development with the SM being incorporated within the proposed green infrastructure.

5. Background

- 5.1 Following OBU's decision to vacate the appeal site by 2021, the Appellant pursued a housing allocation in the eLP. At the same time and following discussions with Council officers a planning application was submitted for the redevelopment of the site. Pre-application discussions took place between September 2016 through to early 2018. The full details of these discussions are set out in paragraph 7 of the Appellant's Closing Submissions³³ and I need not repeat all of that information here.
- 5.2 The planning application was submitted on 19 January 2018 and was given the reference number P17/S4254/O. Due to the scale of the development, an EIA was submitted in support of the application. During the determination period, the scheme was amended to reflect discussions that had taken place between the Appellant, the Council and various statutory consultees. These amendments were reflected in amended parameter and layout plans that were subject to re-consultation. Amongst other things, the amendments provided for:

³⁰ Drawing ref: 7590-L-60

³¹ Drawing refs: 7590-L-19 F, 7590-L-20 F & 7590-L-18 G

³² ID1 & Appendix 6 Holliday PoE

³³ ID28

- an expansion of proposed areas of publicly accessible green open space;
- a reduction in the extent of housing in the western portion of the site;
- an expansion of open space around the SM;
- the introduction of a retail shop;
- various landscaping and biodiversity improvements, and
- an increase in the amount of 4-storey development.

5.3 The application was considered by the Council's Planning Committee at their meeting dated 28 November 2018. In recommending approval, the Committee Report³⁴ concluded:

"very special circumstances exist that demonstrate that the principle of residential development in the Green Belt is acceptable. In addition to being a previously developed site, an increase in openness achieved by the flattening and wider dispersal of buildings, demonstrates the proposal would not have any greater impact on the openness of the Green Belt than existing development. Revisions to the layout and parameter plans have resulted in a scheme that responds appropriately to the site constraints and areas of importance within the site. There are public benefits and on-site mitigation delivered through the proposal, which outweigh the identified 'less than substantial harm' to the heritage significance, as well as on and off-site infrastructure secured through the legal agreement. On this basis, the development accords with the revised National Framework and the Development Plan, and officers recommend approval of the outline planning permission."

5.4 According to the Minutes supplied by the Council³⁵ the Committee expressed concerns about encroachment of the proposed built form to the south-west quadrant, a higher number of dwellings than is provided for in the eWNP, the impact on the setting of Holton Park; and the lack of connectivity with Holton. The Decision Notice³⁶ was issued on the 13 December 2018.

6. Agreed Facts

6.1 The following SoCG's have been agreed between the Council and the Appellant:

- 1) Main Planning SoCG dated 16 August 2019³⁷
- 2) Landscape SoCG including 10 appendices dated 27 September 2019³⁸
- 3) Heritage SoCG dated September 2019³⁹
- 4) Accessibility SoCG dated 30 September 2019⁴⁰

³⁴ Core Document CD4.1

³⁵ Page 3, CD4.2

³⁶ See main file

³⁷ CD16.1

³⁸ CD16.2

³⁹ CD16.3

⁴⁰ CD16.4

5) Affordable Housing SoCG October 2019⁴¹

- 6.2 The main planning SoCG sets out the application description, the submitted plans and a brief description of the proposal, the site and its surroundings. It confirms that the application was subject to amendment relating to the convenience store during the determination period and then again after the Council's decision. It confirms the RfRs and the date of the Council's decision. Section 5 covers the Development Plan and lists 35 Local Plan and 19 Core Strategy policies that are relevant to the appeal. It confirms that the Framework, PPG, The Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act), the OHGD, the eLP and the eWNP are all material considerations.
- 6.3 The Landscape SOCG lists all the relevant landscape and Green Belt studies. It goes on to identify 4 agreed matters which are: 1) the Wheatley Campus Map is helpful when discussing the parts of the site; 2) there would be landscape, visual and Green Belt benefits from the removal of the approximately 35m tall tower; 3) there would be landscape and visual benefits from the removal of buildings and structures within the site that have become dilapidated, and 4) the current visibility of buildings within the site is limited and only the tower is visible from the wider landscape.
- 6.4 The Heritage SoCG confirms the duty under the 1990 Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses⁴². The matters agreed are listed as:
- 1) The designated heritage assets which are, to a greater or lesser degree, affected by the appeal proposals are the SM on the appeal site; Holton Park 'Old House' at the adjacent Wheatley Park School site, St. Bartholomew's Church, Holton⁴³, and a Scheduled Monument⁴⁴ and listed buildings and structures on the adjacent Wheatley Park School site comprising stretches of listed wall, a bridge, ice house and stable block.
 - 2) There would be an impact on the setting of Holton Park 'Old House' as a result of the appeal proposals. The setting of Holton Park 'Old House' is currently affected by the present situation on the appeal site.
 - 3) The former deer park, of which the appeal site is a part, is neither a designated nor non-designated heritage asset.
- 6.5 The Accessibility SoCG agrees the distances from the centre of the appeal site to various local destinations⁴⁵. It is also agreed that the Wheatley Park School and sports centre complex, which lies at the far western end of Holton village, is within reasonable walking distance of the site. It is further agreed that distance alone is not the only factor that affects the attractiveness of walking and that the quality of footways and crossings, perceived personal security, quality and the good appearance of routes are also relevant.

⁴¹ CD16.5

⁴² The SM is not a listed building and therefore is not covered by the duty under s66 of the 1990 Act

⁴³ List No. 1047596

⁴⁴ SM1018424

⁴⁵ Table 2, page 5

- 6.6 The Affordable Housing SoCG sets out the party's respective position on the housing need and supply in South Oxfordshire. It confirms that the Council is able to demonstrate a 5YHLS against the figure which arises from the standard method which defines a Local Housing Need of 632 dwellings per annum (dpa).
- 6.7 It is also agreed that the OHGD commits the Oxfordshire authorities to plan for and support the delivery of 100,000 new homes between 2011 and 2031, and to progress their respective local plans to achieve this as well as a JSSP to address longer-term development needs to 2050. The 100,000 homes figure is derived from the 2014 Oxfordshire SHMA which breaks down the need for each of the 5 Oxfordshire authorities. South Oxfordshire's need was assessed at 15,500 homes between 2011-31, equivalent to 775dpa. Oxford's unmet need is 15,000 homes. The Oxfordshire authorities have agreed how this should be distributed through a Memorandum of Understanding, which South Oxfordshire did not sign, and the more recent Statement of Common Ground in support of the Oxford Local Plan 2036 and South Oxfordshire Local Plan 2034, which South Oxfordshire has signed up to. This statement agrees that apportionment of unmet housing need, arising from the Oxfordshire Housing Market Area, must be strategically and cooperatively considered through the Oxfordshire Growth Board, and that the latest agreed apportionment figure is 4,950 for South Oxfordshire.
- 6.8 The Council submitted its Local Plan in March 2019 on the basis of the above. Planning Inspectors at three Oxfordshire local plan Examinations have found the calculations of Oxford's unmet need to be sound, and the SoS himself has drawn the Council's attention to this in a recent letter on 26th August 2019⁴⁶.
- 6.9 It is also agreed that the WMS, which sets out that paragraph 11 d) of the Framework will be engaged where authorities cannot demonstrate a 3-year supply of deliverable land (3YHLS), has been developed within the specific context of the OHGD. It is common ground that the WMS recognises that in the *"short-term this will result in fewer permissions granted under paragraph 11 but that it is important to support ambitious plans that will deliver more housing in the longer term"*.
- 6.10 Other agreed matters include:
- Period of Assessment: housing land supply will be assessed for the period 1st April 2019 to 31st March 2024.
 - The 2019 Housing Land Supply Statement⁴⁷ (HLSS), has a base date of 1st April 2019;
 - Buffer: a 5% buffer is appropriate when calculating the 5YHLS; requirement, and
 - There is also agreement on the relevant parts of the Framework and PPG that deal with housing delivery.

⁴⁶ CD15.11

⁴⁷ CD10.1

7. The Case for South Oxfordshire District Council

The case for the Council is summarised as follows.

Overview

- 7.1 This appeal scheme is speculative development of a very substantial scale in the Green Belt where national policy is firmly against such an approach. There is an emerging allocation, but the scheme proposed is substantially bigger in terms of dwelling numbers than that proposed in the eLP which supports development of "at least 300 new homes", rather than the 500 proposed. Moreover, the overall spread of development across the site is in stark conflict with the eLP's emphasis on accommodating dwellings in the east and not the sensitive western half of the site.
- 7.2 The eLP was submitted for Examination by 1st April 2019 in accordance with the OHGD timetable and has been following a similar timetable to Oxford City's emerging plan. It is only since the Holding Direction that progress on the eLP has faltered. Even before the Holding Direction the eLP attracted only limited weight and with the Direction in place it attracts no weight.
- 7.3 The scheme would result in Green Belt, landscape and heritage harm and is not plan-led, and there is nothing about the benefits that take us into the territory of very special circumstances.

Green Belt – Inappropriate development

- 7.4 Only the area on the brownfield land register plan⁴⁸ is previously developed land (PDL). Consequently, the appeal scheme does not benefit from the exemption in paragraph 145g) of the Framework and is inappropriate development in the Green Belt.
- 7.5 Curtilage is not defined in the Framework or legislation. Case law provides some assistance, although the cases are very fact sensitive. Curtilage is generally viewed as being limited in scope and applicable to an individual building, not a group of buildings⁴⁹. There are open spaces in and around campus buildings which are within curtilage. But no authority has been provided for the proposition that the buildings can be aggregated in a way that leads to them having a very large curtilage, as contended by the Appellant.
- 7.6 It is not correct to suggest that the areas of playing fields, which are quite separate in character and function from the developed area of the campus, should be considered curtilage in ordinary language. Having failed the PDL hurdle, the appeal scheme cannot come within paragraph 145g).
- 7.7 Even if one takes a different view on PDL, the appeal scheme would cause substantial harm to the openness of the Green Belt and therefore fails to satisfy the first indent of paragraph 145g).

⁴⁸ Appendix 6, CD16.1

⁴⁹ See *Dyer v Dorset CC*, 1988 WL 622738 (1989) & *Skerritts of Nottingham Ltd v Secretary of State*, (2000) WL 389505 (CD19.1 & CD19.3)

Openness

- 7.8 The Government's commitment to the protection of the Green Belt is unequivocal. The Government attaches "*great importance to Green Belts*"⁵⁰ and it is difficult to think of a higher hurdle in policy terms than very special circumstances.
- 7.9 The rigour with which this site's contribution to the Green Belt is assessed must reflect the importance given to Green Belts. It would not be sufficient to focus on the existing concentration of buildings in the centre of the site. Built development quickly thins out and by far the majority of the site does not contain significant built development⁵¹. Openness is defined by the absence of built development. The site is predominantly open and therefore serves the fundamental aim of Green Belt policy of keeping land permanently open.
- 7.10 This contribution to the Green Belt is recognised in the 2015 Kirkham Green Belt Study⁵² which drew an inset boundary around the built form and hardstanding on the site, plus the southern recreational area, and excluded the north-west and south-west quadrants. These inset areas are those which do not display essential Green Belt characteristics; the point being, that the rest of the campus outside the proposed inset boundary does display those essential characteristics.
- 7.11 The Kirkham Study also aligns with the Council's assessment of the contribution of the site to the Green Belt purposes. In respect of purpose 2 (to prevent neighbouring towns merging into one another), the study notes that while the area between Wheatley and Holton does not contribute to the separation of towns, the area does contribute to the separation of Wheatley and Holton and any substantial development would lead to the perception of settlements merging. In respect of purpose 3 (safeguarding the countryside from encroachment), the open areas with a wooded and parkland character in the west plainly safeguard the countryside from encroachment.
- 7.12 The 2018 LUC Green Belt study⁵³ downgrades the site's contribution to the Green Belt but still finds that harm could be caused by its release. The study's overall judgement of '*low moderate*' harm needs to be treated with significant caution in light, of conflicts with the earlier Kirkham Study and the evidence of the Council's landscape witness.
- 7.13 The harm to openness is multi-faceted. On a parcel by parcel analysis of the site, the proposal would result in approximately 70% of the site being dominated by built development, rather than 33% now⁵⁴. In respect of the visual element of openness, the site is currently experienced from within as largely open but for the concentration of development in the centre and east. Visually the site would be radically changed, from an open university campus to a dense residential estate, with the exception of the north-western quadrant only.

⁵⁰ Paragraph 133 of the Framework

⁵¹ Bolger PoE paragraph 4.2.1-15

⁵² Kirkham Landscape Planning Local Green Belt Study for South Oxfordshire: Final Report 14 September 2015 (CD16.2, Appendix 6)

⁵³ Green Belt Assessment of Strategic Sites in South Oxfordshire Final Report (Appendix 7 to CD16.2)

⁵⁴ Bolger PoE paragraph 8.2.3

- 7.14 The 4-storey development on the south of the site would be visible from the A40 and Waterperry Road outside of the site. The removal of the tower would be a clear benefit in openness terms. However, the actual extent of this benefit to openness needs careful assessment. It is a single tall tower, and from many viewpoints there is considerable screening of the bottom half of it by trees. The visual Assessment in the LVIA is that, where the tower can be seen, there are only glimpsed views and that the removal of the tower would only give rise to a “*minor beneficial*” effect.

Volume

- 7.15 The Appellant’s description of “*flattening and dispersing*” is not accurate. The tower’s demolition is flattening, but elsewhere currently developed areas see a substantial increase in height. As the PPG states⁵⁵, an analysis of existing v proposed volumes are part of the assessment of impact on Green Belt openness even at the outline stage.
- 7.16 The volume of the existing built form on site is agreed to be around 125,500m³. By overlaying the illustrative layout and the building heights parameters plan, the Council has calculated⁵⁶ a building envelope of around 203,500 m³. That equates to a 62% increase on the existing volume – a substantial increase.
- 7.17 Although it is not possible to know the exact volume of development that would come forward in the future, the parameter plans do control the limits of development. A planning permission granted in the terms sought would be for up to 500 dwellings, such that no more dwellings could be built, but dwellings filling the 203,500 m³ would be consistent with that permission.
- 7.18 The alternative approach to volume involves a ‘bottom up’ approach, whereby a SHMA compliant mix of dwellings is used to calculate a volume for 500 dwellings. On this approach, the Council has calculated⁵⁷ a volume of approximately 170,000m³. The Appellant volume figure of 125,563m³ has been calculated using a higher proportion of 1 and 2 bed flats⁵⁸ as requested by the Council during the application stage. However, this is likely to be a significant underestimate for the following reasons:
- a. It makes no allowance for storage, communal storage, lifts, lobbies or pitched roofs to any of the 3 or 4 storey flats, and
 - b. Discussions with local affordable housing providers indicate that the dwellings are unrealistically small in terms of floorspace.
- 7.19 On either of the Council’s approaches to volume, there would be a substantial increase in built volume under the appeal scheme. This further bolsters the conclusions set out above that there would be a significant impact on openness.

⁵⁵ Paragraph ID64-001.

⁵⁶ Kashdan-Brown Rebuttal PoE Appendix JKB1 paragraph 2.

⁵⁷ Kashdan-Brown Rebuttal PoE paragraph 16.

⁵⁸ Gardner PoE paragraph 12.36

- 7.20 The Appellant cites the Wheatley Campus SPD⁵⁹ (the SPD) which provided for up to 194,995m³ of volume. However, the SPD shows a redevelopment scheme which is essentially confined to the area of existing built form.

Character and appearance

- 7.21 There is a distinction in character between the western and eastern halves of the site. The eastern and central areas are dominated by large scale development whereas the west, is largely open and significant elements of the former historic parkland are retained: the open and expansive grassland, the specimen parkland trees, the wooded area in the south-west quadrant, and the view to the mansion house of Holton Park just set back from its north-western boundary. Despite the use of the term 'relict parkland' in the application documents, there is more than just fragments: the parkland character is quite evident and links in particular to the parkland setting of the school to the west.
- 7.22 The parkland character is acknowledged in the Oxfordshire Wildlife and Landscape Study 2004⁶⁰, the western half of the site falls in the Wooded Estate lands landscape type, while the eastern half is in the Rolling Farmland landscape type. These landscape types can cover quite large swathes of land around Oxford, but the drawing of the line down through the middle of the site evidences the different character of the western half. "Large parklands and mansion houses" are characteristic of the Wooded Estate lands landscape type. The appeal site sits in just such a former park with the mansion house overlooking it, and although the whole is not intact, unlike for instance Shotover Park to the east, the character is still evident.
- 7.23 The Appellant's use of the term "*institutional*" is unhelpful and various landscape studies⁶¹ have referenced the site's parkland character. The scheme would harm this character with built development dominating the currently wooded south-west quadrant, enclose the southern boundary of the north-western quadrant and advance west some way into the north-west quadrant itself at the north of the site. In doing so not only would areas with parkland character be lost to dense residential development, but the remaining north-western quadrant would be significantly more influenced by the built development on its boundaries.
- 7.24 The scheme would conflict with the aforementioned landscape studies which advise that development should be focussed on the previously developed parts of the site. These studies form the evidence base that fed into the principle in eLP Policy STRAT14 that "*development on the western, undeveloped part of the site will not be considered appropriate*".
- 7.25 In visual terms, there would be harm to the visual amenity of the users of the campus (which include the public). On the western side the university buildings do not become prominent until pedestrians and cyclists are well into the site, especially in summer. The change to close views of the edge of residential development would be adverse. The proposed 4-storey development in the

⁵⁹ Oxford Brookes University Wheatley Masterplan SPD December 2012 (ID21).

⁶⁰ Appendix 3, CD16.2

⁶¹ SODC Landscape Sensitivity Assessment – Potential Strategic Allocations 2018 by KLP & South Oxfordshire District Council - Landscape Assessment Update 2018 by HDA 2018 (Appendices 9 & 10 CD16.2)

south-east quadrant is likely to be visible from the A40, including at night, and would harm the current impression of a rural landscape to the north. Users of Waterperry Road are also likely to have views of the development, impacting on the existing rural character of the road.

- 7.26 There would be some benefits to users of the Public Rights of Way network and residents in Holton, for whom the proposed development is unlikely to be visible, and who would benefit from the demolition of the tower. Care needs to be taken, however, that the undoubted benefits from the removal of the tower in landscape and visual terms, are not exaggerated.

Heritage

- 7.27 The western half of the site is sensitive in heritage terms with an on-site SM and a strong visual connection to Holton Park beyond which is a further SM and a collection of listed structures. There is no inter-visibility with this off-site SM and listed structures, but setting is not dependent on inter-visibility.
- 7.28 As the Council's witness explained these heritage assets are part of the same story of the Manor House's shifting locations through the centuries across the site and its surroundings. Holton Park has been orientated and positioned to take advantage of views to the south-east, and despite the intervening fence and vegetation there remain long views from Holton Park over its historic parkland.
- 7.29 The current open settings of the on-site SM and off-site Holton Park allow their inter-relationship to be understood. Despite the inability to be certain as to the nature of the monument, Historic England (HE) note that the on-site SM's setting has "*good open views in all directions*" and that "*in all of the possible interpretations of this feature, there is a connection with the earthwork and the relatively open and rural space surrounding it*".⁶²
- 7.30 The John Moore report⁶³ highlights an area (in green) which is "*the area that should be withheld from development to ensure the least impact to these heritage assets*". This "*designed landscape setting implication*" is essentially all of the north and south west quadrants of the site. The figure on page 266 of the same report includes a smaller shaded orange area described as "*Scheduled monument and listed building setting implication*". That shows an area where each heritage asset has a relationship with the other. There are no grounds to suggest that the "*designed landscape setting implication*" in the John Moore report was influenced by the outcome of the decision on the planning application.
- 7.31 The appeal scheme fails to respect the open context which allows the relevant heritage assets to be understood. The scheme mostly fills the south-west quadrant of the appeal site with residential development, and comes within 50m of the SM. Although the majority of the north-west quadrant is left open there is nonetheless encroachment of development into this area. This would leave the assets heavily influenced by suburban residential development.

⁶² CD20.1

⁶³ Paragraph 4.7.3 of the John Moore Heritage Services: Heritage Impact Assessment of South Oxfordshire Local Plan 2034 Potential Strategic Sites, March 2019 (CD13.3)

- 7.32 The existing university buildings occupy only 70 degrees of the field of view from the on-site SM. They leave it predominantly open. The proposed development would see this extend to more than 180 degrees, due to the spreading of development to the north and to the south west of the site. This impact would be exacerbated by the new access road which would comprise a double streetway, with kerbing and streetlighting. The illustrative layouts suggest a corridor could be kept open to the south of the on-site SM, but this would be a channelled view through residential development. By reducing openness in this way, the effect of the proposed development would be to significantly diminish the context of the SM and Holton Park that enables them to be understood and tell the Holton Park manorial story.
- 7.33 In terms of Holton Park, only 40 of the 130-degree view cone from the rear windows of the building comprise built development. This would increase to 93 degrees. Presently, the closest 2 storey buildings on the appeal site are 265m away, but the proposed development would be as close as 180m, with the access road being closer still.⁶⁴
- 7.34 Based on changes to the setting of the SM, the Council considers the proposal would result in less than substantial harm of a moderate extent. There would be noticeable changes to the setting of Holton Park, which supports a conclusion of less than substantial harm of minor extent. The same extent of adverse impact would be seen in respect of the off-site SM and associated listed structures. It is striking that HE, the Council's Conservation Officer and the authors of the John Moore report come to similar conclusions.
- 7.35 The removal of the tower would have a minor positive effect upon the significance of the heritage assets. In respect of the SM and Holton Park, the tower is several hundred metres away and well screened by parkland trees. The view of the tower from the churchyard is a seasonal, filtered, distant and incidental one. Although there may be some limited heritage benefit in redesign and tree planting in the north-west quadrant, it falls well short of counterbalancing the harm that would be caused by the encroachment of built form into the settings of the heritage assets and the reduction of the north-west open area itself by 0.8ha.
- 7.36 Paragraph 196 of the Framework requires harm to be identified. It is only then that benefits can come into play in determining whether any harm is outweighed. This approach is supported by paragraph 193 and the requirement to give "great weight" to an asset's conservation. This must require a separate consideration of harms from benefits.

Accessibility

- 7.37 There is a good range of facilities and services in Wheatley but to comply with the Development Plan and national policy and guidance those facilities and services need to be accessible by sustainable modes of transport.
- 7.38 The distances to the facilities and services in Wheatley are significant. With the exception of the Wheatley Park Secondary School and the Park Sports Centre (both of which are on the Holton side of the A40) and the doctor's surgery at

⁶⁴ ID12

Morland House, all of the facilities are over 1km away, with the primary school 1,407m and the Asda 1,739m⁶⁵.

- 7.39 The IHT's Guidelines for Providing for Journeys on Foot 2000⁶⁶, gives a 'desirable' walking distance of 400m, an 'acceptable' walking distance of 800m, and a 'preferred maximum' distance of 1,200m. All the facilities exceed the acceptable distance, and many exceed the preferred maximum. Paragraph 4.4.1 of Manual for Streets⁶⁷ states:

"Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800 m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and PPS13 states that walking offers the greatest potential to replace short car trips, particularly those under 2 km. MfS encourages a reduction in the need to travel by car through the creation of mixed-use neighbourhoods with interconnected street patterns, where daily needs are within walking distance of most residents."

- 7.40 Two other factors emphasise the need for sustainability improvements to be very effective if the appeal scheme is to be sustainable. First, the A40 adds to the perception of separation. Walking through an underpass or on an overbridge to get across 4 lanes of trunk road is unattractive and a deterrent. Secondly, the scale of the appeal scheme is strategic. When so many people are affected, it is particularly important that the scheme is a sustainable one.
- 7.41 The eLP recognises this. STRAT14 notes that provision is likely to be needed for "cycling and walking links into the centres of Holton and Wheatley and to the primary school". The cycle and pedestrian provision across the bridge is unsatisfactory. The scope for further cycle lanes to, from and around Wheatley could also be explored; the narrowness of some historic streets may mean there are limits to what can be achieved, but the Council is not satisfied that all avenues have been explored.
- 7.42 The Appellant has proposed accessibility and connectivity improvements from the site to Wheatley, which have been sufficient to satisfy the Highway Authority. The Council have had regard to that view but have reached a different judgement that in light of all the above factors.
- 7.43 In the direction of Holton, the shortcomings of the scheme are particularly stark. There are no existing adequate footpath or safe cycle links with Holton. The scheme does nothing to improve this, providing no connectivity improvements with Holton. Being divorced from Holton in this way despite lying in its parish is unsatisfactory in social and sustainability terms.

Housing requirement

- 7.44 This issue is of importance both to this appeal and more widely. The starting point must be national policy in the Framework. Paragraph 73 and footnote 37 are the principal provisions. In the present case, where strategic policies are more than 5 years old, paragraph 73 and footnote 37 are clear that housing

⁶⁵ Accessibility SOCG table 5.1 (CD16.4)

⁶⁶ CD14.17

⁶⁷ CD14.3

supply is to be calculated against local housing need. For these purposes, local housing need is expressly defined as “*the standard method set out in national planning guidance*”. There is a critical difference with plan-making. In the plan-making context, paragraph 60 entertains the possibility that exceptional circumstances might justify an alternative approach to the standard method. In the decision-making context, paragraph 73 entertains no such possibility. Annex 2 puts the matter beyond doubt: in the “*context of preparing strategic policies only*” can an alternative to the standard method be adopted.

- 7.45 The October 2018 Technical Consultation explains that these amendments to footnote 37 and Annex 2 were introduced to remove any ambiguity on this issue⁶⁸. The PPG is to the same effect: ID68-005 and other paragraphs provide that the standard method is to be used in these circumstances. The Appellant’s reliance on ID21-010 regarding alternative, higher housing requirements than that derived from the standard method fails to have regard to the fact that that paragraph is clearly talking about plan-making.
- 7.46 The Appellant has sought to argue that the Framework permits a different approach, by reference to: (i) the WMS, (ii) the OHGD, and (iii) the Government’s response to the ‘Partnering for Prosperity’ NIC report⁶⁹. For the following reasons, it is considered the Appellant’s approach is wrong in relation to all 3 documents.
- 7.47 Paragraph 6 of the Framework provides that Written Ministerial Statements may, as statements of government policy, be material. The WMS does not however, change the housing requirement for the Oxfordshire authorities. Its actual effect is to implement one specific change to national policy. This is found in the fourth paragraph of the WMS: “*For the purposes of decision taking under paragraph 11(d), footnote 7 of the Framework will apply where authorities in Oxfordshire cannot demonstrate a 3-year supply of deliverable housing sites (with appropriate buffer, as set out in paragraph 73)*”. That amends footnote 7 as it applies in Oxfordshire. Nowhere does the WMS amend paragraph 73 or Annex 2 so as to provide that the Oxfordshire authorities should calculate housing supply by reference to a requirement other than that derived from the standard method.
- 7.48 The actual words of the WMS must be respected. It is not possible to read in to the WMS, as the Appellant would like to do, an obligation on the Oxfordshire authorities to calculate supply for decision-taking purposes by reference to a housing requirement derived from the SHMA, including a sizeable chunk of Oxford City’s unmet need. Nor does the OHGD amend national policy so as to mean that South Oxfordshire is obliged to use a non-standard method housing requirement. The OHGD is all about planned growth⁷⁰. The 100,000 homes should not therefore be delivered through speculative applications and appeals outside the plan-led system, such as the present one.
- 7.49 The Government response to the NIC report became a key plank of the Appellant’s case, despite it only featuring in a single footnote in Mr Ireland’s PoE. Paragraph 6 of the Framework also provides that “*endorsed*

⁶⁸ Appendix 7 paragraphs 30-34 (PoE/NI)

⁶⁹ CD 20.6

⁷⁰ Paragraph 1.2.3 of the OHGD Delivery Agreement (CD15.7)

recommendations of National Infrastructure Commission” are statements of government policy which may be material. However, recommendation 6 which states, that agreements between central and local government must not lead to a drop-in supply⁷¹, is not an endorsed recommendation. Rather the response explains that it has negotiated a bespoke agreement with the Oxfordshire authorities. That obviously implies that one must look at the precise terms of the bespoke agreement itself to understand its implications.

7.50 The Appellant also relies on the reference to “*ensuring land supply will increase despite flexibilities agreed to the application of the 5-year land supply requirement*” and the “*authorities planning for significantly greater levels of housing growth than their Local Housing Need assessment*”⁷². However, the Government’s response is plainly referring to the WMS’s expectation that although fewer permissions may be issued in the short term, land supply would increase in the longer term through the significant growth being planned for. Using the standard method together with a 3YHLS is entirely consistent with that. It is also consistent with the purpose for which the WMS 3-year flexibility was negotiated: temporary breathing space to allow resources to be focused on ambitious plan-making, without resources being constantly diverted to dealing with speculative applications and appeals based on an alleged lack of land supply. This is set out in the Growth Board report and consultation documents which preceded the adoption of the flexibility.

7.51 The WMS provides that the SoS will monitor progress against the Growth Deal timescales and keep the 3-year flexibility under review. No alterations have been made to the flexibility, no doubt because all the plans were submitted by the 1st April deadline and the JSSP is progressing.

Housing land supply

7.52 As set out above, the Council is required to demonstrate a 3YHLS against a housing requirement derived from the Standard Method. This it can do very comfortably with a supply of 9.71 years⁷³. Even on the Appellant’s supply figures, the Council can demonstrate a 3YHLS of 5.4 years.

7.53 The figure only drops below 3 years in Table 3⁷⁴ if: (i) the housing requirement is made to match the housing numbers in the OHGD, i.e. 775pa and 495pa from 2021; and (ii) the Appellant’s supply figures are used.

7.54 For the reasons set out above, the OHGD housing numbers cannot possibly be the appropriate housing requirement for decision making in advance of plan adoption. Accordingly, whether the Council’s or Appellant’s deliverable supply figures are used, the Council has requisite supply and paragraph 11(d) of the Framework is not engaged. As observed in the Lower Shiplake decision⁷⁵, there is no point in examining the supply figures.

7.55 Nevertheless, as the Appellant has advanced its argument based on a higher requirement figure, it is necessary for the Council to address the supply issues.

⁷¹ Final paragraph page 16 (CD20.6)

⁷² Page 17 (CD20.6)

⁷³ Table 2, Housing SOCG (CD16.5) reproduced in Appendix E

⁷⁴ Appendix E to this report

⁷⁵ PINS Ref: APP/Q3115/W/19/3220425 Paragraph 48 (ID4)

The starting point is to have close regard to the definition of deliverable in Annex 2 of the Framework. As the SoS made clear in the recent North Worcestershire Golf Club decision⁷⁶ “‘realistic prospect’ remains the central test against which the deliverability of all sites must be measured”.

- 7.56 On several of the disputed sites specific SoCGs have been signed by the Council and the developer. These are important because they are evidence direct from the developer, i.e. the person who is in the best position to assess deliverability. The Appellant warns against developer’s ‘talking up’ delivery to curry favour with the Council. However, as the Appellant’s witness accepted, there is no real basis to approach the developer’s statements on that disbelieving basis. The information listed in the SoCGs is carefully aligned to the categories of evidence suggested in the PPG⁷⁷.
- 7.57 The Appellant’s approach to supply is essentially to identify where more information particularly around the status of reserved matters applications could be provided. But discussing the progress of every reserved matters application would be disproportionate and excessive. Unless there has been some significant delay in the determination of a reserved matters application, the submission of a reserved matters can of itself contribute to ‘clear evidence’.
- 7.58 The Appellant has raised concerns about the dates of some of the SoCGs. However, there is no requirement for evidence to pre-date the base date. Neither the Framework nor PPG support that and the Inspector in the North Worcestershire Golf Club appeal expressly recognised that evidence could legitimately post-date the base date⁷⁸.
- 7.59 A proper understanding of the nature of the exercise means that evidence is likely to post-date the base date. The base date is a fixed point in time for monitoring and data collection. All completions must be collected up to that date. All outline and detailed permissions issued up to that date, along with all allocations (e.g. in a Neighbourhood Plan) and resolutions to grant need to be taken into account. Given that completions / permissions / allocations / resolutions will still be happening up to the end of 31st March, collection of evidence as to the deliverability of those permissions / allocations / resolutions will necessarily be a retrospective exercise after 31st March. Even if a permission has been issued well before 31st March, deliverability needs to be assessed around the base date. The Appellant suggested the Council should collect all the evidence in January / February. But in addition to missing permissions / allocations / resolutions from after that date, the Council would miss any change of circumstances up to the base date.
- 7.60 The Council’s evidence of lead in times and build out rates, contained in Appendices B and C of the HLSS is also important in contributing to the clear evidence required. Its robustness derives from the fact that it is both recent and derived from the local area. The Appellant was critical that one of the averages was derived from 4 sites, which was asserted not to be sufficient. But there is no reason why an average from 4 recent and local sites should not give a reasonable idea of future rates.

⁷⁶ PINS Ref: APP/P4605/W/18/3192918 (Duffy Rebuttal PoE Appendix N)

⁷⁷ ID68-007

⁷⁸ Paragraph 14.48

- 7.61 On windfalls and non-implementation rate, the Appellant appears to have misunderstood the Council's approach. The Council includes 666 small site permissions for years 1 – 3 because they have got permission, not because they are windfalls. For years 4 – 5, the Council does include a windfall allowance of 100pa, because past windfall rates provide the compelling evidence that paragraph 70 of the Framework requires. The Appellant's attempt to apply a windfall rate across all of years 1 – 5 fails to appreciate that for years 1–3 the existence of actual permissions means that there is no need to apply a windfall rate.
- 7.62 Finally, on supply, the Appellant was critical of the inclusion of allocations and resolutions to grant in the supply. But the Framework expressly lists allocations as a category for which clear evidence may be sufficient to show deliverability. If allocations can be deliverable, it must follow that resolutions to grant can be deliverable, given that a resolution shows a site more advanced than if it only has an allocation. The Councils housing supply figures are set out in Appendix E to this report.

Affordable housing

- 7.63 The affordable housing proposed is a significant benefit of the scheme. Affordability is an issue in the district and there is need for affordable housing.
- 7.64 That said, the extent of the benefit should not be overstated. The Government does not impose any separate policy requirement in respect of affordable housing supply or delivery. The Council is meeting the two key policies in respect of housing supply and delivery, of which affordable housing supply and delivery will form part: 5YHLS and the Housing Delivery Test.
- 7.65 The Appellant criticises the Council for not having met the affordable housing need in full. The SHMA identifies a full need of 331pa and the Council's average over the last 7 years or so is 201pa. But the trend is upwards, and last year the 331pa was exceeded. Further, the difficulties of delivering affordable housing to meet the need in full are well recognised in the SHMA⁷⁹.
- 7.66 The Standard Method is the Government's default methodology for arriving at a housing requirement and while it incorporates an uplift for affordability, it does not attempt to impose a requirement which incorporates full affordable housing need.

Very special circumstances and the planning balance

- 7.67 The scheme is inappropriate development in the Green Belt. Very special circumstances are required for permission to be granted. On the harm side, there is the definitional harm by reason of inappropriateness, along with the other Green Belt harm, i.e. to openness and conflict with Green Belt purposes. Substantial weight must be given to all that harm.
- 7.68 There is also non-Green Belt harm. This includes the overall landscape and visual harm, the harm by reason of poorly connected and inaccessible development, and heritage harm. In accordance with paragraph 193 of the Framework great weight must be given to the heritage harm.

⁷⁹ Paragraph 6.82 (CD10.6)

- 7.69 On the benefits side of the balance, significant weight is to be given to the affordable housing. The market housing does not attract significant weight, given the Council has a comfortable 5YHLS. The removal of the tower is a benefit. This is so in landscape, visual and Green Belt openness terms, but the Council's evidence concludes that it does not outweigh the harm caused in respect of those matters. It is less of a heritage benefit: any heritage harm that is being caused by the tower is minor and any benefit by its removal is correspondingly minor. Other heritage benefits, for example some parkland tree planting in the north-west quadrant, are also minor. There would be some sustainability benefits to residents of Wheatley as a result of the package of accessibility improvements, benefits as a result of reinvestment of funds in other OBU campuses, and some short-term construction benefits, but none of these are in the 'significant' category.
- 7.70 The 2 Green Belt Ministerial Statements⁸⁰ are highly relevant in the very special circumstances balance. The Government has made clear that unmet need is *"unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development in the Green Belt"*. The effect of the ministerial statements is that, when an Appellant relies on meeting housing need as the principal benefit of a scheme, as the Appellant is clearly doing in the present case, they are unlikely to be able to establish very special circumstances.
- 7.71 Paragraph 11(d) of the Framework requires it to be asked whether the policies which *"are most important for determining the application are out of date"*. The most important policies are those in the RfRs. The Core Strategy policies relied on are clearly not out of date, having been adopted after the Framework and having been tested for consistency with it. The tilted balance is therefore not engaged. Even if it was, the application of Green Belt and / or heritage policies would provide a clear reason for refusing the appeal scheme in the present case.
- 7.72 There is conflict with the adopted development plan as a whole. There is conflict with the eLP, insofar as any weight can be given to it. There is conflict with national policy and therefore the appeal should be dismissed.

8. The Case for Oxford Brookes University

The case for the Appellant is summarised as follows.

Overview

- 8.1 The appeal scheme is a proposal for housing on a site proposed as a major draft housing allocation in the eLP. The site has been identified as suitable for housing, being previously developed land in the Green Belt, visually well contained, located on the edge of a large village with plenty of local services, in close proximity to Oxford, accessible by a dedicated cycle route and with good existing bus services. The proposal would also see the removal of a collection of large and unsightly institutional scale buildings including an incongruous 35m tower block.

⁸⁰ CD11.1 & 11.2

- 8.2 The proposal was recommended for approval by the professional planning officers of the Council. The site is wholly owned and promoted for development by OBU. The receipts from the land sale would be used to improve and expand the University's main Headington campus in Oxford, which would deliver a much better experience for the students who go to study there. The relocation from the appeal site has already commenced and is due to be completed by 2020/2021. After this, the site would become a large vacant and abandoned site, containing a huge mass of vacant and abandoned buildings.
- 8.3 The appeal is to be determined by the SoS who is known to support the eLP, which includes this allocation to progress and be adopted as soon as possible. The actions of the new political administration in South Oxfordshire has led directly to the SoS's intervention in the plan-making process and his expressly stated view that the plan as proposed should progress as soon as possible.
- 8.4 When OBU first notified the Council of its intention to vacate the appeal site, Officers immediately recognised its potential. The Appellant was encouraged to both pursue an allocation in the eLP and to prepare and submit a planning application for its redevelopment. Extensive pre-application discussions took place between 2016 and early 2019, which followed precisely the approach advocated in paragraphs 39-42 of the Framework. After the planning application was submitted, it was subject to detailed discussion with officers and various amendments were made including a reduction of development in the western part of the site and a reduction in volume, which the Appellant achieved not through a reduction in numbers but through a move from houses to apartments as the main form of housing. Apartments which would, of course, be much more affordable than houses. The Appellant has been on a long journey with this proposal. Always seeking to achieve a planning permission without recourse to an appeal. It has fully engaged in public consultation. Indeed, as the Council accepted at the Inquiry, there is not much more the Appellant, nor its consultants could have done in terms of seeking to positively engage and promote the proposal.
- 8.5 The Council's decision to refuse planning permission is based largely on the view that only the central and eastern parts of the site should be developed. However, that is inconsistent with the decision to remove the whole site from the Green Belt in the eLP and policy in the Framework that planning authorities should "*make as much use as possible of suitable brownfield land and underutilised land.*"
- 8.6 Once the development of the site begins, the remaining parts of the campus would self-evidently be underutilised, as indeed is the case at the moment. The north-west quadrant is not proposed for development, save originally on the south western edge of it, because of the proximity of designated heritage assets. These issues do not however apply to the south-western quadrant of the site which is currently unused and contains no heritage assets. Development in this area makes sense in order to ensure the new community is well connected, not isolated from the rest of Wheatley and that pedestrians are well overlooked in that area.
- 8.7 It is critically important to note that the concept plan in eLP Policy STRAT14 which seeks now to limit the allocation to the central and eastern parts of the site, was only issued to the Appellant and wider public on 7 January 2019, well

after the Council had issued its decision. Given its timing, it is difficult to accept that the concept plan was not influenced by the decision of Members to refuse the application citing concerns about development on the western part of the site. With a difficult decision to defend, the Council had an opportunity to put in a defensive plan to suggest the western part of the site should not be allocated. At the very least, it is possible to say that the Members had an opportunity to produce a concept plan after the refusal which would assist in defending their RfRs.

Policy context

- 8.8 The Council has cited conflict with various saved policies with the LP adopted in 2006. This was a complete local plan, as was normal before the 2004 Act. It was adopted 6 years before the Framework was published and only covered the period to 2011, meaning it was adopted in only the last 5 years of the plan period.
- 8.9 The whole planning regime in 2006 was very different to the post Framework era. The housing requirement, the key component of the plan, was based on RPG and structure plan targets from household projections which are now about two decades out of date. There was no requirement to boost significantly the supply of housing, no requirement for identifying an Objectively Assessed Need (OAN) and no presumption in favour of sustainable development. Heritage and Green Belt policy was also different.
- 8.10 When the Council failed to adopt an LDF by 2007, the policies in the LP had to be saved by the SoS. This plan does not meet the requirement for the Council to have an up-to-date local plan. The LP is a plan which is now painfully out of date both in terms of its purpose, its strategy, its content, and its policies and is not a strong foundation upon which to refuse planning permission.
- 8.11 The CS is more recent, having been adopted in 2012. Although the Examining Inspector expressly stated that he had consideration to the Framework, the Examination hearings took place mostly in 2011, with just a few days in May and June 2012⁸¹. The CS is constrained by the need to use the housing requirement in the RPG which remained in place until 25 March 2013. Paragraph 218 of Annex 1 of the 2012 Framework allowed Councils and Inspectors to give full weight to relevant policies adopted since 2004, even if there was a limited degree of conflict with the Framework. Moreover, the Examining Inspector had to rely on RPG housing requirements because he had not been presented with an OAN figure at that stage. The guidance on how to calculate OAN was not published by the Government until March 2014. The consequence of all this, is that the Council do not have an OAN figure and therefore their housing requirement is not, and never has been, compliant with the Framework.
- 8.12 The policies contained in the CS were drafted, evolved and largely examined under the previous national guidance save for some modifications in 2012. Some of the policies relied upon by the Council such as Policies CSEN2 and CSEN3, are worded to be high-level strategic policies rather than development management policies. The Council should not really be relying upon them for development management purposes. This problem with the CS stems from the

⁸¹ CD5.3

fact that it is only half a plan. Core Strategies were intended to be the strategic element of the LDF. The CS was never meant to be the full plan and was supposed to be accompanied by a development management policy document and allocations DPD. Those documents were never produced, the result being a plan which fails in its purpose and content to be up to date and most especially contains policies which offer little guidance for determining applications such as this one.

- 8.13 In a recent s78 appeal decision⁸², the Inspector found that the CS' plan strategy and a series of landscape and countryside protection policies were out of date. The eLP is designed to overcome all of the problems with the existing plans. It is intended to be Framework compliant. A brief review of its proposed policies reveals a suite of policies which seek to address the OAN for housing in South Oxfordshire, meet unmet need from Oxford, allocate the sites needed to meet these housing needs and offer development management policies which are consistent and aligned with the Framework
- 8.14 The problem is the Council is now looking to withdraw the eLP as is made clear from the resolution made by the Council's Cabinet in September. So, having finally prepared a Framework compliant, up-to-date development plan, and having submitted it to the SoS, the Council are now looking to abandon it. The Council's position is untenable. Their claim that their existing plan is not out of date is completely lacking in credibility, as evidenced by their own eLP. The eLP should have been Examined by now. Instead there is no up-to-date plan at all. That is important when considering whether this proposal should be allowed because the appeal site is a key housing allocation in the eLP.
- 8.15 The Council has referred to this as "*speculative development*". It is the antithesis of speculative development. It is a proposal on an allocation in a draft plan.
- 8.16 The Appellant has carefully considered the issue of datedness⁸³ following the Wavendon⁸⁴ approach. The Appellant's conclusions on the matter are closely aligned with those of the professional officers⁸⁵ as expressed through the Committee Report. The recommendation to approve the appeal scheme was not taken on the basis of compliance with the eLP but rather the existing development plan.
- 8.17 This is not a conclusion that was taken lightly by the professional planning officers of the Council. They know how their policies are designed to operate and the significance of compliance with the Framework and its requirements. It is not credible to suggest that Members of the Planning Committee, have the same level of understanding of planning policy as professional officers. The Council's Members who took the decision in this case were not present to give evidence at the Inquiry.

⁸² Lower Shiplake decision Ref: APP/Q3115/W/19/3220425 (ID4)

⁸³ Section 5, Gardner PoE

⁸⁴ Wavendon Properties Ltd and SoS for Housing Communities and Local Government and Milton Keynes Council [2019] EWHC 1534 Admin (CD9.15)

⁸⁵ Paragraph 7.1vii (CD4.1)

The eLP

- 8.18 The eLP proposes that the whole campus should be removed from the Green Belt and allocated for a minimum of 300 houses. The policy wording suggests the development should be focussed on the previously and eastern part of the site and that is what the appeal scheme seeks to do with the overwhelming majority of the development and the units focussed in this way.
- 8.19 The sensitive north-west quadrant would not be developed for houses, whilst the housing proposed in the south west quadrant is very much lower density, with numerous green areas proposed, as is clear from the land use parameters plan. The plan also shows that nearly half the site is proposed for green infrastructure, the overwhelming majority of which would be on the western part of the site.
- 8.20 The SoS, who is known to have reservations about the Council's intention to withdraw the eLP, will make the decision in this case. Withdrawing the plan has profound implications not just for the Council, but also for the Growth Deal which has been signed by all the local authorities in Oxfordshire. It also has profound implications for the future progress of housing in this country, as this is by far the highest profile Growth Deal, forming the first part of the Arc of Growth proposed between Oxford and Cambridge, a matter which the SoS himself has invested a huge amount of his time and effort before he was elevated to the position of SoS in July of this year.
- 8.21 On 29 March 2019, the eLP was submitted to the SoS for Examination. Following local Council elections in May, the new political administration sought to abandon the eLP, in doing so, to turn its back on the pressing need for more housing in the district and the county and significant investment which was to be made in infrastructure.
- 8.22 There was at this inquiry, a rare opportunity to cross-examine both the previous head of the planning committee who promoted the eLP and one of the new Councillors. The contrast in their approach could not be more evident. The former member spoke passionately about the plan and the Growth Deal, the need for the investment in South Oxfordshire and the county as a whole.
- 8.23 The new elected Councillor was, by contrast, concerned primarily with seeking to question the housing growth under the guise of a concern for climate change. The climate change agenda is not a sound basis for refusing to provide people with homes and the homes they can afford. In fact, it does the exact opposite. It causes such people to have to live further and further away from where they work, adding to travel distances, congestion and air pollution.
- 8.24 This is a Council where many of the new local councillors were elected on a NIMBY stop-the-plan ticket, with no sense of any wider responsibility for addressing the housing crisis in South Oxfordshire. During July and August 2019, the Council indicated their intention to review previous commitments to the eLP and OHGD. On 20 September 2019, the Ministry of Housing, Communities and Local Government's Director General for Decentralisation and Growth wrote to the Council making clear that any withdrawal "*would not be without consequences*" including putting at risk further Government investment which was dependent on providing "*certainly that the full number of houses will*

be delivered”⁸⁶. On 9 October 2019, the Holding Direction was issued by the SoS seeking to prevent the plan from being abandoned by the Council. The Holding Direction advised the Council not to take any steps in connection with the adoption of the Plan, while he considered the matter further.

- 8.25 The Council’s proposed withdrawal of the plan is a seriously retrograde step, flatly contrary to Government policy nationally and jeopardizing the position of the other Oxfordshire local planning authorities. In the prevailing development plan-led and OHGD context, the Council cannot avoid the clear national policy imperative of boosting the supply of housing, by abandoning their plan.
- 8.26 Should the SoS conduct his own examination, it is submitted that there is no prospect of the removal of Policy STRAT14. In their correspondence with him, the Council have highlighted the fact that the SoS has made clear he supports the plan. In the unlikely scenario that the plan is permitted to be withdrawn, a development plan vacuum would open in which the presumption must apply with particular force to support the grant of permission on previously allocated sites.
- 8.27 As such, in the short term, at least, those in need of housing in South Oxfordshire must again rely on the development industry and the planning appeal system to deliver new homes because as recent events testify, that is not something which this Council is well equipped to do. The University did not take the decision to appeal this proposal lightly. It spent a long time considering whether to do that in the first half of this year. But now it has, recent events suggest it was absolutely the right decision to make, as the plan may be years away, if indeed it is not abandoned.
- 8.28 Although no weight can be given to the eLP in the current circumstances, the same cannot be said for the evidence base. It is this evidence which lies behind the decision to select this site for large scale housing development and to release the site from the Green Belt. That is contained in the various reports which the Council commissioned into suitable Green Belt sites and which are set out in the SoCG on landscape.
- 8.29 This evidence base supports the development of the site for significant housing. The only real consequence for decision making at this stage is that the appeal must be approached on the basis that the site remains for now in the Green Belt, which means the policies relating to sites in the Green Belt must be addressed. That is how the Council officers approached the matter. In so doing, they reached the conclusion that the proposal met the Framework 11 c) test and therefore it was unnecessary to consider the tilted balance in paragraph 11 d).

Green Belt - Inappropriate development

- 8.30 The whole of the appeal site should be treated as PDL in light of the fact that the definition of PDL includes the land occupied not just by a permanent structure, but also the curtilage. In this way gardens around, big houses were often considered to be PDL for the purpose of what has become known as garden grabbing.

⁸⁶ CD15.15

- 8.31 'Curtilage' is not a term defined in legislation or the Framework. There is case law but it is vague in the extreme. Most of the case law relates to individual houses and the land around it. In that sense it has little currency in respect of this site. There is no case law relating to the definition of curtilage in respect of a university campus.
- 8.32 Where the case law does exist, it makes clear it is a matter of fact⁸⁷ and a matter of fact and degree⁸⁸. That makes a challenge to any decision on what is the curtilage by the decision maker very difficult to challenge.
- 8.33 A university campus is not a single house or building. In this case most of the buildings on the campus are not houses but large buildings located in close proximity together. With little space between the buildings, the open land is as much a part of the campus as the buildings. The open land around the buildings form part of the campus. The two plainly work together to create the campus and the open fields are very obviously necessary to the buildings and used in a reasonably useful way, because the open spaces and playing pitches are part and parcel of the whole composition that is a purpose build 1970s campus.
- 8.34 It is in the nature of a campus, properly understood, that the land and the buildings are intricately and inextricably linked to form the whole. The dictionary definition of campus is "*the buildings of a college or university and the land that surrounds them*"⁸⁹. That sits comfortably with the way in which the word curtilage is approached in the case law cited above.
- 8.35 On the basis that the land within the campus is PDL then its full redevelopment is to be judged not in appropriate development in the Green Belt if either of the two requirements in paragraph 145g) of the Framework are met. The first test requires the decision maker to consider whether the development would have a greater impact on the openness of the Green Belt than the existing development. The Appellant believes this test is met. The new second, and more permissive test, requires the decision maker to consider whether the development would cause substantial harm to the openness of the Green Belt, where the development would re-use PDL and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 8.36 The second test which allows the opening up of more opportunities for development in the Green Belt must be seen as a significant development, especially in the face of such strong political pressure to protect the Green Belt at a national level.
- 8.37 There is no dispute that the appeal proposal contributes to meeting an identified affordable housing need. The Council also accepts⁹⁰, that Framework paragraph 145g) applies to a significant amount of the site. The Appellant is plainly not seeking to develop any of the north-west quadrant, which is given over to sporting and recreational use, with the opportunity to enhance the area close to

⁸⁷ Methuen-Campbell v Walters [29179] QB 525. (CD19.2)

⁸⁸ Skerrets of Nottingham Ltd v SSETR [2000] 2 PLR 102 (CD19.3)

⁸⁹ Gardner PoE, paragraph 12.14

⁹⁰ Landscape SOCG (CD16.2)

the Holton Park with parkland. So the question is whether the proposal would cause substantial harm to openness. The critical issue is the effect of both the demolition of the existing built development and the effect of the new development on openness. That includes both the spatial and visual aspects of openness as set out in the PPG.

Openness

- 8.38 Whether the proposal causes harm to openness is a matter of planning judgement. The courts and now the PPG make clear that it is a matter to be looked out in both spatial and visual terms, and where volume is not the only measure.
- 8.39 The Appellant's approach to openness is two-fold. It relies on a volume analysis to demonstrate that the proposal falls within 145g) and if that fails, it seeks to demonstrate that very special circumstances exist. In *Turner v SSCLG*⁹¹ the Court of Appeal was keen to go out of its way to hold that openness is not solely about a volumetric issue but is more "*open-textured*". The Court was keen to emphasise the implicit nature of the visual amenity aspect of the issue of openness. This case was pre-dated the new second test in paragraph 145g)ii). Yet the importance and consideration of visual aspect surely lends itself more to the new test of considering whether the proposal would cause "*substantial harm to openness*".
- 8.40 The volume of the existing buildings has been calculated as 125,500 sqm and is not disputed. It is accepted by the Council that the tower has an impact on openness which is greater than merely its volume. At 35m in height that is plainly so. It has a significant impact on openness. The removal of the tower, as proposed with this scheme, is a significant benefit to improving the openness of the Green Belt in this area. There is another significant benefit associated with the removal of the other large institutional buildings around the tower, which are appropriately described as an agglomeration of buildings. The removal of all the buildings is plainly beneficial to openness.
- 8.41 It is the net effect of the proposal with this removal and its replacement by the proposed development which is important. The appeal scheme proposes a development of up to 500 homes. As this is an outline scheme the Council's professional officers accepted that "*a precise volume calculation of the proposed buildings is not available*"⁹². The parameters plans do however indicate the maximum height of the development. On the basis of that information, the officers were happy to conclude the proposal could be built so that it had no greater volume. It is of course, entirely in the gift of the Council at the reserved matters stage, to ensure the development does not result in a material increase in volume.
- 8.42 The volume is therefore assumed to be similar. The Council's volume calculation is based on unsubstantiated assumptions that the proposal would have to come forward in accordance with a SHMA compliant mix of house types. In practice the site would come forward with a proposal suitable to this site. If the Council want the volume to match that of the existing development, it would be within

⁹¹ Paragraph 14 (CD9.7)

⁹² Page 19 of Committee Report (CD4.1)

their gift to control the housing mix to that end. It should be noted that the application was amended before determination at the behest of officers to move away from a SHMA-based mix to a largely apartment-based scheme to address the officer's concerns about matching the volume of the existing built development.

- 8.43 The Council's evidence also relies on a volume calculation which assumes the maximum heights used in the parameters plan for the whole site. Similarly, control over building heights would be entirely within the gift of the Council at the reserved matters stage. They control that process and can make such decisions at that stage. The Council's arguments about needing to include lifts and extra storage space are not based on any market evidence. The Appellant has approached a major housebuilder and established that lifts would not be required for apartments which are 3 and 4 storeys in height.
- 8.44 The national space standards are not required here as there is no adopted development plan policy which requires them, and the delay in the progress in the eLP is plainly the reason that now becomes a very bad point for the Council.
- 8.45 Overall, the development would simply lower and flatten built development across the eastern and central parts of the site. The Council officers accepted this approach as is clear from the last paragraph of the conclusion⁹³. The development would cause no harm (let alone any "substantial harm") to the spatial openness of the Green Belt.
- 8.46 The eastern and central part of the site is very institutional in character and has a clear visual bulk. The removal of the 35m tower would amount to a particular positive benefit in terms of openness, which by virtue of its significant height can be observed from outside the appeal site in numerous locations. It is completely incongruous with the local landscape being unashamedly urban and modern in design. It has no place within the rural character of the local landscape, being both discordant and inappropriate. It sits uncomfortably on the edge of the village of Wheatley undermining the role played by the local church. To simply take the volume of this building as the sum total of the harm it causes to openness is to completely miss the point.
- 8.47 As clarified at the Inquiry the Council's only real dispute is in respect of impacts on openness in the south-western quadrant, in the area between the A40 and the central spine road. As the Appellant's Planning and Landscape PoEs have set out, this area does not itself serve any Green Belt purpose. In terms of the visual impact, this corner of the site is very well contained which has a significant impact on the ability to contain the visual impact on openness. Consequently, the visual impact of the low-density housing would be inconspicuous outside the site's boundaries. Overall the proposal would have a neutral effect on the visual openness within the site and a beneficial effect over a wider area. That would satisfy 145g)i) of the Framework.
- 8.48 The Council may disagree, but their evidence is predicated on erroneous assumptions about SHMA mix, the applicability of the national space standards and the need for lifts. Added to which there is an SPD which allows the University to achieve nearly 200,000m² of built development. That is an

⁹³ Paragraph 7.1vi (CD4.1)

adopted SPD and it is something which the Council has judged acceptable in terms of openness, even whilst most of existing buildings (excluding the tower) would remain in situ.

8.49 In looking at openness, the impact of developing the site has been the subject of 3 studies which have considered the potential for development on this site and other parts of the Oxford Green Belt area, including 2 commissioned by the Council. Key conclusions from these studies are as follows:

(a) All consider the campus is suitable for redevelopment, and generally one of the highest scoring sites in the District in terms of landscape capacity for development;

(b) The studies draw a clear distinction between the character of the site and the wider landscape character;

(c) They note the adverse effects of the existing 12 storey tower on landscape character, and openness of the Green Belt, and the benefits of its removal;

(d) They suggest retaining the north western part of the site in green uses and retaining the most important trees.

8.50 The proposal would not cause substantial harm to the openness of the Green Belt. The proposal should therefore be judged not inappropriate development. It follows that there would be no conflict with Policies CSEN1 and GB4 and subject to consideration of the other harms (character, heritage and accessibility, other Green Belt harm if relevant), the proposal should be allowed. There is no need to consider very special circumstances.

8.51 If the proposal is judged not to meet the requirements of paragraph 145g) of the Framework, then it will be inappropriate development in the Green Belt. The impact of the proposal on the openness of Green Belt will need to be considered in terms of the Green Belt harm as well as the definitional harm of being inappropriate development in the Green Belt. That is why in decisions where very special circumstances has been proved the Inspector will always look specifically at openness. The same evidence and approach in terms of looking at openness, as set out above, applies and the same conclusion from the Appellant can be adopted in that analysis.

Character and appearance

8.52 The appeal site is not a sensitive location in landscape character terms, given its history of built development/regrading and its edge of settlement location, adjacent to the A40. It has no landscape designation and the Council accept it is not a valued landscape.

8.53 The site is perceived as one site and the whole site is influenced by the existing buildings. For example, the character of the area of sports pitches is plainly influenced by the buildings adjacent to it. The Council's characterisation of the different parcels of land, with and without built development does not match how the site actually reads on the ground, which is read as whole, being, rather obviously, a campus.

8.54 The proposed residential land uses would be significantly smaller in scale than the current educational buildings, with far less bulk and mass than the present

agglomeration of buildings at an institutional scale and would present as more appropriate to a countryside edge location. The spacing and grain of the proposal is much more consistent with the local area.

- 8.55 The north-west quadrant, currently in use as pitches, has very clearly been re-profiled for sports use and has an engineered character. The character and appearance of this north western part of the site would be significantly enhanced by smoothing the engineered slopes and converting back to parkland with additional tree planting.
- 8.56 In this context, there would only be limited and localised harmful residual effects on landscape character and identifiable positive effects. There would be no material effect on the character of the wider landscape.
- 8.57 The Council's case is centred on the claim that the site is part of a historic parkland landscape and that to build upon it would degrade it. However, this is not a parkland. What dominates the site is the agglomeration of institutional scale buildings, including the 35-metre tall concrete tower. The site has already been completely compromised as a historic parkland. And that has been a long, on-going and continually evolving process. The parkland to which the Council refers has, as the John Moore report makes clear, been "*largely degraded following development in the Second World War and after*". However, the Appellant's arboricultural assessment⁹⁴ confirms that many of the trees on site are not from the historic parkland. In any event only 2 mature trees are to be lost, as the proposal has sought to design around them.
- 8.58 The distinction between historic parkland and education campus is plain and obvious. It was brought sharply into focus by the Council's landscape character assessments of 2003 and 2017⁹⁵. These documents locate the appeal site within the Semi-enclosed Farmed Hills and Valley's Character Type within the Mid-vale ridge landscapes. That is in direct contrast to the Parkland and Estate Farmlands character area which lies very clearly on the other side of the A40.
- 8.59 There can be no doubt that the Semi-enclosed Farmed Hills and Valley's Character Type is most appropriate to the appeal site: it specifically describes as part of this character type the area around Wheatley. It does so in these terms "*landscape typically fragmented and intruded upon by roads and built development.*" That description could be written for the appeal site and the area to the west. The A40, the new road system and roundabout by the school and the sheer extent of built development in the area are plain to see. What remains undeveloped land is largely in the form of playing pitches on engineered terraces. 'Terracing' being the word used by the Council's heritage consultants to describe the character and nature of the sports pitches.
- 8.60 This is a University campus and there will be no harm to the character and appearance of the area arising from this development, when one looks at the fact it largely replaces the extent of the built development on site, but with far less height than the tower and no institutional scale buildings.

⁹⁴ CD1.9

⁹⁵ South Oxfordshire Landscape Assessment SPG (2003) (Appendix 4 to CD16.2) & Landscape Character Assessment for the Local Plan 2033 (Appendix 5 to CD16.2)

Heritage

- 8.61 There is one listed building, variously known as Holton Hall, Old Hall, Holton Park which is Grade II and faces directly onto the appeal site, and other such buildings located behind. There is also an on-site SM, which is designated under the Scheduled Ancient Monuments and Archaeological Areas Act 1979.
- 8.62 The appeal scheme does not involve any change to the listed buildings themselves nor the SM. There is however no disagreement that the appeal site falls within the setting of both Holton Park and the SM. The setting of heritage asset is defined in the Framework which makes clear it can change over time as has happened here.
- 8.63 The appeal site, in its current state, reflects the development of the campus from the 1960s onwards. The western part of the site retains little evidence today of its former character as historic parkland associated with the early 19th Century Holton Park. This is due to:
- (a) the extensive groundworks carried out to provide the existing sports pitches and tennis courts on the western part of the site; and
 - (b) its relationship with the developed central & eastern parts of the site, including the tower.
- 8.64 The park is not included on the HE Register of Parks & Gardens and does not have any other form of national or local heritage protection. As a result of the extensive alterations made to the landscape of the campus site in the late 20th Century, the contribution that it makes to the designated heritage assets most affected (Holton Park and the SM) is of a minimal nature.
- 8.65 The John Moore report identifies a brown area which is concerned with the setting of the heritage assets. The proposal does not seek to place development in that area and instead would return much of that area and more to a parkland setting as it has previously been. That is relevant to the listed buildings. It has less relevance to the SM because no one really knows what the SM is and therefore judging what its setting is relies largely on guess work. Nonetheless the Appellant acknowledges the designation and has carefully designed the scheme to leave an open area around the SM so that it can be appreciated by the public who will enjoy full access to the site.
- 8.66 The 2017 Heritage Impact Assessment⁹⁶, seeks to ensure no development takes place *"at the north-western boundary of the site, as this would visually separate the earlier moated settlement site from its successor"* right next to where Holton Park was located. It was not a concern about building on any of the western part of the appeal site.
- 8.67 The SM on the appeal site is almost certainly of post-medieval date, rather than being the site of an early medieval manor. Its setting is fairly described as "bleak and forlorn". Nothing has been done to celebrate it or to interpret it to the public. Again, the area to the south makes a minimal contribution to its setting.

⁹⁶ The South Oxfordshire Local Plan 2033 Heritage Impact Assessment (Oxford Archaeology, September 2017) (CD13.2)

8.68 Both the Council's Conservation Officer and HE recognized the considerable improvements made to the scheme during the determination process. The refusal of the appeal scheme was contrary to the recommendation for approval made the professional planning officers of the Council whose job it is to balance the competing interests in this case, and who expressly stated in the Report to Planning Committee that,

"Having had careful regard to the 'less than substantial' harm (alleged by the Council's Conservation Officer & Historic England), there are insufficient grounds to insist on further revisions, a larger retention of open space or a reduction in unit numbers, on heritage grounds. The location of the residential development (particularly on the western edge), by virtue of the revised layout, would not adversely affect the historic significance to a degree that would warrant refusal, and would not conflict with the Framework or Development Plan in terms of heritage and conservation policy."

8.69 The Council's expert heritage witness fails to give proper weight to the heritage benefits of the appeal scheme which include:

- Reinstatement of a more parkland-like landscape in the vicinity of Holton Park and the SM on the appeal site than that which currently exists, and
- removal of the tower block and the benefits that this will bring to the settings of the designated heritage assets affected.

8.70 These should both be seen as significant heritage benefits of the scheme. The Council's heritage witness suggests the harm is the highest below substantial. That is his explanation of moderate in his proof. That is simply not tenable. And as he accepted his whole approach to that level of harm ignores all the positive benefits to heritage. HE has objected but their opinions are only provided in writing. They cannot be challenged including the assertion about what the SM actually is. Their views must be taken into account. The officers were aware of HE's comments but nonetheless found the public benefits outweighed the harm.

8.71 The public benefits of the proposal outweigh any possible heritage harm. The Council's approach to consider heritage benefits as public benefits rather than reduce the heritage harm seems erroneous when one is tasked with assessing the impact of the proposal on the significance of the heritage asset. The correct approach is to look at the impact on the significance of the asset in terms of the effect of the scheme. Even if the Council is right that simply means there are more public benefits even if there is a degree of heritage harm and it makes no real difference either way. The proposal is said to have no harm on the Grade I listed church. But the heritage benefit is surely taken into account anyway even if that is not the case. Failing that the benefit of removing the tower from the view through the lychgate is a real public benefit⁹⁷.

8.72 In summary, the appeal proposals will not cause harm to what is significant about the setting of any of the designated heritage assets affected.

⁹⁷ Plate 20 Doggett PoE

Accessibility

- 8.73 The appeal site's proposed allocation in the eLP is a direct acknowledgment by the Council that the site is sustainably located. The evidence base undertaken as part of the eLP process further acknowledges "*Wheatley provides a number of services and facilities within walking distance from the site*".⁹⁸
- 8.74 LP Policy T7 states that the District Council will seek to encourage walking as the predominant mode of transport for journeys up to 1 mile, as they recognise that walking and cycling has the potential to replace car use for short trips. The former Planning Policy Guidance Note 13 advised that "*walking is the most important mode of transport at the local level and offers the greatest potential to replace short car trips, particularly those under 2km*". Whilst the PPG has been withdrawn, the advice is retained in paragraph 4.41 of the Department for Transport's Manual for Streets. The eLP evidence base concludes that "*over one third of all journeys to work originating in Wheatley are between 0-5km – a distance which could be made on foot or cycle by most residents*", therefore the site is already well placed for travel by sustainable modes.
- 8.75 There is a very good range of day-to-day facilities nearby, including both primary and secondary schools. Almost all lie within 1-mile walking distance of the site, including the primary and secondary schools, local shops (such as the Co-op foodstore, butchers, bakers), doctors, dentist, pharmacy, leisure facilities, library and post office. These walk distances have been agreed by the Council. Therefore, walk distances accord with local and national policy.
- 8.76 The appeal site has comparable or better accessibility when compared against 2 preferred residential sites in the eWNP. The site is also better located in terms of accessibility when compared to other residential developments which have either been granted planning permission or allowed at appeal. Many of these sites are located a considerable distance from secondary schools⁹⁹.
- 8.77 The Appellant has worked with OCC to develop improvements to the key facilities for pedestrians and cyclists and this demonstrates that the Highway Authority consider that walking and cycling is a realistic transport mode for future residents of the development. A package of improvements to the walk and cycle network have subsequently been agreed with the Highway Authority. These measures include provision of new footways, widening existing footways, provision of cycle lanes, provision of dropped kerbs and tactile paving, provision of formal crossing points, signage and resurfacing of 2 cycle crossing points/ cycleways along the A40. These improvements would benefit future residents of the development as well as existing residents in the village.
- 8.78 The development would also fund a new bus service, serving the site and Wheatley. A financial contribution of £720,000 is to be provided which would fund an additional bus in the commercial fleet for eight years, with a frequency of 30 minutes; this is the highway authority's desired position for this scheme. This has a significant potential to reduce car journeys, by providing an alternative and sustainable means of transport for future residents of the appeal site. The service would also be routed so that it would serve Wheatley village to

⁹⁸ Page 9 South Oxfordshire Local Plan 2034: Strategic Site Selection Background Paper Part 2 (CD 6.3)

⁹⁹ Section 6, Ubhi PoE

the benefit of existing residents, also increasing patronage and therefore viability.

- 8.79 A Travel Plan¹⁰⁰ has been prepared as part of the planning application and agreed by the Highway Authority. Travel Plans are strongly encouraged in both national and local transport policies and seek to change people's travel behaviour.
- 8.80 OCC did not ask for access improvements between the site and Holton. There are evidently very few destinations in Holton and therefore that calls in question why improvements are necessary to make the development acceptable. The Council's case is limited to the church and the village hall. It is also said that because this is a strategic-scale development then one needs to put some infrastructure there.
- 8.81 The Council's case rests to some extent on the fact that the site is in Holton parish. However, the site was selected because it is on the edge of Wheatley. The schools might be in Holton parish but they function as schools for Wheatley.
- 8.82 The Council's case on the footbridge remains unclear and unconvincing. It is said that the bridge road serves as a barrier. However, the site and pathway are at grade. Roads are entirely normal features. Schoolchildren regularly use the bridge without any obvious issue. There is no evidence of pedestrian accidents in this area.
- 8.83 The real nub of the issue is the allocation. The Council have agreed that the south-west quadrant is their main cause of objection. The balance of all destinations is close to that end of the site, and those houses would have the shortest walk, save for Asda. The Council's planning witness accepted that the western end of the village is better located.
- 8.84 Context is everything. This is not an urban area, it is a rural area. Therefore, what might be achieved in London is not applicable in rural Oxfordshire. Paragraph 77 of the Framework states that decisions should be responsive to local areas whilst paragraph 78 emphasises that development may support the vitality of rural communities and services. The Council accept that the development would support these services.
- 8.85 Accessibility is a factor which weighs significantly in favour of this scheme, notably at the south-west quadrant. It is not a proper basis for refusal.

Affordable Housing

- 8.86 The SHMA identifies an annual requirement of 331 dwellings pa between 2013-2031. The Sedgefield method seeks to address the backlog of 713 dwellings in the next 5 years. This equates to an annual figure of 474 affordable homes between 2019/20 and 2023/24¹⁰¹. The Sedgefield approach was endorsed by the Inspector in the Davenham appeal¹⁰² in 2016 who concluded:

¹⁰⁰ CD1.14

¹⁰¹ Pages 57-60, Stacey PoE

¹⁰² PINS ref: APP/A0655/W/15/3005148 (Appendix JS30)

"The Strategic Housing Market Assessment 2013 identified a need for an additional 714 net affordable dwellings per annum between 2013 and 2018 if the backlog for such dwellings are included and delivered within 5 years. Whilst I understand this figure would be considerably less if the backlog of affordable housing demand were to be cleared over a longer time period, I do not understand the Council's justification for adopting such an approach, especially since it has adopted the 'Sedgefield' method in relation to dealing with its overall housing shortfall requirement."

8.87 The development would provide up to 327 market homes and 173 affordable homes (34.57%). Those in most need should be dealt with in quickest possible time. It is agreed that the existence of either a 5YHLS or (if applicable) a 3YHLS cannot amount to any kind of cap on development. The Council consequently accept that the provision of market housing (irrespective of the 5YHLS position) is a benefit to which "significant weight" must be attached. They further accept that "significant weight" should be attached to affordable housing.

Housing requirement

8.88 The Appellant puts forward 4 possible scenarios:

- 1) Scenario A (the Council's position) the Standard Method (632dpa from 2019)¹⁰³;
- 2) Scenario B based on the Growth Deal (Oxfordshire SHMA OAN plus South Oxfordshire's contribution to meeting Oxford City's unmet need (775dpa from 2011 plus 495 homes per year from 2021))¹⁰⁴;
- 3) Scenario C the Oxfordshire SHMA OAN (775dpa from 2011)¹⁰⁵, and
- 4) Scenario D the South Oxfordshire Local Housing Need (1,035dpa from 2019)¹⁰⁶.

8.89 Scenario A is not appropriate and the Council should not be permitted to rely upon the Standard Methodology figure for the following reasons:

- i. Paragraph 73 of the Framework and Footnote 37 have been amended by the Written Ministerial Statement, following agreement of the OHGD;
- ii. The Council's acceptance of the OHGD expressly entails acceptance of a higher requirement, and
- iii. Application of the standard methodology would cause the Council to fall significantly behind the necessary growth figures.

8.90 The Council's case is premised on a narrow reading of paragraph 73 and Footnote 37 of the Framework that local housing need must be calculated using the standard method set out in national guidance.

¹⁰³ Table 2, Appendix E

¹⁰⁴ Table 3, Appendix E

¹⁰⁵ Table 4, Appendix E

¹⁰⁶ Table 5, Appendix E

8.91 Both paragraph 73 and Footnote 37 must be read in the context of the Framework as a whole. Paragraph 59 sets out the national policy imperative of *"significantly boosting the supply of homes"*. Paragraph 60 provides that in determining the minimum number of homes required, it is permissible to use an alternative approach to the standard methodology. This is supported by PPG 2a-010 *"When might it be appropriate to plan for a higher housing need figure than the standard method indicates?"* which identifies the following as *"situations where increases in housing need are likely to exceed past trends"*:

- *"growth strategies for the area that are likely to be deliverable, for example where funding is in place to promote and facilitate additional growth;*
- *strategic infrastructure improvements that are likely to drive an increase in the homes needed locally; or*
- *an authority agreeing to take on unmet need from neighbouring authorities, as set out in a statement of common ground;"*

8.92 Each of these apply directly to the position in Oxfordshire generally and in South Oxfordshire specifically as a constituent authority, as set out below under Scenario B. Paragraph 6 of the Framework further makes clear that its text can be supplemented by further statements of government policy (i.e. of equivalent force), in 2 specific forms:

"Other statements of government policy may be material when preparing plans or deciding applications, such as relevant Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission."

8.93 The 12 September 2018 WMS altered the wording of paragraph 11d of the Framework, by reference to the then provisions of paragraph 73. It was clearly the intention of both the Oxfordshire authorities and the Government that the 100,000 homes figure would form the basis for all calculations of housing land supply in Oxfordshire. The Technical Consultation on Updates to National Policy and Guidance did not alter the effect of the WMS, as it was intended to relate to the use of the standard methodology in general: i.e. outside the Growth Deal authorities. Furthermore, the Government had expressly endorsed the NIC Recommendation¹⁰⁷.

8.94 Scenario B is the housing requirement figure which is most consistent with national planning policy as expressed in the WMS. As set out in the Appellant's evidence¹⁰⁸, the OHGD¹⁰⁹ links the time-limited planning flexibilities which support a 3YHLS threshold to the delivery of 100,000 homes across Oxfordshire between 2011-31, stating: *"any potential flexibility would be granted specifically to support delivery of the ambitious Oxfordshire housing deal to plan for and support the delivery of 100,000 new homes by 2031, and to submit and adopt a joint statutory spatial plan."*

8.95 The Council's attempts to argue that a) the OHGD commitments are not relevant to decision-making; and b) decouple the planning flexibilities from the OHGD commitment to higher housing numbers are unfounded. The OHGD and

¹⁰⁷ See CD20.5 & CD20.6

¹⁰⁸ Ireland PoE

¹⁰⁹ CD10.4

the flexibilities come as a package. This is clear from the NIC Report and the Government's response. The Government expressly endorsed the NIC recommendation that to maximise the economic potential of the Cambridge-Milton Keynes-Oxford Arc, current rates of housebuilding need to double to build up to one million homes by 2050. South Oxfordshire sits within the Arc.

- 8.96 The Government's mechanism for achieving this was, and remains, through Housing and Growth Deals of which that with Oxfordshire is the first within the Arc. Recommendation 6 in the NIC Report was that the Government should consider the need for extending flexibilities in the application of 5YHLS requirements but *"only in cases where local authorities agree deals to accommodate significantly higher levels of housing growth."* Such agreements, the NIC said, should be kept under review and *"subject to local areas demonstrating progress in the delivery of major housing growth."* It set out that *"in all cases, agreement must preserve the requirement for local authorities to maintain a supply of land sufficient to enable house building at a rate that would have been required in the absence of any deal to support additional housing growth."*
- 8.97 These recommendations were expressly endorsed by the Government in its response, which in respect of flexibilities in the application of 5YHLS requirements which stated that *"Government would work with local areas on a case by case basis to negotiate bespoke arrangements in exchange for commitment to substantial housing growth, which will ensure that overall land supply will increase despite flexibilities applied to the application of the 5YHLS requirement. The government has done this through the Oxfordshire Housing and Growth Deal, where local authorities are planning for significantly greater levels of housing growth than their Local Housing Need Assessment."*¹¹⁰
- 8.98 This therefore constituted a clear endorsement of the NIC recommendations that would thus be material to deciding planning applications. Indeed, the Government were not merely endorsing the recommendation, they were and remain in the process of actually implementing it in Oxfordshire. As examined in evidence, the application of the 3YHLS together with the standard method would result in a threshold deliverable supply of just 1,896 dwellings above which the tilted balance is not engaged. This falls substantially below the position in which a standard method is used with a 5-year threshold¹¹¹ clearly showing that the Council's position is not consistent with the statements above.
- 8.99 The rationale for the OHGD figure is set out across a series of documents. Each point to particular factors which ensure that the actual housing need is far higher in Oxfordshire than could be provided for under the standard method.
- 8.100 The Oxfordshire Baseline Economic Review¹¹² identified that Oxfordshire is one of the strongest economies in the UK. It is in a strategic location, forming an integral part of the Golden Triangle. It has a series of keystone assets in addition to the globally recognised universities, including two high-level research facilities and major funds of this ensures strong growth. Recent economic performance has been very robust: jobs growth has been 1,400 jobs

¹¹⁰ Pages 16-17, CD20.6

¹¹¹ Table 2, CD16.5

¹¹² CD10.12

per annum since 2011 and within Oxfordshire, 8,650 jobs per annum since 2011. Those are very substantial scales of job growth, absolutely and comparatively. There remains substantial future growth potential.

- 8.101 At the same time, there has been a major affordability problem. House prices are well above regional and national averages. South Oxfordshire's house price stand at 63% above national average. The National Housing Federation report¹¹³ finds that the average house prices in South Oxfordshire stand at 14 times average income. Between 2013 and 2018 average house prices increased in South Oxfordshire by 41%. There is a stronger relative supply/demand imbalance in South Oxfordshire which is already leading to a significant long-term strategic imbalance. Households on lower-quartile earnings are spending 44% gross earnings on rent such that affordability issues exist in both rental and sales market. Poor housing affordability acts as a deterrent to young professionals hoping to live in Oxfordshire. Without these workers the area's ability to fill positions in high tech and innovative business sectors would be hampered weakening Oxfordshire's competitiveness: Businesses already say that housing affordability is having a material impact, impacting upon innovation, research and productivity and threatening growth potential¹¹⁴.
- 8.102 The OHGD therefore commits Oxfordshire to planning for and support the delivery of 100,000 homes based upon the SHMA to a figure which was recognised as significantly in excess of the Local Housing Need. It is pertinent to consider the implications of South Oxfordshire's withdrawal from the OHGD.
- 8.103 The SHMA was identified as the only evidenced approach for the 100,000 target and accordingly it has been treated by the Council as a sound justification for an uplift consistent with the PPG¹¹⁵. The Scenario C figure does not make provision for the unmet need, it would fall short of meeting the Growth Deal target. However, it is a useful illustration of the extent of the housing need and the inadequacy of the standard method in this context.
- 8.104 Chapter 6 of Mr Ireland's PoE sets out the wider housing needs evidence in the context of the PPG's recognition that the standard method is merely a baseline and the Oxford authorities have recognised the need to plan for a higher growth figure. It considers more recent evidence than was available to the authors of the SHMA. Having adjusted for migration and household formation rates in younger households, it considers the severe affordability issues. It then considers the economic position and identifies that there is abundant supporting evidence of the need to accommodate employment growth. This identifies an incremental growth rate of 1.1% pa in jobs and transformational growth at 1.3 – 1.4% pa. The Appellant has modelled 1.3% in line with Transformational Growth. On this basis, it identifies the realistic Assessment of Local Housing Need as 1035dpa from 2019 onwards¹¹⁶.
- 8.105 The Appellant's housing supply scenarios are set out in Appendix E to this report.

¹¹³ National Housing Federation Press Release: 'England Short of Four Million Homes' (18 May 2018) – (Appendix 22 PoE/JS)

¹¹⁴ Section 6 (PoE/NI)

¹¹⁵ See paras 4.18-4.26 of the eLP (CD6.1)

¹¹⁶ Ireland PoE page 42

Planning balance and Green Belt balance

8.106 If the proposal is inappropriate development in the Green Belt then the Appellant must prove very special circumstances. The factors which go into making very special circumstances do not have to be rare or uncommon to be special and there is no restriction on what might be considered as “other considerations”¹¹⁷.

8.107 There is clearly a general need for housing given the shortage and affordability problems which is directly impacting on the economy and the social dimension of sustainable development in Oxfordshire and the acute need for affordable housing. The Ministerial statement from Greg Clark¹¹⁸ and Brandon Lewis¹¹⁹ make clear that housing need will not normally or usually be sufficient to demonstrate very special circumstances. These statements are acknowledged, and the Appellant’s case is not predicated solely on the basis of just housing need. The Appellant has sought to focus on 6 key factors, which is a list similar in extent to that adopted by the Inspectors in Effingham¹²⁰ and West Malling¹²¹. They are in summary:

- 1) the shortage of housing in the area and serious affordability problems affecting the local economy and the delivery of to 327 market houses;
- 2) the acute need for affordable housing and the delivery of 173 units with this scheme;
- 3) the use of an extensive area of PDL in the Green Belt;
- 4) removal of a huge quantum unsightly buildings which are agreed to measure 125,500m³ which is the same volume as what is proposed. And replace it with a similar volume of built development, with in particular without the tall 35m tower and the agglomeration of institutional scale buildings which are completely alien in the Green Belt;
- 5) OBU is a charity and therefore the revenues from the land sale would fund the improvements to the University which is recognised to be a major contributing or part of the economy of Oxford, and
- 6) the fact the site has been identified in the evidence base to the eLP as a suitable location for at least 300 houses and removal of the site from the Green Belt.

8.108 Based on the above it is clear that the Appellant’s case does not rely solely on housing need. However, if there is a shortfall in the 5YHLS or 3YHLS then that would be an additional ‘other consideration’.

8.109 The purpose of including land in the Green Belt are concerned with designation of the site. The various Green Belt studies in the Landscape SoCG¹²² show that the degree of harm to the purpose of including land in the Green Belt is limited.

¹¹⁷ Wychavon DC v SSCLG and Butler [2008] EWCA Civ 692 & Brentwood BC v SSE [1996] 72 P&CR 61

¹¹⁸ CD11.01

¹¹⁹ 11.02

¹²⁰ CD8.6

¹²¹ CD7.35

¹²² CD16.2

One needs to be careful with the unit of analysis in these cases as sometimes it is an area larger than the site and sometimes it is not entirely clear where the area extends to. In the 2014 study¹²³ the site scored poorly against the purposes and only gave a high score on the assumption that Wheatley and Holton were settlements, but as they are not towns that is not consistent with paragraph 134b) of the Framework. The purposes were again examined in both the 2015 Kirkham Study in 2015 and the LUC report. With the removal of the tower the site is given a low moderate rating in terms of the harm, which was the lowest category applied to any of the sites in the study. This is entirely supportive of the Appellant's case. It followed on from the Kirkham Study in 2015 and is clear that the LUC report *"builds on the 2015 study and takes it to the next level of detail in terms of assessing the harm to the Green belt from the potential release of sites"*.

- 8.110 To show very special circumstances the benefits need to outweigh the harm by reason of inappropriateness and any other harm. The Council say this includes harm to the purpose of including land in the Green Belt and harm to openness.
- 8.111 The Appellant's position is that there is no other harm here. There is no harm to openness, no harm to the purpose of including land in the Green Belt, no harm to heritage assets, the local character of the area or landscape harm and no harm in terms of accessibility. The Appellant says there is no harm but if there is harm then the 'other considerations' are so significant that such harm would be outweighed thus amounting to the very special circumstances.
- 8.112 Inspectors in other Green Belt cases have not felt the need to explore the issue of the tilted balance in their decisions when they have found there are very special circumstances. That is because all the harm will have been considered in the very special circumstances test: And if it passes that high hurdle, then surely planning permission should be granted.
- 8.113 But those were Inspectors' own decisions and this is a SoS case, so there is a basis for needing to explore this in case the SoS wishes to go on to consider the case against the tilted balance. The tilted balance here could be triggered by 2 events. The first is the shortfall in the 5YHLS, which is addressed in the evidence above. The second is if the policies most important for determining the application are out-of-date. The University argues both, but either is sufficient. As noted above the shortfall in the 5YHLS would also amount to an additional part of the University's case on very special circumstances.
- 8.114 On the assumption that the most important policies are out of date, then in this case one must turn to paragraph 11d(i) of the Framework because the site is affected by 2 of the policies identified in Footnote 6. The approach to take to this is set out in Monkhill¹²⁴. Sites in the Green Belt and affecting heritage assets are not automatically excluded from the tilted balance. It is just that such sites must pass the policy tests in those parts of the Framework, such that there is not a clear reason for refusing permission. In this case that requires the proposals to pass the test of being not inappropriate development in the Green Belt or that very special circumstances are proven, and that the test in

¹²³ OCC Investigation into the potential to accommodate urban extensions in Oxford's Green Belt: Informal Assessment 2014 (Appendix 8 CD16.2)

¹²⁴ Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin) (CD9.16)

paragraph 196 of the Framework is passed as regards the heritage assets. If that occurs then as per paragraph 45 of the Monkhill case then the tilted balance should be applied.

8.115 Even if the tilted balance does not apply, planning permission should be granted here under the conventional statutory test of Section 38(6) of the 2004 Act because other material considerations plainly outweigh the development plan, which is out-of-date and inconsistent with the Framework such that its policies should be given reduced weight. This was the approach taken by the Inspector at paragraph 81 of the Lower Shiplake decision¹²⁵.

8.116 The basic planning merits of the case are straightforward. When viewed on the basis of "need" vs "harm" there is a clear and demonstrable need for new dwellings in South Oxfordshire. In contrast, there is very little, if anything, in the way of harm to suggest that that need should not be satisfied. Indeed, there are many improvements to the environment and amenities of the village arising as a result of the proposals as set out above.

8.117 The implications of not proceeding with the appeal scheme are that the site would ultimately fall into disuse, once vacated. The site would continue to present as an incongruous element, visible through the vacant tower on the horizon. This is a far cry from the obvious beneficial use of the site through housing development.

9. The Case for Interested Persons

9.1 The following paragraphs summarise the statements made by interested parties and their answers to questions. The full texts used by interested persons are within the Inquiry Documents. Points already covered by another interested party have not been repeated.

Cllr Sarah Gray

9.2 The proposed development is inappropriate due to its impact on the openness of the Green Belt. It spreads significantly beyond the curtilage of the existing buildings and its scale and form would be permanently detrimental in nature.

9.3 The Council is committed to a radical reduction in carbon emissions by 2030. This development would fail to meet the demands of 21st Century living within our ever more crowded district.

9.4 On the 11th April 2019, under its previous administration, the Council declared a climate emergency. In September 2019, the Council formed a Climate Emergency Advisory Committee with the responsibility to identify means of ensuring that SODC is carbon neutral within its own operations by 2030. To understand the environmental impact of this proposal, the following need to be considered:

- Climate change – How will the development improve air quality in the area (under cross examination Cllr Gray conceded that she had not read the relevant chapter of the ES which deals with Air Quality). How will the development reduce the contribution to climate change made by its buildings

¹²⁵ ID4

and other infrastructure? It must also support the resilience of the area to climate change including flooding.

- Transport –Currently the development has no real connectivity to either Holton or Wheatley. Wheatley already experiences traffic congestion and there is no scope to increase parking spaces. Sustainable transport measures are required (under cross examination Cllr Gray welcome the infrastructure improvements being proposed as part of the appeal scheme).
- Biodiversity – This requires that the development enhances the current open space to ensure it meets its full potential to supports flora and fauna. Extending the built-up area into existing open spaces is not an option.
- Landscape and heritage – Those open spaces that are vital to the character of the site and the historic environment must be protected.
- Land and resources – The development needs to ensure the efficient and effective use of land. Sustainable waste management solutions that encourage a reduction in waste and an increase in recycling should be promoted.
- Community and affordable housing – The development should cater for the needs of existing and future residents as well as the needs of different age groups in the community and improve access to local community services and facilities (under cross examination Cllr Gray accepted that there is a real need for housing in the area). Affordable housing of an appropriate mix and tenure needs to be provided (under Cross examination Cllr Gray accepted that the development would provide suitable levels of affordable housing and that the SoS should give weight to that benefit). The Council supports measures to address the shortfall of affordable and social housing in the area. There is no evidence that increasing the supply of houses reduces the cost.

9.5 Cllr Gray advocated a new Local Plan that prioritises the building of more social housing and cited examples from Eastleigh and Hampshire. It was estimated that it would take approximately 3 years to adopt a new plan.

Mr Kevin Heritage

9.6 Mr Heritage is a Wheatley Park School Manager and raised some legal issues relating to the western site access. There was also a request for new fencing along the school's southern boundary to assist with security.

Mr John Fox

9.7 Mr Fox is Chairman of the eWNP Committee and a former district Councillor who lost his seat in the May 2018 local elections.

9.8 The eWNP Committee has consistently supported the Council's allocation of 300 homes on the built form of the appeal site. The site is separated from Wheatley by the A40 and the lack of connectivity has been raised as a concern. Wheatley has been described by OCC as a 'rat-run' and congestion is a problem. The first draft of the eWNP in January 2018 looked at infrastructure challenges in the village. A new bridge over the A40 was ruled out at that stage.

- 9.9 The eWNP Committee opposes the current proposal for 500 homes. The area map was drawn up in November 2015 by Holton and Wheatley Parish Councils. In seeking to influence development outside the area boundary the eWNP may have strayed beyond its remit at times but that was in good faith.

Mr Roy Gordon

- 9.10 Mr Gordon is Vice-Chair of the eWNP Committee. Policy STRAT14 of the eLP is reflected in the eWNP. OBU has made representations on the eWNP that Policy SPOBU – WHE25 attempts to deal with matters outside the eWNP designated area. The wording in the latest draft has been amended to reflect this.
- 9.11 The walk into Wheatley from the appeal site is a lengthy one and takes approximately 25 minutes from the bus terminus. Such a distance will be a barrier to integration. This will lead to car dependency.
- 9.12 Previous development proposals on the appeal site have only been supported on the basis that they do not exceed 10% of the existing built form. The removal of the tower is welcomed as it is detrimental to many views in the area. However, this should not be used to justify volume dispersal across the site which simply transfers the negative vertical features into horizontal ones. Development should be contained to the existing built-up area.

Mr Robert Barter

- 9.13 Mr Barter is Chair of Holton Parish Council and states that less than half of the site is PDL. The development is therefore inappropriate development in the Green Belt. There are no very special circumstances.
- 9.14 The allocation in the eLP offers no help as that plan has caused so much uproar that it will not be allowed to proceed in its current form. An additional 500 dwellings would adversely transform the rural character of the village and the whole area. Because of its location it would be an isolated settlement where almost all journeys would be made by car.
- 9.15 In the words of the Council "*additional school capacity will be difficult if not impossible in the early years*". An influx of 1500 new patients would overload the doctors' surgery.
- 9.16 The status of the Appellant is irrelevant and any benefits to the education sector carry no weight.

Mr Smith

- 9.17 Mr Smith is a resident of Holton. He argues that cycling and walking will not happen and that the decision should be taken by local people. The SoS should not decide the outcome of the appeal.

10. Witten Representations

10.1 The officer report¹²⁶ does not record the number of representations received but does summarise the issues raised:

Objections

- Insufficient justification to build on undeveloped Green Belt land;
- The development will have an unacceptable visual impact on the open nature of the Green Belt;
- The development should be constrained to the eastern section, replacing the existing buildings only;
- 500 houses will significantly change the character;
- Proposal for 4-storey dwellings are completely out of character with the neighbouring villages;
- Scale of development is excessive – the eLP suggests 300, not 500;
- Development at this elevated end of the site will compromise the parkland setting of the listed building;
- Roads are already too congested, resulting in a displacement of traffic through Holton (creation of rat-runs etc). This would result in further congestion and risk to highway safety as there is a lack of pedestrian footpaths/pavements;
- Access roads are unlikely to be able to cope with the increased traffic - the centre of the village of Wheatley is extremely congested already, and parking is already an issue in Wheatley;
- The proposal has made no attempt to integrate Holton and Wheatley, despite the fact that the future residents will be using Wheatley for daily errands;
- Lack of infrastructure to support a development of such a scale;
- Facilities are too far from the site, meaning residents will be dependent on cars to drive into Wheatley and use services;
- There should be a footbridge over the A40;
- GP and other services will struggle to meet needs of more households;
- There are no additional services (shops, pubs etc) being provided and these would need to be created to serve the extra residents;
- Insufficient parking proposed to serve the new sports facilities and pavilion;
- Lack of information on who will provide and maintain the proposed onsite re-provision of sporting facilities;

¹²⁶ CD4.1

- The removal of sports facilities is unacceptable;
- Compatibility of proposed facilities with existing pitches;
- Security of school site, in light of proposed western access;
- Loss of important trees which were planted by the community;
- Risk of harm to protected species;
- This proposal only benefits Brookes and not any of the local residents, and
- Even with amenity space, the wildlife will be diminished and will suffer.

In support

- Building on a previously developed site is supported, over greenfield development, subject to the relevant infrastructure being provided;
- Affordable housing is needed and being provided as part of the proposal; thereby meeting the housing needs of young people and providing local families the opportunity to stay in the village;
- The buildings are in poor repair, and housing is needed in the local area;
- It is closer to city than other proposed sites, as well as facilities such as the hospital, employment and leisure;
- Oxford Brookes are already planning to relocate, so if the site isn't developed it would leave a vacant site as an eyesore;
- The location is close to good services and the site has easy access to the A40/M40 and the Oxford park and ride, and
- The development is located close to Wheatley and will therefore support the local economy, business and trade.

11. Conditions

11.1 A schedule of conditions¹²⁷ to be imposed should planning permission be granted, was discussed at the Inquiry. These are generally agreed between the parties. I raised the possibility of an additional condition relating to the SM and subsequently wrote to the main parties after the close of the Inquiry seeking their views. I have taken the responses into account¹²⁸.

11.2 The list of conditions that I recommend should be attached to the outline permission in the event that the SoS concludes that the appeal should be allowed is set out at Appendix D. In some instances, I have amended or combined the agreed conditions in the interests of brevity and to ensure compliance with the PPG.

11.3 Conditions 1-3 are standard conditions for outline planning permissions. The Council had sought to halve the standard time limits for the permission but in

¹²⁷ ID25

¹²⁸ See ID30

view of the advice in the PPG¹²⁹ and the complexity of the development including the amount of site clearance, I do not consider that would be appropriate in this instance. Condition 4 is imposed for the avoidance of doubt and to ensure that the development is carried out in general accordance with the approved plans and details.

- 11.4 A site-wide phasing plan is necessary to ensure the development comes forward in a coherent and planned manner (Condition 5). I have amended some of the wording around affordable housing to ensure sufficient flexibility to enable the development to respond to changing market conditions and housing needs. I have also incorporated the requirements of other suggested conditions into Condition 5 to avoid the need for multiple phasing plans and other strategies. Condition 6 is necessary in the interests of highway safety. A construction method statement (Condition 7) is necessary to protect the amenity of nearby residents. A drainage condition is necessary to ensure satisfactory drainage of the site in the interests of flood prevention (Condition 8). An archaeology condition is necessary to protect any archaeological assets that may be present (Condition 9). A land contamination condition is necessary to ensure the land is suitable for a residential use (Condition 10).
- 11.5 A significant amount of ecological information was submitted with the EIA¹³⁰. The scope of the various wildlife surveys was agreed with the Council's Countryside Officer beforehand. Those surveys confirm that some parts of the site support protected species including bats, great crested newts, reptiles, badger and nesting birds. These habitats would be retained, recreated and enhanced through management delivered through measures set out in a Construction and Demolition Environmental Management Plan (CEMP) (Condition 11). As the presence of protected species on the site has already been established and given that there is no suggestion from the Council that the surveys are out of date or deficient in any other way, I have omitted the requirement for updated surveys to be submitted. A biodiversity enhancement plan is necessary to avoid a net-loss to biodiversity (Condition 12).
- 11.6 A condition relating to tree protection measures is necessary to ensure trees are not damaged during the construction period (Condition 13). A condition is necessary to ensure the requisite parking and access arrangements for each dwelling are provided prior to occupation (Condition 14). A Travel Plan condition is necessary to promote sustainable travel habits (Condition 15). To assist the move to a low carbon future, conditions regarding electric vehicle charging points and super-fast broadband are necessary (Conditions 16 and 17). A noise mitigation strategy is necessary to protect future occupiers from road noise (Condition 18). Finally, to secure the heritage mitigation, a condition relating to the SM is necessary (Condition 19).
- 11.7 A condition restricting the development to no more than 500 dwellings is unnecessary as this development concerns operational development rather than a change of use and the application description explicitly limits the permission to '*up to 500 dwellings*'. The suggested condition relating to gas boilers is not supported by a development plan policy. Moreover, I am not aware there is a

¹²⁹ Paragraph: 027 Reference ID: 21a-027-20140306

¹³⁰ CD1.15

designated Air Quality Management Area covering the site. I am therefore satisfied that the specification of the boilers is a matter that would be dealt with by other legislation. I have omitted those conditions accordingly. The requirements of several of the suggested conditions are repetitious and/or are covered by Condition 5 or the S106.

11.8 Conditions 5, 6, 7, 8, 9, 10 and 13 are pre-commencement form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed by the Appellant and address matters that are of an importance or effect and need to be resolved before construction begins.

12. Planning Obligations

12.1 I have assessed the S106 in light of the CIL Regulations 2010 and paragraph 56 of the Framework which state that planning obligations must only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

12.2 Although the obligations are not in dispute, the agreement¹³¹ provides that if the decision letter concludes that any provision of the agreement is incompatible with any one of the statutory tests then the relevant obligation shall cease to have effect. The obligations contained in Schedules 1-4 relate to SODC and those in Schedule 5-7 to OCC.

12.3 Schedule 1 is concerned with affordable housing and would bind the site owners to ensure that 34.57% (172 units) of all dwellings constructed comprise affordable homes in accordance with the affordable housing mix of 75% Affordable Rent and 25% Shared Ownership. The Council has sought to secure 40% affordable housing in compliance with CS Policies CSH3 and CSH4. However, due to the existing buildings on site the scheme qualifies for a small reduction through the Vacant Building Credit. I am satisfied the affordable housing obligation meets the relevant tests.

12.4 Schedule 2 sets out the financial contributions to SODC and include the following:

- An off-site artificial football pitch (to be provided in the local area) contribution of £985,000;
- An off-site tennis court (to be provided in the local area) contribution of £365,000;
- An active communities contribution of £96,001 to fund a new member of staff at SODC;
- A public art contribution of £300 per dwelling. How this would be spent would be determined through a public art strategy which would need to be submitted to and approved in writing by the Council;

¹³¹ Paragraph 6.12, Page 9 (ID26)

- A recycling contribution of £170 per dwelling to provide each dwelling with the necessary bins;
- A street naming contribution of £134 per 10 dwellings, and
- A monitoring fee of £5,190

12.5 I am satisfied that the football pitch, tennis court, public art, recycling and monitoring contributions all meet the statutory tests. However, I have concerns in respect of the 'active communities' contribution. According to the Council's Compliance Statement¹³² the contribution would fund a 2-year post at SODC the purpose of which would be to "*secure the provision and management of sports facilities both on and off site. The replacement sports facilities are required directly as a result of the loss of sports facilities on this site*". However, it is not clear on the evidence before me what actual work would be involved.

12.6 A number of facilities are to be provided on-site as part of the development including a new cricket pitch and pavilion, a bowling green and a running route. These facilities would be designed and delivered by the developer as part of the reserved matters applications. Consequently, their delivery would not require a significant amount of additional work on the Council's part.

12.7 The off-site provision is to be dealt with by way of 2 financial contributions. Whilst there would inevitably be some work to identify suitable sites for these facilities, the evidence suggests that sites have already been identified at Holton Playing Field Association site or Wheatley Park school. Whilst some further feasibility work might be required, it is not reasonable to suggest that this would require a 2-year, full-time post holder. In any event, the build costs provided by Sport England for the football pitch and tennis courts, include an allowance of 6% for project management and other fees. That amounts to a sizeable sum which in my view would be more than sufficient to cover the Council's costs. I therefore conclude that the 'active communities' contribution fails the 3 statutory tests.

12.8 Street naming is an activity which usually falls within the normal, day-to-day functions of the Council. On the information before me it is not clear what additional work or expense would be incurred or exactly how the money would be spent. I am not therefore persuaded that this contribution is necessary to make the development acceptable in planning terms.

12.9 Schedules 3 and 4 secure the on-site LEAP, a marked 'active route' within the development, public open space covering a minimum of 10.69ha, a bowling green, cricket pitch and pavilion as well as maintenance and sinking fund contributions for their future maintenance. I am satisfied that these obligations and contributions meet the statutory tests.

12.10 Schedule 4 includes a £70,000 contribution towards the provision of 'expert advice' in relation to the construction of the sports pavilion, bowling green and cricket pitch. The evidence supporting the contribution is scant. The Council's CIL Compliance Statement states that the costs have been calculated following quotes from relevant experts. However no further information is provided. In my view the construction of a bowling green and cricket pitch are not large and

¹³² Page 10, ID29

complex projects. The latter is to be provided in approximately the same location as the existing pitch. The areas would need to be laid out to certain standard specifications, but such information is relatively easy to obtain and certainly would not require the services of an expert. The pavilion would of course require more assessment but again I do not see the construction of a sports pavilion as an overly complex project that would require specialist advice to be engaged.

12.11 It is also pertinent that these facilities are to be designed and delivered by the developer who would bring their own experience to bear on these matters. Finally, it is also not clear to me why Sport England could not be consulted on the relevant reserved matters applications. Based on the foregoing the 'expert evidence' contribution does not meet the relevant statutory tests.

12.12 The obligations to OCC in Schedule 5 comprise:

- £105,705.73 towards the provision of 3 pairs of bus stops within the site;
- A public transport contribution of £720,000;
- A Travel Plan monitoring fee of £2,040.

12.13 I am satisfied that these contributions are necessary to encourage non-car modes of travel and meet the statutory test. Schedules 6 and 7 deal with the agreed on and off-site highway works which are set out in paragraph 3.1. These would be delivered by the Appellant through the appropriate legal agreements with the Highway Authority. I am again satisfied that these obligations meet the statutory tests.

12.14 A request was made by the NHS Oxfordshire Clinical Commissioning Group for a developer contribution of £432,000 to support the improvement of local health care infrastructure. The Council has confirmed that 'increasing capacity at existing health services/local surgeries' is covered by its CIL Regulation 123 list¹³³.

13. Inspector's Conclusions

13.1 On the evidence before me, the written representations, and my inspection of the appeal site and its surroundings, I have reached the following conclusions. References in square brackets [] are to earlier paragraphs in this report.

Main issues

13.2 The main parties hold differing views regarding the degree of heritage, landscape and Green Belt harm, the weight to be attributed to the various benefits of the scheme, the consistency of the relevant development plan policies with the Framework, whether the Council has a 5YHLS and the resulting planning balance. Against this background, and in view of the evidence submitted in writing and presented orally at the Inquiry, I consider the main issues are:

1. Whether the most important policies are out of date;

¹³³ See Page 10, CD4.1

2. Whether the development is inappropriate development in the Green Belt for the purposes of the Framework;
3. The effect of the development on the character and appearance of the area;
4. The effect of the development on the setting on heritage assets;
5. Whether the location of the development would be sustainable in transport terms;
6. Whether the Council can demonstrate a 5YHLS, and
7. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other relevant harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Most Important Policies

- 13.3 Section 38(6) of the 2004 Act requires that this application be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the Framework, which can override development plan policy if it is not consistent with the Framework's provisions. I therefore summarise the national planning policy context first, before turning to look at relevant development plan policies.
- 13.4 Section 3 of the Framework stresses the desirability of local planning authorities having up to date development plans, paragraph 213 states that the weight to be given to relevant policies will depend on the degree of consistency with the Framework. The closer the policies in the plan to those in the Framework, the greater the weight that may be given.
- 13.5 Paragraph 11 of the Framework explains that there is a presumption in favour of sustainable development which comprises economic, social and environmental objectives. It goes on to indicate that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole; or unless specific policies in the Framework indicate that development should be restricted. [3.3]
- 13.6 There are differing views on which are the most important policies for determining the application. Whilst I have had regard to the list of relevant policies contained in the SoCG, I have exercised my own judgement following the approach set out in Wavendon which confirms that *"an overall judgment must be formed as to whether or not taken as a whole these policies are to be regarded as out-of-date for the purpose of the decision."* [3.13,6.2,7.12,8.16,8.115]
- 13.7 The first point to make is that the LP is now of some vintage as the Council accepted at the Inquiry. [3.10-2.13,8.8-8.10] However, as paragraph 213 makes clear, policies should not be considered out of date simply because they were adopted prior to the publication of the Framework. The CS contains policies that are high-level and strategic in nature. Accordingly, they lack the kind of detail one would normally expect to see in development management policies. This is because the CS was always intended to be supplemented by a DPD containing

detailed development management policies. [3.15,8.11-8.13] The consequence of this is that many of the CS policies cited in the RfRs are of little assistance in determining this appeal. [8.12]

- 13.8 The appeal site lies within the parish of Holton and is washed over by the Oxfordshire Green Belt. CS Policies CSS1 and CSH1 set out the overall amount and spatial distribution of housing for the district to deliver the CS housing target. They seek, among other things, to support and enhance the larger villages as local service centres, while focusing major development at Didcot and the market towns. The appeal site is located outside the built limits of Wheatley and Holton where large-scale development would not normally be appropriate.
- 13.9 However, the housing target identified in the CS is manifestly out of date being based on a constrained supply set out in the revoked RPG. [3.11-3.14,8.11] Existing settlement boundaries across the district reflect the need to deliver this constrained supply. The CS does not accord with the objectives of the Framework to meet a full OAN for housing. [8.9-8.11] Therefore, whilst the overall strategy and settlement boundaries may have been appropriate to guide the quantum of development envisaged in the CS back in 2006, they are clearly not appropriate today. I therefore consider that Policies CSH1 and CSS1 are out of date where they are used to restrict development outside settlement boundaries.
- 13.10 Although CS Policy CSEN1 is not referred to in the RfRs it is relevant inasmuch as it refers to the protection of landscapes against inappropriate development. Whilst its broad aims are agreeable with those of Section 15 of the Framework, it runs into the same problem as LP Policy G2 in seeking blanket protection for the natural environment. Apart from 'valued landscapes', paragraph 170 of the Framework entertains no such protection instead referring only to the need to recognise the intrinsic character and beauty of the countryside. In my view 'recognition' and 'protection' are not the same. They are clearly distinguishable terms and accordingly I consider that Policies CSEN1 and G2 are inconsistent with the Framework and cannot be seen as being up to date. I note the Lower Shiplake Inspector came to a similar view in paragraph 77 of his decision in relation to Policy G2. [8.13]
- 13.11 CS Policy CSEN2 is a strategic Green Belt policy that recognises the OBU campus as a key previously developed site but defers to the Framework in terms of decision taking. Whilst the policy is not technically out of date, it offers little assistance to the assessment of the appeal scheme and instead it is the Framework that becomes the determinative document. To that end, I conclude that Policy CSEN2 is not one of the 'most important' policies for determining the application.
- 13.12 LP Policy GB4 is a more detailed Green Belt policy that reflects the wording in Planning Policy Guidance Note 2 revoked in 2012. It refers to "*rural character or visual amenity*" and applies a design test to development all of which are inconsistent with the Framework. Its language is also couched in very different terms to the Framework and does not refer to inappropriate development or very special circumstances. I therefore conclude that Policy GB4 is out of date.
- 13.13 CS Policy CSEN3 is a strategic heritage policy that states that historic heritage assets will be conserved and enhanced for their historic significance. However,

the requirement to maintain and enhance the historic environment goes beyond the statutory duty and paragraph 185 of the Framework, the latter of which requires decision makers to *"take account of the desirability of sustaining and enhancing the significance of heritage assets"*. Blanket protection for the historic environment cannot therefore be seen as being consistent with the Framework. Policy CSEN3 is thus out of date.

13.14 In a similar vein, LP Policy CON5 states that *"proposals for development which would adversely affect the setting of a Listed building will be refused"*. Whilst the general thrust of this policy might well be consistent with the Framework, that is not enough in my view. The policy does not allow for the weighing of public benefits against heritage harm and therefore cannot be seen as being in conformity with the Framework. I therefore consider Policy CON5 is out of date. For similar reasons the approach to archaeological remains advocated by Policy CON11 is also inconsistent with the cost/benefit approach set out in the Framework.

13.15 CS Policy CSM1 is a strategic omnibus transport policy that includes various items most of which have no relevance to the appeal scheme. Insofar as it 'encourages' the use of sustainable modes of transport, it can be seen as being consistent with the Framework. However, there is no recognition in the policy that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, as advised in paragraph 103 of the Framework. Despite that, I consider the policy is up to date insofar as it relates to the appeal scheme.

13.16 Finally, Policy CSM2 establishes that proposals for major development must be accompanied by a Travel Plan and a Transport Assessment. There is no suggestion that these documents have not been provided in the case. Accordingly, I do not consider Policy CSM2 passes the 'most important' test.

13.17 Based on the above exercise I consider that the majority of those policies which are most important for determining the application are out of date. As a result, the weight that can be attributed to these policies has to be commensurately reduced and irrespective of the Council 5YHLS position, the default position identified in paragraph 11 d) of the Framework is engaged. [6.9] This is a matter I will return to later in my report.

Inappropriate development in the Green Belt

13.18 Although the site is proposed to be removed from the Green Belt and allocated for development, as things currently stand the site remains in the Green Belt. As with the Officer's Committee Report, my assessment is therefore made on the basis of the existing Green Belt status of the site. [7.1,8.16,8.29] I have found that the Development Plan does not contain any up to date Green Belt development management policies, I have therefore defaulted to advice in the Framework, which both parties have referred to extensively in their evidence.

13.19 Paragraph 133 of the Framework states that the Government attaches great importance to Green Belts, with the fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open. It goes on to confirm that the essential characteristics of Green Belts are their openness and their permanence, with paragraph 134 explaining that Green Belt serves 5 purposes:

- a. to check the unrestricted sprawl of large built-up areas;
- b. to prevent neighbouring towns merging into one another;
- c. to assist in safeguarding the countryside from encroachment;
- d. to preserve the setting and special character of historic towns; and
- e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

13.20 In paragraph 145 of the Framework gives various exceptions of where the construction of new buildings in the Green Belt would not be inappropriate. One such exception is:

"limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority"*

13.21 In order for the appeal scheme to benefit from this exemption, it must first be demonstrated that it is PDL. Annex 2 to the Framework provides the following definition of PDL:

"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."

13.22 The determinative issue in this case is whether the appeal site is PDL in the terms set out in the Framework. As much of the western part of the site is devoid of permanent structures, the PDL question principally turns on whether the whole campus falls within the curtilage of those permanent structures on the site. [8.30]

13.23 The Courts have consistently held that the extent of a curtilage will be a matter of fact and degree and will depend on the particular circumstances of a case. [7.5,8.31,8.32] There is broad agreement that the central and eastern parts of the site, currently occupied by the university buildings and dwellings, are curtilage. [7.5]

13.24 The western half of the site is however appreciably more open and contentious. [7.21]. A significant portion of it along with a strip of land along the southern site

boundary comprises the university's sport pitches. [2.3,4.3,8.33,8.53,8.55,8.59] These pitches and the circulation areas around them clearly perform an important functional purpose related to the campus buildings. [8.34] Cognisant of the Sinclair-Lockhart judgement¹³⁴ and the dictionary definition of a "*campus*", I am satisfied that these areas fall within the curtilage of the university buildings. [8.34] Whilst the Council has drawn my attention to the brownfield register plan, there are very few details before me as to how or when this plan was drawn up. [7.4] On its face, the plan that simply reflects those parts of the site that are occupied by permanent structures. It does not proposit to be a detailed examination of the site under the Framework definition of PDL.

13.25 There would be no development in the north-west quadrant and therefore, as clarified at the Inquiry, the Council's Green Belt objection principally relates only to the south-west quadrant. [4.3,7.31,8.6,8.19,8.37] This area accounts for approximately 14% of the site. [2.3] The illustrative masterplan indicates this area would be reserved for low-density housing complimented by areas of open space such that not all of the area would be developed. [4.1,4.3,8.19,8.47,8.54]

13.26 Whilst historical aerial photographs indicate buildings once stood on this part of the site, there is no meaningful evidence before me as to what these were or looked like. They were evidently removed at some point during the 1950s and any remains have since blended into the landscape. Much the same applies to the golf course that was said to once occupy this part of the site. Today much of the south-west quadrant is covered in a dense scrub and is largely inaccessible save for a mown path which runs parallel to the existing surfaced footpath through the site. The presence of a maintained path is suggestive of some kind of functional link and physical relationship to the wider campus, most probably as part of a circular walk. That could be considered sufficient to bring the south-west quadrant within the definition of curtilage. In my view however the link is a tenuous one. Beyond the mown path, there is little to suggest the area serves a useful purpose to the permanent structures. On balance, I consider that the south-west quadrant is not curtilage and cannot be PDL in the terms set out in the Framework.

13.27 Returning to the approach set out in paragraph 145g), it is common ground that the development would address an affordable housing need. [7.63,7.69,8.37,8.87,8.107,9.4,10.1] The next step for those areas that are PDL is to consider whether the development would cause substantial harm (my emphasis) to the openness of the Green Belt. [7.7,8.35-8.38]

13.28 To answer that question, much time was spent at the Inquiry discussing the possible implications of the appeal scheme on building volumes. Other than agreeing that the existing buildings total 125,500m³, there is little common ground on the issue. [7.16, 8.40, 8.107] What can be deduced from the competing calculations is that any approach relies on a large amount of guesswork as to what would come forward at the reserved matters stage. This was expressly acknowledged in the Officer's committee report. [8.41] Therefore, trying to determine the exact impact on volume now is a somewhat futile task.

13.29 Nonetheless, the Appellant has demonstrated that it would be possible to bring the site forward in a manner that broadly adheres to the existing amount of

¹³⁴ Sinclair- Lockhart Trustees v Central Land Board [1950] 1 P & CR 195, (CD19.4).

volume on the site. [7.18] At the other extreme, the Council argued there could be a significant increase in volume if the site were to be developed in accordance with the maximum limits shown on the parameter plans. [7.16, 7.17, 8.40-8.43]

- 13.30 Even if the maximum permissible volumes were to be pursued and one prefers the Council's 203,500m³ figure, the Appellant rightly points out that the increase in volume would be broadly consistent with the 195,995m³ contained in the Council's SPD. [7.20,8.48]. The Council's 'bottom-up' calculation of 170,000m³ would result in a generous reduction of volume compared to the SPD allowance. [7.18]
- 13.31 The Appellant amended the scheme during the determination period to reduce its potential volume. That indicates to me a willingness to work with the Council on this matter. [1.7,5.2,5.3,7.18,8.4,8.16] It is of course possible that a different developer might pursue a different agenda. If that did happen, I am satisfied that it would be within the Council's gift to control these matters at the reserved matters stage. [8.41-8.43]
- 13.32 Of course, as the PPG acknowledges, openness is multi-faceted and there is clearly a visual aspect also. [7.13,8.38,8.39] There would undoubtedly be significant benefits associated with the removal of the existing agglomeration of large educational buildings including the tower, which is visible over a large swathe of the surrounding Green Belt. [6.3,7.14,7.26,7.35,7.69,8.1,8.40,8.46,8.57,8.69,8.71,8.107,9.13] Although some 4-storey development is proposed in the eastern/central part of the site, I am not persuaded that this would be readily visible from vantage points outside the site. [2.4,7.35] The Council point to the possibility of glimpses from the A40 at night. [7.25] However, I find that unlikely given that the existing boundary landscaping is to be retained and strengthened particularly along the A40 frontage. Even if the occasional glimpse were possible, I do not consider this can reasonably be described as harmful given the current situation where there are floodlit pitches very close to the A40 boundary.
- 13.33 Beyond the 4-storey development in the south-east quadrant, there is no suggestion from the Council that any other parts of the development would be visible outside the site's boundaries. This is because the site undoubtedly has a very high level of visual containment. [2.4,6.3,7.35,8.47] Overall, I consider the development would have a broadly neutral effect on openness as experienced from within the appeal site. However, there would be a significant net-beneficial effect on the openness of the wider Green Belt through the removal of the tower. In conclusion, save for the south-west quadrant, the development would not be inappropriate development in the Green Belt. In view of the wording in paragraph 145g) of the Framework, there is no need to undertake a separate assessment in relation to the 5 Green Belt purposes.
- 13.34 The proposed development in the south-west quadrant would be inappropriate development. The Framework states that such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I will return to this matter in due course. Should the SoS take the view that the whole of the site can be considered PDL then it will not be necessary to consider whether very special circumstances exist.

Character and appearance

- 13.35 Most of the appeal site was formerly part of the historic parkland of Holton Park which survived intact until the early part of the 20th Century. The western part of the site was used as a military hospital during the Second World War and the historical maps provided show a proliferation of roads and buildings during that time. In the 1960s the A40 was constructed along the southern edge of the park. At the same time the site began to be developed for educational purposes and has grown and evolved incrementally ever since.
- 13.36 The site is considered in national, regional, county and local landscape character assessments. However, owing to the site's level of containment and its specific landscape characteristics, these broad-brush studies are of little assistance as the site does not readily conform strongly to any of the key characteristics of the various landscape types. [6.3,7.22,8.58,8.59]
- 13.37 The application was accompanied by a detailed Landscape and Visual Impact Assessment which assesses the likely landscape and visual effects of the development. [8.68] This was supplemented at the appeal stage by a suite of photomontages. Whilst I have had regard to these documents, my assessment is primarily informed by my observations on the numerous site visits undertaken before and during the Inquiry, the latter with the benefit of having heard the evidence of the relevant landscape witnesses.
- 13.38 The site is well contained behind modern fencing and substantial belts of landscaping such that its current visibility within the wider landscape is limited. The site is not a designated or a 'valued' landscape in the terms set out in the Framework. It is common ground that the removal of the tower and other dilapidated structures would be beneficial in landscape terms. [6.3,7.14,7.26,7.35,7.69,8.1,8.40,8.46,8.57,8.69,8.71,8.107,9.13]
- 13.39 The appeal site, although in the countryside for planning purposes, does not possess a strong rural character. The existing buildings including parking areas, footpaths, lighting, engineered sports pitches and the A40 dual-carriageway exert an urbanising influence which extends over most of the site including those undeveloped areas. Given the extensive landscape changes that have taken place over the last 80 years, the 'historic/relic parkland' argument has little resonance to what is seen on the ground today. [7.21-7.23,7.35,8.57-8.58,8.63] That is supported by the John Moore report which found that the former parkland is now "*degraded and truncated*". Consequently, even from those open, western areas there is an ever-present feeling of being on a university campus. I therefore consider that the Appellant's description of the site as "institutional" is apt. [7.23,8.1,8.40,8.46,8.60]
- 13.40 The main parties concur that the appeal site is of medium landscape value. In addition to the evidence submitted as part of this appeal, the site has also been considered in a range of reports that form the evidence base to the eLP. The Kirkham Study found that the landscape has overall medium/low landscape sensitivity and that the site should be considered further as a Potential Strategic Allocation on landscape and visual grounds, focussing development around the previously developed area. [7.10,7.12,8.109] A number of recommendations were subsequently made:

- north-western part of potential allocation as open parkland to improve the setting of Holton Park, protect the SM and contribute to the separation of Wheatley and Holton.
- the tower block to be removed and building heights kept to a more domestic scale (2-3 storeys high).
- The developable area should include green links, open space and SUDS features.
- Heights of new buildings should be such that they are not visible above tree lines from adjacent countryside, settlement and roads.
- Create substantial new woodland planting to contain housing and create a new countryside edge, and to link existing woodland to the north-east of the potential allocation with enhanced woodland in the south-western part of the potential allocation.
- Retain and protect valuable specimen and avenue trees and native vegetation, within potential allocation and to outer boundaries.
- Protect and frame views towards the north.
- Preferred access point via existing drive off of Waterperry Road, minimising impact on the rural character of the road.

13.41 The illustrative masterplan shows the probable layout. [4.2] It indicates that the majority of the houses would be located on the currently built-up eastern and central parts of the site. Accordingly, and whilst there would be encroachment into the south-west quadrant, I do not consider that the layout necessarily conflicts with the requirement to “focus” development on the previously developed area. [3.19,3.23,7.1,7.24,8.18,8.5] If it was the case that no development outside built up area would be acceptable, then it is reasonable to conclude that alternative, more definitive, wording would have been used. The fact that the eLP evidence base supports the removal of the whole site from the Green Belt is also inconsistent with the Council’s view that no development should take place outside the built-up area. [3.19,8.18] I have noted submissions about the concept plan to Policy STRAT14 of the eLP. [8.7] However, that plan only appeared after the Council’s decision and in any event carries no weight in view of the Holding Direction.

13.42 The appeal scheme keeps the north-west part of the site as sports field/open parkland. [4.3,7.31,8.6,8.19,8.37] Approximately half the site would be given over to green infrastructure. [4.1,12.9] The tower block would be removed. The 4-storey development would be confined to those parts of the site that currently accommodate substantial built development and where the visual and landscape effects would be minimised. [4.3] As the photomontages demonstrate the heights of buildings would not be visible outside the boundaries of the appeal site above existing trees. New woodland and tree planting would take place, and most of the best trees would be retained. [2.4,4.2] Open green space within the north-western part of the site would retain views towards the north. Accordingly, I am satisfied that the scheme before me is in general accordance with the recommendations of the Kirkham Study.

- 13.43 The Kirkham Study was followed by the SODC-Landscape Assessment Update which reviewed the findings of the Kirkham Study. [7.23] It found that the site (with the exception of the existing tower block) is well contained and inward looking and has no discernible connection to the wider landscape. The conclusion was that the site could accommodate development in landscape terms.
- 13.44 It should be borne in mind that the Council's landscape objections, as clarified at the Inquiry, relate only to the south-west quadrant. I therefore turn to look solely at this area, which the Council describes as "*relict parkland containing trees and shrubs*" with an attractive wooded character. [7.21] The area accounts for approximately 14% of the appeal site and abuts the A40 to the south and the Wheatley Park school site to the west. [2.1-2.4] It appears to have little or no current use beyond an informal footpath across its northern portion. Much of the land is inaccessible and covered in a thick scrub interspersed by a range of deciduous and evergreen trees. The site is well screened from within and outside the appeal site. [2.4,7.35,8.47] Unlike other southern areas, the south-west quadrant sits at a higher level than the A40 and therefore has very little visual exposure from it.
- 13.45 The south-west quadrant has a character that is distinct from the rest of the campus. Nonetheless, I would be hard pushed to describe in quite the same terms as the Council's landscape witness. Whilst it undoubtedly has some landscape and visual value as a parcel of undeveloped green land, that is about as far as it goes. Traffic noise and the modern housing development on the south side of the A40 are both readily apparent. Despite it forming the highest part of the site, outward views are restricted by the mature landscaping both within and along the site boundaries. The trees, some of which might loosely be described as "parkland trees", have some amenity value particularly the "*spreading oak tree*". However, most of these specimens would be retained. The majority of the trees in this area are self-seeded and of little amenity value. There is currently no formal public access and therefore it is difficult to argue that the wider public derive any significant value from this part of the site. Overall, I do not consider the south-west quadrant is particularly sensitive in landscape or visual terms such that it should be excluded from development. The Council's own Landscape Architect concluded that the proposed homes in the south-west part of the site would result in a minor impact to the landscape character and visual quality of that area of the site.
- 13.46 I have noted the Council's view that regard should be had to the "*designed landscape setting*" in the John Moore report. [7.30] This encompasses a wide area that includes most of the north and south-west quadrants of the site. However, the report offers no meaningful explanation as to what the term actually means or how the authors arrived at the area drawn in Figure 4.7.4 which is both excessively large and bears no relationship to the distinct parcels of land that make up the campus. [6.3] Moreover, when assessing how much weight should be given to this and other reports forming the evidence base of the eLP, it needs to be remembered that these are high-level assessments forming the evidence base for the eLP. Their purpose is therefore to highlight heritage and landscape issues rather than to determine what response should be made to those issues. I do not believe the John Moore report was ever intended to be treated as a determining factor in development management decisions without a further, detailed landscape/heritage assessment, which the Appellant has

undertaken. For the above reasons I am giving very little weight to the “*designed landscape setting*” designation.

13.47 Overall, the proposed dwellings would be smaller in scale than the current educational buildings and would be more appropriate to a countryside edge location. Notwithstanding the increased footprint and encroachment into areas that are currently open, the Masterplan and photomontages demonstrate that the spacing and scale of the dwellings would be appropriate to the site’s rural setting and clearly preferably to the existing scenario. [4.2,8.117] All the housing especially that in the south-west quadrant would be visually contained with little impact on the wider landscape. [8.47] The development would read as a logical northern extension to Wheatley albeit separated from it by the A40. There would be a significant visual benefit from the removal of the existing buildings. These benefits along with on-site mitigation in the form of additional planting and landscaping and large areas of open space would be in my view be sufficient to secure an overall net-gain in landscape and visual terms over the wider area. [4.3,6.3,7.14,7.26,7.35,7.69,8.1,8.40,8.46,8.57,8.69,8.71,8.107,9.13]

13.48 Based on the above, I do not consider that the development would harm the character and appearance of the area. Accordingly, I conclude that there would be no conflict with CS Policy CSEN1 or LP Policies G2, C4 and C9 insofar as they seek to protect the district’s countryside and settlements from adverse development.

Heritage assets

13.49 The duty under Section 66 of the 1990 Act requires special regard to be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The Heritage SoCG confirms that this section is clearly engaged insofar as the Holton Park (Grade II), and St Bartholomew’s Church in Holton (Grade I) are concerned. [6.4]

The SM

13.50 The records held by HE describe the SM as the site of an early moated manor. However, the Appellant’s own archaeological analysis casts considerable doubt on that interpretation highlighting that its size would be insufficient to support such a building and is more likely to have been a windmill platform or parkland feature. HE themselves acknowledge the inability to be certain as to the nature of the monument but judged that “*in all of the possible interpretations of this feature, there is a connection with the earthwork and the relatively open and rural spaces surrounding it.*” [7.29,8.65] HE was not present at the Inquiry and therefore their evidence could not be tested. [8.70]

13.51 The only thing that is known with any degree of certainty is that the site accommodated a statue which is shown on the 1880 OS map. What is abundantly clear today is that the SM strikes a rather forlorn, neglected and uninspiring feature. [8.67] Nothing has been done in recent years to interpret, celebrate or even maintain it. It has been overrun by brambles, nettles and self-seeded trees. Given its current predicament, it is not unreasonable to suggest that the SM goes largely unnoticed and unappreciated by the public at large.

- 13.52 The setting of a heritage asset is defined in the Framework as *"the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*. [8.62] There is no dispute that the SM currently has a fairly open setting and as much as possible this should be retained. [7.29,8.65] The appeal scheme was amended at the application stage to provide additional breathing space for the SM with HE recognising the improvements made [5.2,8.68] The Council point out based on the illustrative masterplan, that the nearest houses would come within 50m of the SM resulting in a high degree of *"less than substantial harm of moderate extent"*. [7.31,7.34]
- 13.53 The uncertainty over exactly what the SM is or was, makes the task of assessing its setting all the more difficult. Nonetheless, it is apparent that its setting has changed dramatically over the last 80 years or so. The deer park and *"open parkland setting"* referred to by the Council are all but gone and all that remains are a few parkland trees dotted around the site, nearly all of which would be retained. [2.4,4.2] The immediate context of the SM are the levelled sports pitches and a bank of mature trees to the south beyond which the land falls away to the footpath and tennis courts. [8.55,8.59]
- 13.54 Adding credence to that view is the John Moore report which states: *"Much of the site has been considerably damaged as a result of modern development and the archaeological remains, if any, presumably considerably degraded. There are one or two areas where the ground surface survives in its pre-20th century level, which includes the scheduled monument and the surrounding features"*.
- 13.55 Insofar as it can be said that the SM derives any of its significance from its setting, I consider that the immediate open area to the north, west and north-west has a moderately positive contribution. This area performs the important role of maintaining indivisibility between the SM and Holton Park and also corresponds to the *"SM and listed building setting implication"* area shown in Figure 4.7.4 of the John Moore report. [7.29-7.30] However, no built development is proposed in this area and on the contrary, the area would be subject to a detailed landscaping scheme intended to restore the original parkland character and appearance. [4.3,7.31,8.6,8.19,8.37,8.69]
- 13.56 I have noted the Council's view that regard should be had to the *'designed landscape setting'* in the same report. [7.30] This encompasses a much wider area than the *'SM and listed building setting implication'* that includes most of the north and south-west quadrants of the site. However, the report offers no meaningful explanation as to what the term actually means or how the authors arrived at the area drawn in Figure 4.7.4 which is both excessively large and bears no relationship to the distinct parcels of land that make up the campus. [6.3]
- 13.57 Moreover, when assessing how much weight should be given to this and other reports forming the evidence base of the eLP, it needs to be remembered that these are high-level assessments forming the evidence base for the eLP. Their purpose is therefore to highlight heritage and landscape issues rather than to determine what response should be made to those issues. I do not believe the John Moore report was ever intended to be treated as a determining factor in development management decisions without a further, detailed

landscape/heritage assessment, which the Appellant has undertaken. For the above reasons I am giving very little weight to the “designed landscape setting” designation

- 13.58 Although the Council’s Heritage witness did not retreat from his view that there would be overall harm to the SM, it was accepted that a carefully designed landscaping scheme could be beneficial. [7.35,8.55,8.65] Moreover, and perhaps more significantly, it would also be possible to secure a comprehensive improvement scheme for the SM by condition. The wording of the condition agreed by the parties would include maintenance and the provision of features such as public seating, an information board and research into the SM’s origins. Given the current state of the SM, I consider this to be a significant heritage benefit which would enable the general public to appreciate and understand the asset in a way that is far removed from today’s underwhelming experience.
- 13.59 The area to the south which includes the south-west quadrant has been remodelled over the last 80 years. Beyond the bank of trees, the land drops away to a parking area and a timber building beyond which is a lit footpath and tennis courts. Evidently the setting to the south has changed significantly over the years and now contains those urbanising influences. Although the south-west quadrant is undeveloped, views over the area from the SM are obscured by the bank of trees and the tennis courts. There is hence little visual relationship between the SM and the south-west quadrant. Whilst the houses would be visible from the SM, based on the distance of separation, the potential for additional landscaping and the careful placement of the dwellings, I do not consider they would be unduly prominent.
- 13.60 Nonetheless, there would be some limited harm arising from the encroachment of housing and the spine road to the SM’s southern flank. [7.32] However, for the reasons given above, this would be towards the bottom end of the ‘less than substantial’ range and would be clearly outweighed by a combination of the proposed landscape improvements in the north-west quadrant, the SM improvement scheme and also the removal of the existing university buildings which form a stark backdrop in eastward views of the SM. Accordingly, there would be an overall heritage benefit to the SM.

Holton Park

- 13.61 This is the other heritage asset cited to in the Council’s RfR. The Council’s Heritage witness alleges that there would be noticeable changes to its setting through the introduction of housing on the appeal site. The level of harm is hence judged to be “*less than substantial of minor extent*”. [7.34]
- 13.62 Holton Park is located just beyond the north-western site boundary but nonetheless visible from a variety of vantage points within the appeal site. Holton Park also known as ‘Old House’, was the replacement manor house for Holton Park constructed around 1815. Bearing in mind the history of the appeal site there can be little doubt that Holton Park was located for a direct visual, physical and historical connection with the surrounding deer park setting. [7.28,7.29]
- 13.63 Despite the amount of change that has occurred over the last century including its physical severance from the appeal site, a visual connection is still evident and important to understanding the history and evolution of Holton Park. Whilst

remnants of the deer park remain on the adjacent Wheatley school site, I do not accept that Holton Park can be said to possess an 'open parkland setting'. [7.21,8.65] Instead its setting is currently dominated by 2 large education campuses. I do however agree with the Council that the open nature of the north-western quadrant of the appeal site, albeit dominated by the engineered sports pitches, is an important component to understanding the manorial story of Holton Park and therefore makes a positive contribution to its setting. [7.32]

13.64 Whilst the appeal scheme would undoubtedly bring built development closer to Holton Park, the plan submitted at the Inquiry shows that the nearest houses would be approximately 175 metres away. [7.33] In my view that cannot reasonably be considered as close. Those dwellings in a more direct line of sight from the rear of Holton Park would be over 300m away. In both cases, the houses would not encroach into the sensitive open area between Holton Park and the SM. Instead they would be positioned on the far side of the reinstated parkland area. Once established, it is likely based on the submitted photomontages, that landscaping would provide a high degree of screening, such that the dwellings would only be visible in long distance and heavily filtered, seasonal views from a small number of viewpoints from upper floor windows in the rear elevation of Holton Park. [4.2]

13.65 As discussed above, the appeal scheme would retain and enhance the openness of the north-west quadrant through a landscaping scheme that would return this part of the site to something more akin to its original parkland setting as opposed to the heavily engineered landscape that is seen today. [8.55,8.59] As I saw when I visited the site, the tower features prominently in the background of angled views of the façade. Its removal would also be a benefit in the context of Holton Park.

13.66 Based on the foregoing, I consider the appeal scheme would lead to an enhancement to the setting of Holton Park.

St Bartholomew's Church

13.67 St Bartholomew's Church in Holton is a Grade I Listed building, meaning it is of the highest significance and of exceptional interest. The existing 12 storey tower on the appeal site is seen in the distance in seasonal views through the lych-gate thus harming the church's isolated, rural setting. [7.35,8.71]

13.68 The removal of the tower would improve views southwards from the churchyard when the intervening tree cover is not in leaf. This would represent a heritage benefit which given the building's status in the top 2.5% of all listed buildings nationally attracts weight in its own right.

13.69 I have noted the Council's view that the removal of the tower represents a landscape rather than a heritage benefit. However, that view appears to be underpinned by advice in HE's Good Practice in Planning Advice Note 3. However, that document and advice therein relate to situations where new development might impinge upon designed views of a church tower or spire. The circumstances here are different.

Heritage conclusions

13.70 After carefully considering all the evidence, I have found a small degree of harm in relation to the on-site SM arising from the encroachment of

development on its southern flank. However, I consider this harm would be outweighed by the benefits arising from the proposed mitigation.

13.71 There would be ample separation between Holton Park and the proposed areas of housing such that its setting would be adequately preserved. Factoring in the mitigation specifically the on-site parkland landscaping scheme would lead to an overall enhancement to the setting of Holton Park. There would also be an enhancement to the setting of St Bartholomew's Church through the removal of the tower. Accordingly, I consider the development would result in overall heritage betterment. This is something that weighs in favour of the scheme in the overall planning balance.

13.72 In coming to that view, I am mindful of the comments of HE, the Council's Conservation Officer and heritage witness all of whom found 'less than substantial' harm to the setting of the SM. [7.34] I do not disagree, but where I depart from those assessments is with regard to the heritage benefits, which in my view have been significantly underplayed. [8.69]

13.73 As I have found no overall heritage harm, it is not necessary to undertake the heritage balancing exercise required by paragraph 196 of the Framework. I have considered the Council's submissions that heritage benefits should properly be considered as 'public benefits' and only introduced at the paragraph 196 balancing stage. [7.36,8.71] However, I can find no explicit support for that approach in the Framework and as the Palmer Judgement makes clear¹³⁵, the decision maker may legitimately conclude that although each of the effects has an impact, taken together there is no overall adverse effect on the listed building or its setting. In effect the exercise to be undertaken is to weigh the positive and negative aspects of the scheme and to come to an overall judgement as to whether the development would harm, preserve or enhance the asset.

13.74 Even if I were to concur with the Council's approach, the question of where and when the benefits are considered makes no meaningful difference to the eventual outcome of the balancing exercise to be undertaken.

Accessibility

13.75 The Council's stance in relation to accessibility directly contradicts the eLP evidence base which acknowledges that the site is within walking distance of Wheatley which contains a number of services and facilities further details of which are provided in the eWNP. [2.1,3.20-3.24, 8.73,8.75] Because of that, the Council confirmed at the Inquiry that its objections relate to the south-west quadrant, however as discussed below that area happens to be the best located part of the appeal site. [8.83]

13.76 The Appellant met with Highway Authority Officers on several occasions during the determination period. As a result of these discussions, a package of off-site works was agreed with the aim of improving pedestrian access to key destinations namely Wheatley Primary School, the village centre and the employment areas/supermarket on the eastern fringe of Wheatley. [8.77] In addition, a financial contribution of £720,000 has been agreed to fund an

¹³⁵ Paragraph 29 Palmer v Herefordshire [2016] EWCA Civ 1061 (ID30)

additional bus in the commercial fleet for eight years, with a frequency of 30 minutes. [12.12] Both the bus service contribution and off-site highway works would benefit existing residents of Wheatley. [8.78]

13.77 Based on the above measures, the Highway Authority did not object to the planning application and the Officer's Committee Report concluded; "*the development represents sustainable development with bus, walking and cycling routes to key services and facilities*".

13.78 Para 8.24 of the LP states that "*the District Council will seek to encourage walking as the predominant mode of transport for journeys up to one mile, and cycling for journeys up to 3 miles, as far as possible within the land use planning framework*". This is reflected in advice retained in Manual for Streets which states: "*walking offers the greatest potential to replace short car trips, particularly those under 2km*". [7.39,8.74] The Appellant has conducted a detailed analysis of distances to local facilities which finds that all 14 key facilities are under 2km. Save for Asda, the facilities are also within a 1600m (or 1 mile) walk distance from the centre of the site. These distances are contained in the Accessibility SoCG. [6.5]

13.79 Paradoxically it is the south-west quadrant that is the best located part of the appeal site and benefits from the shortest distances to most local services and facilities. It is closest to the schools and Wheatley village centre. Only those destinations at the eastern end of the village such as the Asda supermarket would be over the recommended walk distance. [7.38] However, as the Asda site is on the eastern extent of Wheatley, a large proportion of the existing village is already over the recommended walk distance. However, in most cases, the supermarket is the one destination that future and existing residents are most likely to drive to regardless of distance. Despite that, the Appellant has agreed to deliver a footway along Old London Road (none currently exists) which would provide a continuous footway between the appeal site and Asda. [8.77]

13.80 The Appellant's evidence demonstrates that the appeal site has better overall accessibility than the other preferred housing sites in the eWNP as well as other large housing sites consented by the Council in recent years. [8.76] The weight of this evidence is such that it demonstrates that the Council has not approached the issue of accessibility in a consistent way.

13.81 The A40 overbridge has been cited as a deterrent to walking and cycling. [7.40,7.41] However, the bridge benefits from footways and from my observations appeared to be well used by the local community particularly school children. [8.82] The Highway Authority has determined that no improvements are necessary, and I have seen no compelling information that would lead me to a different conclusion.

13.82 I accept the Council's point that the distance to some destinations such as the primary school are over the 'acceptable' range specified in the IHT guidance. [7.39] However such distances are guidelines and should not be construed as hard and fast rules. One also has to bear in mind that this is not a large town or city, Wheatley and the appeal site are located in a predominantly rural area. This is relevant because paragraph 103 of the Framework tells us: "*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making*". Part of the route to the primary school passes

through the historic part of the village which is less than ideal for pedestrians. However, no history of accidents has been adduced and my observations suggest that drivers and pedestrians are aware of its limitations and take the necessary precautions.

13.83 Holton is a small rural settlement to the north of the appeal site. I walked and cycled the route from Holton to the appeal site during the Inquiry. In view of the lightly-trafficked nature of the route, I found both cycling and walking to be an enjoyable experience. To assist pedestrians the Appellant has investigated the possibility of providing a continuous footway between the site and Holton. [7.43,8.80] However with the agreement of the Highway Authority, it was concluded that one cannot be accommodated due to insufficient highway space. The Council have not pointed to any other improvements that could reasonably be undertaken by the Appellant. Even if they had, I am not persuaded that improvements in the direction of Holton would be justified. The appeal site has been identified in the eLP evidence base because of its proximity to Wheatley not Holton which beyond a village hall and church, it contains no services. [8.80,8.81] Consequently, the likelihood of significant numbers of people wanting to travel from the proposed development to Holton is remote.

13.84 As is customary for a development of this size, a Framework Travel Plan was submitted with the planning application. [8.79] This aims to encourage sustainable travel habits among future residents and includes the following measures; 1) appointment of a Travel Plan Co-ordinator 2) Travel Welcome Pack and Website, 3) Promotion of public transport journey planner information, and provision of walking and cycling information. The exact range of measures is a matter that the Council would be able to control through the discharge of the Travel Plan condition.

13.85 Overall and bearing in mind the rural nature of the area, I consider the site and particularly the south-west quadrant to be well located to services and facilities in Wheatley. Accordingly, there would be no conflict with CS Policies CS1, CSS1, CSM1 and CSM2 of the CS or Policies T1, T2 and T7 of the LP. There would also be no conflict with paragraphs 92, 102, 103, 108 and 110 of the Framework. On the contrary given the extensive nature of the off-site highway works and the bus service contribution, there would be accessibility gains to the local community. This is something that weighs in favour of the scheme in the overall planning balance.

Housing land supply – Housing need

13.86 In view of my findings on the first main issue, the question of whether the Council can demonstrate a 5YHLS becomes somewhat academic as the tilted balance in paragraph 11d) of the Framework is already engaged. Nonetheless, for completeness and given the SoS is likely to take an interest in these matters, I address the housing need issue below.

13.87 There is no dispute that the CS housing requirement is out of date, therefore the starting point in determining the housing requirement has to be the Framework. [3.14, 7.44, 8.11] Paragraph 73 advises that in circumstances where strategic policies are more than 5 years old, as is the case here, a 5-years' worth of housing should be measured against local housing need. Footnote 37 to paragraph 73, added to the February 2019 version of the Framework states:

"Where local housing need is used as the basis for assessing whether a 5-year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance."

13.88 Annex 2 of the Framework provides further clarification that local housing need is *"The number of homes identified as being needed through the application of the standard method set out in national planning guidance"*. Beyond that for plan-making, the Framework simply does not entertain exceptional circumstances for decision-taking. The national policy context is therefore different to the Bamber Bridge appeal decision¹³⁶ which pre-dated the February 2019 changes to the Framework. [7.44,7.45,8.91]

13.89 I acknowledge that the continued use of the standard method could cause the Council to fall significantly behind the level of growth envisioned in the SHMA and OHGD. [8.89] I also consider that the Appellant's analysis of more recent evidence strongly points to an even higher local housing need than is identified in the SHMA and eLP. [8.104] There are clearly a number of exceptional circumstances in South Oxfordshire at the current time connected to the OHGD. [3.25-3.28, 8.14, 8.21-8.28, 8.93-8.105]. Accordingly, there is considerable merit in the Appellant's submissions on housing need. Nonetheless, the Framework is unequivocal that the standard method is to be used for the purposes of calculating the housing requirement. [7.44]

13.90 It is agreed, even on the Appellant's supply figures, that the Council is able to demonstrate a 5YHLS against the figure which arises from the standard method (see Table 2, Annex E). [6.6,7.52,8.88] That being the case and as in the Lower Shiplake decision, there is little value in conducting a thorough examination of the competing supply arguments. [7.54]

13.91 The respective positions of the parties in relation to housing land supply are set out in Appendix E to this report.

Other Considerations

13.92 In this unusual case, the majority of the appeal site is PDL and therefore benefits from the exception in paragraph 145g) of the Framework. In other words, it would not be inappropriate development.

13.93 Only a relatively small, visually contained and underutilised parcel of land in the south-west quadrant would be inappropriate development. In accordance with paragraphs 143 and 144 of the Framework, it is necessary to consider whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the appeal scheme. [7.67,8.51,8.106] I have not identified 'any other harm' in this case.

13.94 In support of the scheme, there are various 'other considerations'. [8.107] I will deal with each of these in turn. Firstly, the majority of the appeal site is located on PDL specifically identified in CS Policy CSEN2. On any level, it must be preferable to develop such sites ahead of greenfield sites whether in the Green Belt or otherwise. [8.107] The Council's own evidence base for its eLP, having carefully considered the Green Belt purposes, has recommended that the appeal

¹³⁶ Appeal Ref: APP/F2360/W/18/3198822 (Appendix 6. PoE/NI)

site in its entirety should be removed from the Green Belt and allocated for housing. [8.109]

- 13.95 The most recent report to have considered the site is the 2018 LUC report which built upon the 2015 Kirkham Study. This assessed the Green Belt harm that would arise from the potential release of various sites across the district against the 5 purposes. [7.12,8.109] The LUC report concluded that the appeal site is the only one of 5 sites that would result in "*low-moderate*" Green Belt harm. The conclusion of the LUC report and others clearly informed the Council's decision to remove the site from the Green Belt in the eLP.
- 13.96 Notwithstanding the findings of the LUC report, I have found that the development would result in an overall benefit to the visual openness of the Green Belt arising principally from the removal of the 12-storey tower, the urban scale and institutional appearance of which is unlike anything else in the locality. It is seen from public viewpoints far and wide, drawing the eye in the most grievous manner. It is difficult to envisage a building that could be more insensitive and incongruous to its surroundings. Accordingly, and even though I accept there would be a 'spreading' of development across the site, the removal of the existing buildings would have a clear and demonstrable Green Belt and landscape benefit. In my view, the openness benefits, are on their own, sufficient to 'clearly outweigh' the 'definitional' harm arising in the south-west quadrant.
- 13.97 Secondly, the development would make a significant contribution towards the Council's stock of market and affordable housing. [7.63-7.66,8.86,8.87] I heard much at the Inquiry about the eye-watering levels of affordability in South Oxfordshire. [3.24,7.63,8.101,8.104,8.107,9.4] This has put the aspiration of owning a home out of reach for many and is the very embodiment of the national housing crisis. The Council itself accepts the need is "*acute and pressing*". [8.107]
- 13.98 For South Oxfordshire, the SHMA identifies a need for 331 net affordable homes per annum to deal with the backlog using the Sedgefield approach for the period between 2013 and 2031. [8.87] In the 6-year period since this annual need figure was calculated in the SHMA, a shortfall of -713 affordable homes has accrued as a result of delivery falling substantially short of meeting identified needs. In order to address this backlog, the Council would need to deliver 2,370 net affordable homes over the course of the next 5 years.
- 13.99 Whilst I accept the Council can demonstrate a 5/3YHLS as required by the Framework and WMS, this is not a ceiling on the number of houses that can be provided. Moreover, there a number of forceful arguments as to why the use of the standard method is not appropriate in a district that has signed up to the OHGD and committed itself, with others, to the delivery of 100,000 homes across Oxfordshire by 2031. [3.24,3.27,6.7,7.48,8.93,8.94,8.102] The Council confirmed at the Inquiry that it is still committed to the eLP, by extension that must mean it accepts that the higher housing requirement therein is still appropriate for plan-making purposes. [3.17]
- 13.100 Whilst I acknowledge an uplift in the Council's delivery figures over the 2018-19 period, it is too early to say with any confidence whether this is part of a sustained upward trend. [7.65] Even if it is, there is evidently much work still to be done in view of past rates of affordable housing delivery in South Oxfordshire. It seems to me that there is little prospect of the backlog being

cleared without a substantial and sustained boost to housing delivery in the district. [7.65,8.104] In terms of Wheatley and Holton Parishes, the Appellant's figures suggest there has also been a persistent shortfall in delivery against identified needs and targets. The eWNP itself identifies that "*the main housing needs are for affordable housing, starter homes and supported housing for the elderly*". [3.21]

- 13.101 There are some 2,421 households on the Housing Register in South Oxfordshire at the present time. Of that total, 126 have an identified need for affordable housing in Wheatley Parish. It is sometimes easy to reduce arguments of housing need to a mathematical exercise, but each one of those households represents a real person or family in urgent need who have been let down by a persistent failure to deliver enough affordable houses in South Oxfordshire. It is also evident that the seriousness of the affordable housing shortage in South Oxfordshire is having wider consequences for economic growth in the area. [3.27,8.100,8.101]
- 13.102 Although affordable housing need is not unique to this district, that argument is of little comfort to those on the waiting list. The proposed development would provide 173 affordable homes. [8.87,8.107] This would contribute significantly towards the Council's affordable housing shortfall. Given the importance attached to housing delivery that meets the needs of groups with specific housing requirements and economic growth in paragraphs 59 and 80 of the Framework, these benefits are considerations of substantial weight.
- 13.103 Third, there would be a range of economic benefits from the purchase of materials and services in connection with the construction of the dwellings, local employment during the construction period, an increase in local household expenditure and revenues to the Council from the New Homes Bonus. [7.69]
- 13.104 Fourth, as the eLP evidence base confirms, the appeal site is located in an accessible and sustainable location on the edge of a larger village which CS Policy CSS1 states will be supported and enhanced as a local service centre. Future residents, particularly those in the south-west quadrant would have good access to local services and facilities in Wheatley, and with sustainable transport choices that would provide access to higher order services in Oxford. There would be material benefits to the local community from the off-site highway works, increased bus frequencies and new routes across the site. The eWNP acknowledges the importance of bus services to Wheatley. [3.22]
- 13.105 Fifth, there would be an overall net-benefit to biodiversity, which would be consistent with the Framework and the requirements of the Development Plan.
- 13.106 Sixth, there is currently no formal public access to the appeal site and therefore the opportunity for the local community to use and enjoy the extensive areas of open space, heritage assets and enhanced sports facilities created by the development on and off-site would be a benefit of the scheme.
- 13.107 Seventh, I have identified benefits to all 3 heritage assets on or close to the appeal site arising from on-site mitigation and the removal of the existing buildings.
- 13.108 Finally, the Appellant (OBU) is not a housebuilder but rather a charity. Accordingly, the proceeds arising from the sale of the land would be reinvested

into the education sector in the local area. The Council accepts this would be a benefit of the development. [7.69,8.107]

Planning balance

13.109 I have found that a small proportion of the development would be inappropriate development in the Green Belt. This is the area in the south-west quadrant which equates to approximately 14% of the site. Within this area, the illustrative masterplan indicates that there would be generous areas of open space such that not all the area would be developed. Nonetheless, the harm by way of inappropriateness must be afforded **substantial weight**, and planning permission should only be granted if very special circumstances have been demonstrated. Very special circumstances can only exist if the harm I have identified is clearly outweighed by other considerations. I have not identified any other matters weighing against the proposal which could not satisfactorily be addressed by conditions or at reserved matters stage.

13.110 In favour of the scheme, I have identified 8 '*other considerations*'. A balancing exercise therefore needs to be undertaken where these are weighed against the harm. Firstly, the release of the site from the Green Belt and its allocation for a development of 'at least 300 dwellings' is supported by a significant amount of work which forms the evidence base for the eLP. The redevelopment of the site is also supported by the eWNP. Although the development would have a roughly neutral effect on spatial openness within the site itself, I have found there would be a significant visual benefit to openness over a wide area of the South Oxfordshire Green Belt resulting from the removal of the tower and other large, unsightly structures on the site. Given the importance attached to the Green Belt in the Framework I give this matter **very substantial weight**.

13.111 The Framework attaches great importance to housing delivery that meets the needs of groups with specific housing requirements. In that context and given the seriousness of the affordable housing shortage in South Oxfordshire, described as "acute" by the Council, the delivery of up to 500 houses, 173 of which would be affordable, has to be afforded **very substantial weight** irrespective of the fact that the Council can demonstrate a 3/5YHLS.

13.112 Given the scale of the development, the economic benefits collectively carry **significant weight**.

13.113 The heritage benefits arising from the on-site mitigation, the removal of the existing buildings and the opening up of the site and the SM to public appreciation, carries **significant weight**.

13.114 The enhanced sporting facilities, public access to the appeal site, off-site highway works, and the additional bus services are social benefits arising attracting **significant weight**.

13.115 The bio-diversity benefits attract **moderate weight**. Finally, the Appellant's status as a charity and major education provider in the local area is a consideration of **significant weight**.

13.116 There would be an overall benefit to the openness of the Green Belt, and this alone would, in my view, be enough to outweigh the harm by reason of inappropriateness.

- 13.117 Even if one takes a contrary view on that matter, collectively the 'other considerations' are of such number and force, that they clearly outweigh the 'definitional harm' identified in this case. As such, I conclude that very special circumstances exist, which would justify development in the Green Belt. Accordingly, the proposal would not conflict with CS Policy CSEN2, LP Policy GB4 or Green Belt policy in Section 13 of the Framework.
- 13.118 As the proposed development would not conflict with the development plan it passes the section 38(6) test and should be approved without delay in accordance with paragraph 11c) of the Framework. Consequently, and notwithstanding that I have found that the 'tilted balance' in paragraph 11d) does apply, it is not necessary for me to consider the proposal against that lower test.
- 13.119 Should the SoS take a contrary view on the matter of very special circumstances, then the tilted balance would be disapplied by virtue of footnote 6 to paragraph 11d)i) with protective policies providing a "*clear reason for refusing the development proposed*". The consequence of that would be that the appeal should be dismissed.

14. Recommendation

- 14.1 In light of all the above points, my assessment of the planning balance leads to the overall conclusion that the proposal should be allowed, subject to the imposition of a number of conditions, set out in Annex D below.

D. M. Young

Inspector

Appendix A

APPEARANCES

FOR THE APPELLANT

Christopher Young QC instructed by the Appellant

He called:

Mr Gary Holliday	BA (Hons) MPhil CMLI	FPCR – Landscape
Dr Nicholas Doggett	FSA MCIFA IHBC	Asset Heritage Consulting – Heritage
Mr Richard Barton	BSc (Hons) MATP MRTPI	Avison Young– Housing Supply
Mr Nick Ireland	MRTPI	Iceni Projects Ltd – Housing Need
Mr James Stacey	BA (Hons) DipTP MRTPI	Tetlow King Planning – Affordable Housing
Mr Robert Gardner	BSc (Hons) DipTP MRTPI	Avison Young – Planning
Ms Upinder Ubhi	Meng (Hons)	SWECO – Accessibility

FOR THE LOCAL PLANNING AUTHORITY

Mr Hugh Flanagan Barrister Instructed by the Council

He called:

Ms Michelle Bolger	CMLI Dip.LA BA PGCE	Michelle Bolger Expert Landscape Consultancy
Mr Julian Kashdan-Brown	MSc MA RIBA	Kashdan Brown Architects Ltd - Heritage
Mr Ben Duffy	BA MA	SODC – Housing Supply
Ms Tracy Smith	BA (Hons) MRTPI	SODC Principal Appeals Officer – Housing Need
Ms Philippa Jarvis	BSc (Hons) DipTP MRTPI	Principal of PJPC Ltd – Planning

INTERESTED PERSONS

Cllr Sarah Gray	Ward Councillor
Mr Kevin Heritage	Wheatley Park School
Mr John Fox	Wheatley Neighbourhood Plan Chairman
Mr Roy Gordon	Wheatley Neighbourhood Plan Vice-Chairman
Mr Smith	Resident of Holton
Mr Robert Barter	Holton Parish Council

Appendix B

DOCUMENTS SUBMITTED AT THE INQUIRY

ID1	Additional Photomontages (18 October 2019)
ID2	Visual Appraisal – Figure 11.2 – No. UK18-24423 Issue 2
ID3	Photomontage Locations – Figure 1B – 7590-L-51 – 30 September 2019
ID4	Appeal Decision APP/Q3115/W/19/3220425 dated 14 October 2019
ID5	Opening Statement on behalf of the Appellant
ID6	Opening Submissions on behalf of South Oxfordshire District Council
ID7	Statement of Councillor Sarah Gray, Ward Councillor
ID8	Kevin Heritage, Wheatley Park School
ID9	Statement of John Fox, Wheatley Neighbourhood Plan Chairman
ID10	Statement of Roy Gordon, Wheatley Neighbourhood Plan Vice-Chairman
ID11	SODC Landscape Architect's Comments (20 February 2018)
ID12	Illustrative Masterplan showing distances from Holton Park to development
ID13	Richard Barton Errata Sheet (25 October 2019)
ID14	The Regional Strategy for the South East (Partial Revocation) Order 2013
ID15	Ben Duffy – Proof of Evidence – Appendix J
ID16	Luton Borough Council, R (on the application of) v Central Bedfordshire Council & Ors [2015] EWCA Civ 537, [2015] WLR(D) 226
ID17	APP/Q3115/W/15/3228431 - The Elms, Thame (21 October 2019)
ID18	Letter from Mark Stone Chief Executive of SODC to SSHCLG (16.10.19)
ID19	Timeline for Oxfordshire Plan 2050
ID20	Mr Robert Gardner - Addendum Sheet to Proof of Evidence
ID21	Wheatley Masterplan SPD Note on Increased Volumes
ID22	Appeal Decision APP/C2741/W/19/3227359 dated 23 October 2019
ID23	National Planning Policy Framework (2012) Chapter 9 – Green Belt
ID24	Signed Statement of Common Ground Between Oxford Brookes University and Oxfordshire County Council Re: The Western Access (28 October 2019)
ID25	List of Draft Planning Conditions (30 October 2019)
ID26	Draft Section 106 Agreement (31 October 2019) superseded by the Signed agreement dated 15 November 2019
ID27	Council's Closing Submissions
ID28	Appellant's Closing Submissions
ID29	Council's CIL Compliance Statement
ID30	Correspondence relating to Condition 19

Appendix C

CORE DOCUMENTS**CD1 Application Documents and Plans**

1.1	Covering letter, dated 19 January 2018 (including schedule of submission documents) (GVA)
1.2	Application forms and ownership certificates (GVA)
1.3	Planning Statement (GVA)
1.4	Design and Access Statement (FPCR)
1.5	Site Location Plan (Drawing No. 7590-L-17 Rev A) (FPCR)
1.6	Topographical Survey (Drawing No. 24183_T) (Amethyst Surveys Limited)
1.7	Illustrative Masterplan (Drawing No. 7590-L-10 Rev F) (FPCR)
1.8	Parameter Plans (Land Use; Green Infrastructure; Heights Drawing Nos. 7590-L-18 Rev C; 7590-L-19 Rev C; 7590-L-20 Rev C) (FPCR)
1.9	Arboricultural Plans (Tree Survey & Tree Retention Plans) (provided Arboricultural Assessment) (FPCR)
1.10	Phasing Plan (provided in ES Figures) (Drawing No. 7590-L-21) (FPCR)
1.11	Flood Risk Assessment & Drainage Strategy (provided in Technical Appendices in ES) (Avison Young)
1.12	Environmental Impact Assessment (Non-Technical Summary (NTS), Environmental Statement (ES) Main Report, Figures & Appendices) (Ramboll Environ)
1.13	Transport Assessment (provided in Technical Appendices) (SWECO)
1.14	Travel Plan (provided in Technical Appendices) (SWECO)
1.15	Ecological Assessment (provided in Technical Appendices) (EcoConsult)
1.16	Heritage Assessment (provided in Technical Appendices) (Asset Heritage Consulting)
1.17	Archaeological Desk Based Assessment (provided in Technical Appendices) (Icknield Archaeology)
1.18	Air Quality Assessment (provided in Technical Appendices) (Ramboll Environ)
1.19	Noise Assessment (provided in Technical Appendices) (MLM)
1.20	Arboricultural Impact Assessment (provided in Technical Appendices) (FPCR)
1.21	Construction & Demolition Environmental Management Plan (provided in ES Technical Appendices) (Ramboll Environ)
1.22	Landscape & Visual Impact Assessment (provided in ES Technical Appendices) (FPCR)
1.23	Phase 1 Ground Investigations Report (provided in ES Technical Appendices)

CD2 Additional/Amended Reports and/or Plans submitted after validation

2.1	Covering letter, dated 10 October 2018 (including schedule of submission documents) (GVA)
2.2	Design and Access Statement Addendum (FPCR)
2.3	Illustrative Layout (Drawing No. 7590-L-10 rev M) (FPCR)
2.4	Revised Parameter Plans (Land Use, Green Infrastructure, Heights – Rev F) (FPCR)
2.5	Revised Phasing Plan (Rev A) (FPCR)
2.6	Arboriculture Assessment Addendum (FPCR) (Including historical arboricultural analysis)
2.7	Biodiversity Impact Assessment Calculator and Note – October 2018 (EcoConsult)
2.8	EIA Addendum (Non-Technical Summary, Environmental Statement Main Report, Figures & Technical Appendices) (Ramboll Environ)

CD3 Appeal Documents

3.1	Revised Parameter Plan 1 – Land Use (Drawing No. 7590-L-18 Rev G)
3.2	ES Addendum Review Letter – Ramboll – June 2019
3.3	Counsel’s Advice – Inquiry Procedure – No5 Chambers – June 2019
3.4	Public Consultation Feedback Report – Avison Young – June 2019
3.5	Building Volume Plan and Spreadsheet (submitted to SODC with Local Plan Representations but not as part of planning application) – Sky Revolutions – May 2017
3.6	Covering Letter – Avison Young – 12 June 2019
3.7	Revised Illustrative Masterplan (Drawing No. 7590-L-60 Rev -)

CD4 Committee Report and Decision Notice

4.1	Officer’s Report to Committee 28 November 2018
4.2	Minutes of Committee Meeting 28 November 2018
4.3	Decision Notice – 13 December 2019

CD5 The Development Plan and Inspector’s Reports

5.1	The adopted Local Plan 2011 (2006)
5.2	The Core Strategy 2027 (2012)
5.3	The Core Strategy Inspector’s Report 2012
5.4	The Local Plan 2011 Inspector’s Report

CD6 Emerging Development Plan and Evidence Base

6.1	Final Publication Version 2ND South Oxfordshire Local Plan 2011-2034 (Jan 2019)
6.2	Draft Wheatley Neighbourhood Plan (Sept 2019)
6.3	SODC Strategic Site Selection Background Paper 2019 (Part 1 and 2)
6.4	Draft Minutes Full Council Meeting 18 July 2019 re. emerging Local Plan
6.5	Settlement Assessment Background Paper 2018

CD7 OBU Relevant Appeal Decisions*Affordable Housing*

7.1	APP/A0665/W/15/3005148 - Land adjacent to 28 Church Street, Davenham (January 2016)
7.2	APP/L3815/W/16/3165228 - Land at the corner of Oving Road and A27, Chichester (August 2017)
7.3	APP/G1630/W/14/3001706 - Land adjacent to Cornerways, High Street, Twyning (July 2015)
7.4	APP/P0119/W/17/3191477 - Land east of Park Lane, Coalpit Heath (September 2018)
7.5	APP/D0840/A/13/2209757 - Land north of Upper Chapel, Launceston (April 2014)
7.6	APP/L3245/W/15/3137161 - Land at Foldgate Lane, Ludlow, Shropshire (November 2016)
7.7	APP/A0665/A/14/2226994 - Land at Fountain Lane, Davenham (September 2015)
7.8	APP/X2410/W/15/3007980 - Land rear of 62 Iveshead Road, Shepshed (February 2016)
7.9	APP/P3040/W/17/3185493 - Land north of Asher Lane, Ruddington, Nottinghamshire (May 2018)
7.10	APP/C3105/A/14/2226552 - Land at Sibford Road, Hook Norton, Banbury, Oxfordshire (December 2015)

Housing Need & Housing Land Supply

7.11	APP/W3520/W/18/3194926 - Land on East Side of Green Road, Woolpit (September 2018)
7.12	APP/Y3940/A/14/2222641 - Land North of Bath Road, Corsham (May 2015)
7.13	APP/L3245/W/15/3011886 - Longden Road, Shrewsbury (January 2016)
7.14	APP/G5180/W/18/3206569 - Former Dylon International Premises, Station Road (June 2019)
7.15	APP/U1105/A/12/2180060 Land East of Butts Road, Higher Ridgeway, Ottery St, Mary (December 2012)

7.16	APP/P0119/A/12/2186546 Land Between Iron Acton Way and North Road, Engine Common, Yate (April 2013)
7.17	APP/Z2830/W/18/3206346 - Land south of Kislingbury Road, Rothersthorpe (May 2019)
7.18	APP/U2805/W/18/3218880 - Southfield Road, Gretton (August 2019)

Heritage

7.19	APP/P1615/W/16/3152190 - Land off Chartist Way, Staunton, Gloucestershire (July 2017)
7.20	APP/G5180/W/18/3206947 - Hayes Street Farm, Hayes Lane, Bromley (June 2019)
7.21	APP/Z1585/A/11/2165340 - Greenacres', Old Packards Lane, Wormingford, Colchester, Essex (July 2012)

Accessibility

7.22	APP/Q3115/W/17/3177448 - Land east of Chalgrove, Chalgrove, Oxfordshire (October 2017)
7.23	APP/Q3115/W/14/3001839 - Land east of Crowell Road, Chinnor (October 2015)
7.24	APP/Q3115/W/15/3097666 - Land North of Lower Icknield Way, Chinnor, Oxfordshire (March 2016)
7.25	APP/Q3115/A/14/2229389 - Land adjoining Greenwood Avenue, Chinnor (October 2015)
7.26	APP/Q3115/W/17/3179191 - East End Farm, South East of Wallingford Road (March 2018)
7.27	APP/Q3115/W/15/3136390 - Land north of 12 Celsea Place, Cholsey (June 2016)
7.28	APP/Q3115/W/16/3161733 - Thames Farm, Reading Road, Shiplake, Henley-on-Thames (August 2017)
7.29	APP/Q3115/W/17/3169755 - Land off Fieldside Track, Long Wittenham (January 2018)
7.30	APP/Q3115/W/15/3035899 - Land to the east of Newington Road, Stadhampton (May 2016)
7.31	APP/Q3115/W/15/3136319 - Mount Hill Farm, High Street, Tetsworth (June 2016)
7.32	APP/Q3115/W/16/3165351 CABI International, Nosworthy Way, Mongewell, Wallingford, Oxfordshire (August 2017)
7.33	APP/Q3115/W/17/3186858 - Land to the East of Benson Lane, Crowmarsh Gifford, Wallingford (May 2018)
7.34	APP/Q3115/W/17/317766 - Newington Nurseries, Newington Road, Stadhampton, Oxfordshire (December 2017)

Planning and Green Belt

7.35	APP/H2265/W/18/3202040 - Land to the rear of 237-259 London Road, West Malling, Kent ME195AD (December 2018)
7.36	APP/P3040/W/17/3185493 - Land north of Asher Lane, Ruddington, Nottinghamshire (May 2018)

CD8 OBU Relevant Secretary of State Decisions

8.1	APP/Q3630/A/05/1198326 - Franklands Drive, Addlestone (July 2006)
8.2	APP/P3040/A/07/2050213 - Gotham Road, East Leake, Nottinghamshire (March 2008)
8.3	APP/H1840/A/13/2199426 - Pulley Lane, Droitwich Spa (July 2014)
8.4	APP/K2420/A/13/2208318 Land surrounding Sketchley House, Watling Street, Burbage (November 2014)
8.5	APP/K3415/A/14/2224354 - Land and Buildings off Watery Lane, Curborough (February 2017)
8.6	APP/Y3615/W/16/3151098 – Land at Howard of Effingham School and Lodge Farm and Brown’s Lane, Effingham (March 2018)
8.7	APP/Z1510/W/16/3162004 - Land off Stone Path Drive, Hatfield Peverel (July 2019)
8.8	APP/M3455/W/18/3204828 - Land off Meadow Lane/ Chessington Crescent, Trentham, Stoke-on-Trent (June, 2019)
8.9	APP/W0340/A/14/2226342 - Agricultural land to both the north and south of Mans Hill, Burghfield Common, Reading (March 2015)
8.10	APP/W0340/A/14/2228089 - Land at Firlands Farm, Hollybush Lane, Burghfield Common, Reading, Berkshire (July 2015)

CD9 OBU Relevant Judgements

9.1	Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]
9.2	Wessex Regional Health Authority v SSE [1984]
9.3	Wadehurst Properties v SSE & Wychavon DC [1990]
9.4	Breckland DC v SSE and T. Hill [1992]
9.5	Tesco v Dundee [2012] UKSC 13
9.6	Bloor Homes [2014] EWHC 754 (Admin)
9.7	Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466
9.8	Cheshire East [2017] UKSC 37
9.9	Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37
9.10	Catesby Estates Ltd v. Steer [2018] EWCA Civ 1697

9.11	CEG Land Promotions It Limited v SSCLG and Aylesbury Vale District Council [2018] EWHC 1799 (Admin)
9.12	Euro Garages Limited v SSCLG [2018] EWHC 1753
9.13	SMuel Smith Old Brewery (Tadcaster) Limited v North Yorkshire CC [2018] EWCA Civ 489
9.14	Peel Investments (North) Limited v SSHCLG [2019] EWHC 2143 (Admin)
9.15	Wavendon Properties v SSHCLG v MKC 2019 EWHC 1524 (Admin)
9.16	Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin)
9.17	Paul Newman v SSHCLG [2019] EWHC 2367 (Admin)

CD10 Housing Need, Land Supply & Affordable Housing

10.1	Housing Land Supply Statement for South Oxfordshire District Council June 2019 (Revised August 2019)
10.2	Housing Land Supply Statement for South Oxfordshire District Council April 2018
10.3	Housing Land Supply in Oxfordshire: Written statement - HCWS955
10.4	Oxfordshire Housing and Growth Deal Outline Agreement
10.5	South Oxfordshire Housing and Economic Land Availability Assessment (SHELAA) (January 2019)
10.6	Oxfordshire Strategic Housing Market Assessment (2014)
10.7	Oxfordshire SHMA – Summary of Key Findings
10.8	Joint Housing Delivery Strategy (2018-2028)
10.9	Joint Homelessness Strategy (2015-2020)
10.10	Oxfordshire 2030 Partnership Plan
10.11	Oxfordshire Local Industrial Strategy
10.12	Oxfordshire LIS Baseline Economic Review
10.13	Oxford City Council SHMA Update
10.14	Cambridge, Milton Keynes, Oxford, Northampton Growth Corridor Report for NIC
10.15	Oxfordshire Economic Forecasting Final Report 2014
10.16	Economic Vision – the Oxford and Cambridge Arc
10.17	Office for Budget Responsibility Fiscal Sustainability Report 2018
10.18	SODC Housing Topic Paper January 2019
10.19	Wheatley Neighbourhood Plan Housing Needs Assessment prepared by AECOM
10.20	PPG – Housing and economic needs Assessment (Updated July 2019)
10.21	PPG - Housing Supply and Delivery (July 2019)
10.22	PPG - Housing and economic land availability Assessment (July 2019)

10.23	PPG Housing and economic land availability Assessment (March 2014)
10.24	Archived PPG Housing need Assessment (March 2015)

CD 11 Green Belt Documents

11.01	Green Belt protection and intentional unauthorised development: Written statement - HCWS423
11.02	Written Ministerial Statement by Local Government Minister Brandon Lewis 17 January 2014
11.03	PPG – Green Belt (July 2019)

CD 12 Landscape Documents

12.1	Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3) Landscape Institute/Institute of Environmental Management and Assessment
12.2	PPG Landscape (July 2019)

Extracts of all the following documents are provided in the Landscape SoCG:

National Character Area 109 Midvale Ridge

National Character Area 108 Upper Thames Clay Vales

Oxfordshire Wildlife and Landscape Study

South Oxfordshire Landscape Assessment (2003)

SODC Landscape Character Assessment for the Local Plan 2033 (2017)

Landscape Sensitivity Assessment Potential Strategic allocations Jan 2018 (KLP)

South Oxfordshire District Council - Landscape Assessment Update HAD October 2018

CD 13 Heritage Documents

13.1	The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (2nd edition) Historic England (Dec 17)
13.2	The South Oxfordshire Local Plan 2033 Heritage Impact Assessment (Oxford Archaeology, September 2017)
13.3	John Moore Heritage Services Heritage Impact Assessment for Strategic Land Allocations in Local Plan (March 2019)
13.4	Kevin Heritage, Holton Park- A Short History (2018)
13.5	Seeing the History in View: A Method for Assessing Heritage Significance Within Views, English Heritage, June 2012.
13.6	Guidance on Heritage Impact Assessments for Cultural World Heritage Properties, ICOMOS, January 2011.
13.7	PPG – Historic Environment (July 2019)
13.8	Historic Mapping, prepared by FPCR (Drawing No. 7590-L-63)
13.9	Illustrative Cross Sections: Proposed Parkland, prepared by FPCR (Drawing No. 7590-L-61)

CD14 Accessibility

14.1	Oxfordshire Walking Design Standards (2017)
14.2	Planning Policy Guidance Note 13 (PPG13): Transport (2011)
14.3	Manual for Streets (2007)
14.4	Chartered Institute of Highways and Transportation (CIHT) Planning for Walking (2015)
14.5	Planning Permission Ref. P11/W1227
14.6	Department for Transport – Accessibility Planning Guidance Note (2007)
14.7	National Travel Survey (2017)
14.8	Connecting Oxfordshire: Local Transport Plan 4 2015-2032
14.9	'Our Place, our future' Sustainable Community Strategy for South Oxfordshire (2009-2026)
14.10	South Oxfordshire Sustainable Transport Study for New Developments, Evidence Base Report July 2017
14.11	PPG Travel Plans, Transport Assessments and Statements (March 2014)
14.12	Planning Permission P16/S1468/O - Land north of Mill Lane, CHINNOR, OX39 4RF
14.13	Planning Permission P15/S0779/FUL - Land on corner of Mill Lane & Thame Lane, Chinnor
14.14	Planning Permission P11/W2357 - Former Carmel College, Mongewell Park, Mongewell, Oxon, OX10 8BU
14.15	Planning Permission P17/S2469/O - Land Adjacent to the Village Hall, Main Road, East Hagbourne
14.16	Planning Permission P16/S0077/O - JHHNDP Site M & M1: Highlands Farm, Highlands Lane, Rotherfield Greys, RG9 4PR
14.17	IHT Guidelines for Providing for Journeys on Foot (dated 2000)

CD15 Supplementary Planning Documents and Other Documents

15.1	South Oxfordshire Design Guide 2016
15.2	Oxford Brookes University Wheatley Masterplan SPD
15.3	SODC letter to Growth Deal members and local authority partners on 24th July
15.4	Letter from former Minister of State for Housing on 22nd July 2019
15.5	Fixing our Broken Housing Market (February 2017)
15.6	Section 106 Planning Obligations Supplementary Planning Document (2016)
15.7	Oxfordshire Housing and Growth Deal – Delivery Plan (2018)
15.8	Corporate Plan 2016 – 2020 (2016)
15.9	Joint Housing Delivery Strategy 2018-2028 (January 2018)

15.10	Housing Study (May 2017)
15.11	Letter to SODC from Rt Hon Robert Jenrick MP (26 August 2019)
15.12	SODC Infrastructure Delivery Plan Update January 2019
15.13	SODC Settlement Assessment Background Paper 2018
15.14	SODC Topic Paper – Local Plan Spatial Strategy
15.15	Letter to SODC from Tom Walker, Director General, MHCLG (20 September 2019)

CD16: Statements of Common Ground

16.1	Main Statement of Common Ground (August 2019)
16.2	Landscape SoCG
16.3	Heritage SoCG
16.4	Accessibility SoCG
16.5	Affordable Housing SoCG

CD18: Case Management documents (PINS)

18.1	Case Management Conference Agenda received 8 August 2019
18.2	Case Management Conference Notes received 21 August 2019
18.3	Email Leanne Palmer at PINS dated 20 September 2019 in relation to extension to deadline for PoE

CD19: SODC Relevant Judgements

19.1	Dyer v Dorset CC (1989) 1 QB 346)
19.2	Methuen-Campbell v Walters (1979) QB 525
19.3	Skerritts of Nottingham v SSETR (2000) 2 PLR 102)
19.4	Sinclair-Lockhart Trustees v Central Land Board (1950) 1 P&CR 19

CD20: New Inquiry Documents

20.1	Historic England Letter re. P17/S4254/O - 19 March 2018
20.2	Historic England Letter re. P17/S4254/O - 31 October 2018
20.3	SODC Conservation Officer re. P17/S4254/O - 15 March 2018
20.4	SODC Conservation Officer re. P17/S4254/O - 12 November 2018
20.5	The National Infrastructure Commission Report, Partnering for Prosperity – A new deal for the Cambridge-Milton Keynes-Oxford Arc, published on 17th November 2017
20.6	The Government's response to this report, published by HM Treasury on 29th October 2018.

Proofs of Evidence

Appellant	
PoE/GH	Gary Holliday Proof of Evidence 30 September 2019
PoE/ND	Dr Nicholas Doggett Proof of Evidence September 2019
PoE/JS	James Stacey Proof of Evidence September 2019
PoE/NI	Nick Ireland Proof of Evidence September 2019
PoE/RB	Richard Barton Proof of Evidence
PoE/UU	Upinder Ubhi Proof of Evidence October 2019
PoE/RG	Robert Gardner Proof of Evidence October 2019
Council	
PoE/MB/1	Michelle Bolger Proof of Evidence
PoE/MB/2	Michelle Bolger Rebuttal Proof of Evidence October 2019
PoE/JKD/1	Julian Kashdan-Brown Proof of Evidence
PoE/JKD/2	Julian Kashdan-Brown Rebuttal Proof of Evidence October 2019
PoE/TS/1	Tracey Smith Proof of Evidence
PoE/TS/2	Tracey Smith Rebuttal Proof of Evidence October 2019
PoE/PJ/1	Philippa Jarvis Proof of Evidence
PoE/PJ/2	Philippa Jarvis Rebuttal Proof of Evidence 15 October 2019
PoE/BD	Ben Duffy Rebuttal Proof of Evidence October 2019
PoE/KH	Katherine Hamer (Oxfordshire County Council) Proof of Evidence

Appendix D

CONDITIONS TO BE IMPOSED IF PLANNING PERMISSION IS GRANTED

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4) The development hereby approved shall be carried out in accordance with the following approved plans:

Site Location Plan (Drawing no: 7590-L-17RevA)

Parameters Plan 1: Land Use (Drawing no: 7590-L-18RevG)

Parameters Plan 2: Green Infrastructure (Drawing no: 7590-L19Rev F)

Parameters Plan 3: Building Heights (Drawing no: 7590-L-20RevF)

Reason: For the avoidance of doubt.

- 5) No development shall take place until a Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide the following information for each phase or sub phases:
 - a) The number and mix (bedroom number) of market dwellings;
 - b) The number and mix (bedroom number) and gross internal floor areas of affordable housing to meet the latest evidence of affordable housing need (the total amount of affordable housing to cumulatively be 34.57% of the total amount of housing across the site);
 - c) The tenure of each affordable unit;
 - d) The number of accessible and adaptable homes to be built to Building Regulations Part M4(2) category 2 for both market (which shall be a minimum of 10% overall) and affordable sectors;
 - e) Location and boundaries of public open space, play areas, green infrastructure, leisure and sports pitches/pavilion, associated parking areas to be provided and a scheme for their future management;
 - f) Key infrastructure including means of vehicular and pedestrian and cycle access and links to serve each phase;
 - g) Drainage and landscaping works including future management arrangements;
 - h) Existing and proposed ground and ridge levels;

An updated Phasing Plan shall be provided with each subsequent reserved matter application showing how each of these elements of the development is to be phased. The development shall be implemented in accordance with the approved Phasing Plan/s.

Reason: In order to secure the satisfactory development of the site

- 6) Prior to commencement of the development, details of the works to the site accesses onto Waterperry Road and Holton Park Drive, shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details and timescales.

Reason: In the interest of highway safety in accordance with Policy T1 of the Local Plan 2012.

- 7) Prior to the commencement of any development (including demolition works), a Construction Method Statement, incorporating a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Statement will have been prepared in the light of Outline Construction and Demolition Environmental Management Plan dated January 2018 and shall include details of the following:
 - a) Vehicle parking facilities for construction workers, other site operatives and visitors;
 - b) Site offices and other temporary buildings;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used during construction;
 - e) Vehicle wheel washing facilities;
 - f) Measures to control the emission of dust and dirt;
 - g) A scheme for recycling and/or disposing of waste materials arising from the demolition and construction works;
 - h) Installation and maintenance of security hoarding/fencing;
 - i) Hours of construction

The development hereby approved shall be undertaken in accordance with the details approved in accordance with this condition and complied with throughout the construction period

Reason: In the interests of visual and residential amenity and highway safety (Policies D1, and T1 of the Local Plan.

- 8) No development hereby permitted shall begin until surface and foul water drainage schemes for the site have been submitted to and agreed in writing by the Local Planning Authority. The surface water scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The schemes shall subsequently be implemented in accordance with the approved details.

Reason: To ensure the effective drainage of the site and to avoid flooding (Policy DC14 of the adopted Local Plan).

- 9) Prior to the commencement of the development hereby approved an Archaeological Written Scheme of Investigation, relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.

Following the approval of the Written Scheme of Investigation 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.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with Policy CSEN3 of the Core Strategy and Policies CON11, CON13 and CON14 of the Local Plan.

- 10) Prior to the commencement of the development a phased risk Assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to and approved in writing by the Local Planning Authority. Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and if significant contamination is identified to inform the remediation strategy. A remediation strategy shall be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use and the development shall not be occupied until the approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground, water and associated gas contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use.

- 11) Either prior to, or concurrent with the submission of each reserved matters application a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- a) Risk Assessment of potentially damaging construction activities;
 - b) Identification of biodiversity protection zones;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;
 - d) A mitigation strategy for all protected species ensuring that each species long term conservation status is protected and enhanced;
 - e) The location and timing of sensitive works to avoid harm to biodiversity features;
 - g) The times during construction when specialist ecologists need to be present on site to oversee works;
 - g) Responsible persons and lines of communication, and
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure the protection of habitats and species on the site, in accordance with Policy CSB1 of the Core Strategy and Policy C8 of the Local Plan.

- 12) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The plan should demonstrate how the development can achieve a no net loss of biodiversity overall compared to the biodiversity value of the site prior to development. The plan should include both habitat and species enhancements and should use a suitable form of biodiversity accounting to prove that no net loss can be achieved. The BEP should include:
- a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required;
 - b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate;
 - c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species;
 - d) Selection of specific techniques and practices for establishing vegetation;
 - e) Sources of habitat materials (e.g. plant stock) or species individuals;
 - f) Method statement for site preparation and establishment of target features;
 - g) Extent and location of proposed works, and
 - h) Details of the biodiversity offsetting metric calculations that clearly demonstrate that the proposals contained in the plan avoid a net loss of biodiversity.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to final occupation.

Reason: To avoid a net loss of biodiversity in accordance with Policy CSB1 of the Core Strategy and government guidance as stated in paragraphs 170(d) and 175 of the Framework.

- 13) No development shall take place until the tree protection measures detailed in Appendix B of the Arboricultural Assessment dated January 2018 are erected around any trees affected by construction activity.

Reason: To safeguard trees which are visually important in accordance with Policies CSEN1 and CSQ3 of the Core Strategy 2027 and Policies G2, C9 and D1 of the Local Plan 2011.

- 14) Before any dwelling hereby permitted is first occupied, the proposed vehicular accesses, driveways and turning areas that serve that dwelling shall be constructed, laid out, surfaced and drained in accordance with the specification details that have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works.

Reason: To ensure a satisfactory residential environment in accordance with policy D1 and EP2 of the Local Plan.

- 15) Prior to the occupation of the first dwelling hereby permitted a Travel Plan in general accordance with the Framework Travel Plan dated 5 January 2018 shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: To promote the use of non-car modes of transport in accordance with Policy CSM2 of the Core Strategy.

- 16) Prior to first occupation of any dwelling or building to which they relate electric vehicle charging points shall be installed and be operational in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory standards of air quality for the residents of the development and surrounding residential properties in accordance with Policies G2 and EP1 of the Local Plan, CSQ2 of the Core Strategy and paragraphs 105 and 181 of the Framework.

- 17) Prior to the occupation of the first dwelling hereby approved details of the means by which the dwellings may be connected to the utilities to be provided on site to facilitate super-fast broadband connectivity have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To facilitate homeworking and to reduce the need to travel in accordance with Policies CSM1 and CSM2 of the Core Strategy.

- 18) Prior to first occupation of any dwelling a noise mitigation strategy including full details of the proposed noise bund to be erected along the southern boundary of the site, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and retained thereafter.

Reason: To minimise the noise levels from the adjacent A40 and to ensure a satisfactory residential environment in accordance with policy D1 and EP2 of the Local Plan.

- 19) Prior to the occupation of the first dwelling, details of a scheme for the enhancement and protection of the on-site Scheduled Ancient Monument on the site shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall include details of the following;
 - a) strimming / mowing and removal of scrub vegetation and self-set trees from the monument;
 - b) a management plan for the preservation / maintenance of the monument in the future, prepared with the objective of removing the need to secure scheduled monument consent to carry out future maintenance of the monument;
 - c) consultation with Historic England and the Local Planning Authority Archaeology Officer in respect of research into the history and the origins of the monument;
 - d) Design and location of an interpretation and information board in respect of the monument. The board shall include information in respect of the monument. It shall also include details of the statutory

- protection and security measures that the monument benefits from and the repercussions for any individuals who damage the monument through illegal or unauthorised activities, such as metal detecting, and
- e) Design and location of a seating area, comprising at least one bench and associated hard standing, adjacent to, but outside, the perimeter of the monument. The perimeter of the monument is defined as the extremities of ditch, plus an additional two metre buffer zone.

The interpretation board and seating area shall be installed and the SAM maintained in accordance with the details set out in the SAM enhancement scheme as approved by the Council and shall be maintained thereafter for the lifetime of the development unless otherwise agreed in writing by the LPA.

Reason: To ensure adequate mitigation of a designated heritage asset in accordance with Policy CSEN3 of the Core Strategy.

Appendix E

THE RESPECTIVE POSITIONS OF THE PARTIES ON HOUSING LAND SUPPLYTable 1: The deliverable supply of each party

	Councils Original Position	Appellants Original Position	Councils updated position	Appellants updated position
Large Sites with planning permission	2632	2409	2632	2409
1673 Former Carmel College, Mongewell Park, Mongewell Oxon, OX10 8BU	166	100	166	100
830 Thame NDP Site 2: Land at The Elms, Upper High Street, Thame, OX9 2DX	37	0	37	0
1442 Woodcote NDP Site 16: Former Reservoir site, Greenmore	20	0	20	0
Small sites with planning permission	522	522 (not discounting from total to avoid double counting for windfall reduction)	522	522
Large sites with outline planning permission	1697	0	1697	0
1639 Land West of Marley Lane	200	0	200	0
2031 Land South of Greenwood Avenue, Chinnor	140	0	140	0
1560 Land to the East of Benson Lane, Crowmarsh Gifford	150	0	150	0
1009 Land to the north east of Didcot	838	0	838	0
1762 Land adjacent to the village hall, Main Road, East Hagbourne	74	0	74	0
1737 Thames Farm, Reading Road, Shiplake	95	0	95	0

1015 Land to the west of Wallingford (Site B), Wallingford	200	0	200	0
Small Sites with outline planning permission	61	61	61	61
Large sites without consent subject to resolution to grant	487	0	487	0
1561 Land to the south of Newnham Manor	100	0	100	0
1814 Land at Six Acres Tame Road, Warborough	29	0	29	0
1676 Wallingford Site E, Land north of A4130 Wallingford Bypass (emerging NDP site)	258	0	258	0
1930 Benson NDP: Site BEN 3 /4	100	0	100	0
Allocations	471	0	442	0
1929 Benson NDP: Site BEN 2	52	0	52	0
1937 Watlington NDP: Site A	183	0	183	0
1938 Watlington NDP: Site B	28	0	28	0
1939 Watlington NDP: Site C	28	0	28	0
1011 Ladygrove East, Land off A4130, Hadden Hill, Didcot – site has no permission- Allocated site in South Oxfordshire Core Strategy	129	0	129	0
977 Woodcote NDP Site 01: Chiltern Rise Cottage – site has no permission	22	0	22	0
Prior Approvals Large Sites	126	81	126	81
Site 1753 DAF building, Thame	45	0	45	0
Prior Approvals Small Sites	53	53	53	53
C2 Permissions	194	194	194	194
Windfall Allowance	200	105	200	105

TOTAL	6472	3583	6,443	3583
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Table 2: The five-year land supply position of each party against the standard method

	The Councils supply	The Appellant's Supply
Annual Requirement	632	632
Five-year requirement excluding buffer	3,160	3,160
Five-year requirement including 5% buffer	3,318	3,318
Deliverable Supply	6,443	3,583
Five-year land supply	9.71	5.40

Table 3: The five-year land supply position of each party against the figures identified in the Growth Deal from 2011

	The Councils supply	The Appellant's Supply
Annual Requirement	775	775
Unmet Need (495 per annum added to the 5YHLS from 2021 to assist Oxford in meeting its housing need)	1,485	1,485
Net Shortfall (2011-19)	506	506
Five-year requirement including shortfall	5,866	5,866
Five-year requirement including 5% buffer	6,159	6,159
Deliverable supply	6,443	3,583
Five-year land supply	5.23	2.91

Table 4: The five-year land supply position of each party against the 2014 Oxfordshire SHMA 1

	The Council's supply	The Appellant's supply
Annual Requirement	775	775
Shortfall 2011-2019	506	506
Five-year requirement including shortfall	4,381	4,381
Five-year requirement including 5% buffer	4,600	4,600
Deliverable supply	6,443	3,583
Five-year land supply	7.00	3.89

Table 5: The five-year land supply position of each party against the figures identified in the Appellant's OAN calculation for South Oxfordshire

	The Council's supply	The Appellant's supply
Annual Requirement	1,035	1,035
Five-year requirement excluding buffer	5,175	5,175
Five-year requirement including 5% buffer	5,434	5,434
Deliverable supply	6,443	3,583
Five-year land supply	5.93	3.30



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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Appendix 5



Appeal Decision

Inquiry held on 23 - 25 March 2021

Site visit made on 26 March 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2021

Appeal Ref: APP/K3415/W/20/3264280

Land at Hay End Lane, Fradley, Lichfield WS13 8NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by J T Leavesley Limited against Lichfield District Council.
 - The application Ref 20/01031/OUTM, is dated 31 July 2020.
 - The development proposed is a residential-led mixed use development comprising C2 care and assisted living, C3 residential, including self-build and bespoke, neighbourhood centre including community facilities, open space and landscaping (resubmission of application 18/00078/OUTMEI).
-

Decision

1. The appeal is allowed and planning permission is granted for a residential-led mixed use development comprising C2 care and assisted living, C3 residential, including self-build and bespoke, neighbourhood centre including community facilities, open space and landscaping on land at Hay End Lane, Fradley, Lichfield WS13 8NW in accordance with the terms of the application, Ref 20/01031/OUTM, dated 31 July 2020, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The application was made in outline, with all detailed matters apart from access reserved for later consideration. The appeal has been dealt with on the same basis. The supplementary details provided, including the masterplan layout¹, have been considered as indicative only. Notwithstanding this, these details show the intended proportion of units meeting the needs of older people and those wishing to self-build, as well as the neighbourhood centre, and are integral to the case made in support of the proposal. The main parties were agreed that a condition to secure later approval over the quantum and phasing of these various parts of the scheme would be necessary for their benefits to be afforded weight, as these are not firmly established in the outline application.

¹ IPD-16-348-130d Masterplan layout 1:1000@A1L

3. A draft Unilateral Undertaking (UU) made by the appellant to Lichfield District Council and Staffordshire County Council was considered at the Inquiry. The completed UU was provided shortly after the event and I deal with its provisions later in this decision.
4. The proposal is a resubmission of an outline planning application², previously refused on 2 September 2019 for three reasons. These three reasons had initially all been putative ones in this appeal, given this is a failure to determine case. However, the Council is no longer defending reasons over the less than substantial harm to the setting of the adjacent Coventry Canal and the failure to submit a sequential test to demonstrate that the main town centre uses proposed are acceptable here.
5. Accordingly, the Council's sole putative reason for refusal relates to the proposal's conflict with the development plan, in respect of the site lying in the open countryside, outside of the settlement boundaries for the village of Fradley and on land not allocated for development.

Main Issue

6. In the light of the foregoing, the main issue in this case is whether the proposal would be acceptable in this location in the context of the development plan and other material planning considerations.

Background

7. In summary, the proposal provides for a mixed use development of 184 Class C3³ residential units (including self-build and independent living), 122 Class C2⁴ units for care and assisted living and a neighbourhood centre with convenience store, health club, medical centre/pharmacy, children's day nursery and community centre. Except for 77 family homes and 12 affordable apartments, the scheme intends all the remaining C3 dwellings to be restricted to occupation by those aged 55 years or more. Therefore, in total, 217 units of accommodation would help serve the varying needs of an ageing population.
8. The appeal site comprises some 10 hectares of mainly undeveloped agricultural land, last used for pig keeping and containing some farm buildings and two bungalows. The latter are to be retained as part of the overall housing development. The land is on the edge of the settlement of Fradley, which is identified as a focus for employment and a significant amount of housing growth in the current development plan.
9. The site extends from just beyond the existing built edge of the village along one side of Hay End Lane, which defines a long, straight edge to the development. It continues up to the junction with Gorse Lane, which provides the outward edge. The long side opposite to Hay End Lane is defined by the curved alignment of the adjacent Coventry Canal.
10. Fradley is situated alongside the main A38, a short distance outside the city of Lichfield. Most recent development has occupied former airfield land. The

² Council reference 18/00078/OUTMEI.

³ Town and Country Planning (Use Classes) Order 1987 (UCO) Class C3 Dwellinghouses

⁴ In the UCO Class C2 includes residential institutions used for the provision of residential accommodation and care to people in need other than a Class C3 dwellinghouse

largest built-up area contains employment premises, mainly storage and distribution uses, which are accessed from a junction onto the A38. Fradley's two main residential areas lie beyond this, the more recently built of which is between the employment park and the Coventry Canal. This newer housing area, Fradley South, is expanding alongside the Coventry Canal opposite to the appeal site. The original Fradley village lies to the other side of the canal and has access to a further junction onto the A38. Whilst a slightly smaller extent of housing, this older part of the village is also expanding, in broadly the same direction as Fradley South.

11. The adopted development plan includes the Lichfield District Local Plan Strategy 2008-2029 (LPS), adopted on 17 February 2015, the Local Plan Allocations (LPA), adopted on 16 July 2019, and the Fradley Neighbourhood Plan (FNP), made on 12 February 2019. The Fradley settlement boundaries are shown in inset map 12 of the LPS. These encompass a Strategic Development Allocation (SDA), which includes the two main housing sites to each side of the Coventry Canal.
12. The farmland just west of the original village, to either side of Hay End Lane and including the appeal site, falls outside of the settlement boundary and is not currently allocated for development. However, the Council is progressing the emerging Local Plan 2040⁵ (LP2040). Regulation 19 consultation on the publication version of this is planned for later this year, with the aim of submission for Examination by the end of 2021. The emerging LP2040 identifies the currently unallocated land each side of Hay End Lane, including the appeal site, as a further strategic housing allocation (SHA3⁶), seeking to provide approximately 500 additional dwellings at Fradley.

Reasons

Conflict with current development plan policy and resulting harm

13. Core Policy (CP) 1 of the LPS provides a spatial strategy to deliver a minimum of 10,030 dwellings between 2008 and 2029 within the District's most sustainable locations, as set out in the settlement hierarchy and indicated within the key diagram. As well as remaining a focus for employment, Fradley is to play a major role in meeting housing need under CP 1, through an expansion within the SDA. The Fradley SDA will meet approximately 12% of the District's housing need for the plan period.
14. LPS CP 6 sets out where the planned 10,030 dwellings will be delivered, including the 1,250 focused within the Fradley SDA. Crucially, this policy sets out the criteria for permitting development outside of village settlement boundaries, the terms of which would preclude this proposal. LPS Policy Frad4 confirms that Fradley will play a significant role in meeting housing need within the SDA, but itself specifies no restriction on development beyond this.
15. The subsequently adopted LPA makes only the one further Fradley allocation for 80 dwellings at site F1 (Bridge Farm) and otherwise establishes the

⁵ Lichfield District Local Plan 2040 Proposed Submission Plan February 2021

⁶ LP2040 Inset 12 Fradley

village settlement boundary⁷, incorporating the parts of the SDA either side of the Coventry Canal, which the appeal site lies outside of.

16. FNP Policy FRANP1 states that development within the settlement boundary set out within the plan will be supported. The FNP adopts the same settlement boundaries as established in the LPS/LPA, but Policy FRANP1 is silent on development outside of these.
17. The proposal is explicitly contrary to LPS CP 6, in not meeting the criteria for development outside of village settlement boundaries. This policy executes the spatial strategy of LPS CP 1 to provide for the 1,250 homes contributed within Fradley. The spatial strategy of LPS CP 1 and 6 provides for the amount and extent of planned new housing development, which for Fradley is to be accommodated mainly within its SDA and is otherwise restricted beyond the defined settlement boundaries. I find the proposal therefore to conflict with these specific policies and their spatial intent.
18. The proposal would exceed the growth planned for Fradley in the current plan period 2008-2029, which is accommodated mainly in the SDA. The statutory plan-led system provides both transparency and some certainty over the amount, location and timescale of new development coming forward. It provides a basis upon which to coordinate underpinning infrastructure and for providers to programme the investment required to support future development needs. There is thus intrinsic harm from any proposal which might undermine the primacy given in law to a plan-led approach to development decisions.
19. However, the amount of planned growth for the District is defined as a minimum. This is in the process of being rolled forward 10 plus years, with the emerging LP2040. Paragraph 48 of the National Planning Policy Framework (the Framework) provides that weight may be given to relevant policies in emerging plans according to a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
20. The Council argue that only limited weight should be attached to the emerging LP2040, given that the Regulation 19 consultation has yet to take place. This stage will gauge the extent to which there are any unresolved objections to relevant policies. However, being mindful of the case law cited by the Council⁸, the weight to be given to LP2040 is a matter of judgement, based on the factors in this particular case. In respect of this proposal, whilst the extent of further unresolved objections to relevant policies is a 'known unknown', the Council has clearly reached a settled view⁹ over the strategic

⁷ Lichfield District Local Plan 2008-2029 Policies Maps - Inset 12 Fradley

⁸ *West Oxfordshire District Council v The Secretary of State for Communities and Local Government* [2018] EWHC 3065 (Admin).

⁹ The Council report – CD 5.10 – which received approval in February 2021 made it clear at 3.3 that 'The publication version of the Local Plan 2040 should be seen as the Council's settled view of the contents of the plan it intends to submit for examination. All responses received during consultation are in effect made to the Inspector for consideration.'

housing allocations in LP2040, including SHA3 within which the appeal site lies.

21. The appeal proposal provides for less than 2% of the planned housing provision of LP2040. It was not put to me in this regard, that this scheme was so substantial, or that its cumulative effect would be so significant, that to allow the appeal would materially undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to LP2040. The Council is not relying on grounds of prematurity, which paragraph 50 of the Framework advises will seldom be justified where, as here, the draft plan has yet to be submitted for Examination.
22. The Council made particular reference, should any weight be given to LP2040 Strategic Policy SHA3, to the harm arising from pre-empting its requirement for a comprehensive masterplan addressing the entire allocation. This is to ensure development of the highest quality and to accommodate the correct infrastructure provision/improvement, both on and off site, in the right places.
23. However, I find little material harm in respect of this scheme coming forward in advance of any masterplan. Were the appeal to succeed, conditions could require submission of a site masterplan to inform subsequent reserved matters for this part of the future allocation, which would adequately govern the quality of detailed design. In addition, the UU would help ensure adequate infrastructure provision. Furthermore, the appellant has previously liaised with the other SHA3 allocation land owners, the Parish Council, the Council and other key stakeholders over a suitable concept layout for the entire allocation, incorporating this proposal, and over which no specific shortcomings were highlighted. I do, however, recognise that that was an informal process and is not binding on the respective parties.
24. In respect of the further criteria in paragraph 48, the stage reached in the preparation of LP2040 and lack of evidence over its inconsistency with the Framework, suggests that moderate weight can be given to the proposal forming part of an emerging allocation. As a material consideration, this tempers the degree of harm arising from the conflict found with LPS CP 1 and 6 of the current development plan.
25. Drawing these considerations together, I have found that the development proposed would conflict with LPS CP 1 and 6 and there would be harm as a consequence. However, this harm would be moderate in degree, given that the appeal scheme conforms with an emerging allocation which, whilst not having the weight of adopted policy, nonetheless gains traction as going forward as part of the Regulation 19 consultation.

Any other harms

26. The Council finds harm to arise in principle only through conflict with the spatial policies in the current development plan. No site-specific harm is identified, with agreement that the location is generally sustainable in terms of accessibility to regularly required services and facilities without undue reliance on the private car. As to any potential additional harms, I have taken account of other concerns raised by interested parties to the planning

application, the appeal and at the Inquiry. These are addressed under the following headings.

Highway matters

27. Regarding interested party concerns over increased traffic and the capacity of surrounding roads, including the junction onto the A38, I have had regard to the Transport Assessment¹⁰ provided. On this basis, the local highway authority (LHA) has no objection to the proposal, subject to various requirements being met. These include Hay End Lane, currently a narrow, unclassified road, being widened and provided with street lighting and a revised speed limit. Although a new footway cannot be provided along Hay End Lane, due to issues with existing trees, there is intended to be a continuous adoptable footway through the development, linking to Gorse Lane, which could be secured through a planning condition.
28. The development would be accessed at three points from Hay End Lane, with the LHA requiring final junction details be conditioned. Agreements with the LHA would be necessary for the works at all three access points, the Hay End Lane improvements and signalling at Gorse Lane canal bridge. The latter would make passage over this narrow humpback bridge one-way, via a shuttle operation, helping to avoid any future harm to this structure from vehicle strikes and combined weight pressure, as well as providing safety benefits to all highway users.
29. To promote sustainable traffic modes, the LHA requires adherence to an agreed Travel Plan. That can be secured by condition.
30. Because access is not a reserved matter, as the application includes the three site entrances along Hay End Lane, conditions would also need to address the details of the internal road layout to ensure it is safe and otherwise suitable. The UU commits to payment of a sustainable transport sum and an internal layout allowing the passage of buses, thus ensuring that the development would be served adequately by public transport.
31. An approval could be conditional upon adherence to an agreed Construction Method Plan (CMP). Amongst other concerns addressed, this could govern traffic management measures and lorry routing during the construction phases.
32. Taking all of the above into account, I consider that the proposal would give rise to no material harm in respect of either highway safety or capacity.

Character and appearance, heritage and countryside

33. Interested parties are concerned over further development in a village where, in recent years, significant growth has taken place. They highlight the incursion of more housing into the countryside, alongside Hay End Lane and the Coventry Canal, which would harm its rural character and the amenity this provides. Users of this area, including walkers, runners and cyclists, would have to venture further from the settlement to enjoy the rural experience currently provided along these routes. However, loss of undeveloped countryside is often inevitable with the expansion of any rural

¹⁰ Canalside, Hay End Lane, Fradley Transport Assessment by Infrastructure Planning and Design Ltd. 16 July 2020.

settlement. Through the UU, the appellant has agreed to fund towpath improvement works along the adjacent stretch of the Coventry Canal to enhance its usability. This would provide some compensation for the changes effected upon the character of this area.

34. The Canal and River Trust, in its most recent response, is content to leave a decision over the proposal's effects on the canal and its setting to this appeal. This is on the understanding that reserved matters approval, or conditions, could secure suitable details of layout and set back from the canal, design of the buildings, points of connection to the towpath, landscaping and external lighting. Given this, I am satisfied also that the scale of any harm to the Coventry Canal would be limited. Similarly, subject to satisfactory details, the same finding of a limited scale of harm would apply to the general character and appearance of the area and the rural amenities provided. Consequently, I find no overriding conflict with LPS CP 1, 13 and 14, LPA policies BE1 and BE2 or the Framework in respect of these considerations.

Biodiversity

35. In regard to interested party concerns over harm to wildlife, these would mainly centre upon the need to preserve surrounding trees and vegetation and to avoid any impact on the canal, since the site is otherwise mainly farmland. Various conditions are suggested in the event of approval, which could support a net gain to the natural environment, including agreed details of tree/hedge protection, landscaping and green infrastructure, biodiversity offsetting, habitat creation and suitable drainage arrangements. Subject to these, I find no material degree of harm to biodiversity would arise, with the potential for net gains, and consequently no conflict with relevant policies LPS NR3 and FNP FRANP8.

Supporting service capacity, further matters and conclusion over any other harm

36. Interested parties have referred to the inadequacy of supporting services in Fradley. Developer contributions towards primary and secondary education could be secured to mitigate for the added demand on local schools. The neighbourhood centre facilities would support the additional population, as well as complementing the existing services in Fradley. Regarding the views expressed over a lack of need for a further care home, these are not supported by the evidence. In all, the proposal is not shown to exceed the capacity of supporting infrastructure, resulting in no harm in this regard.
37. Although only a small proportion of the site is previously developed land, growth in Fradley now relies on expansion beyond the brownfield areas provided by the former airfield. In response to the comments made, there would now be little additional harm through the proposal occupying mainly a greenfield site.
38. The proposal would prolong and exacerbate the noise and disturbance already experienced from the housing construction currently underway in Fradley. Such harm is an inevitable consequence of further development and would be temporary. That said, effects could be mitigated by adherence to an approved CMP, including this limiting the days and hours for building works, to address the effects on residential living conditions and other impacts of construction activity.

39. Taking all these additional interested party concerns into consideration, there would be a limited amount of further harm caused by this proposal, in addition to the moderate degree already identified from the conflict with LPS CP 1 and CP 6.

Other considerations that might amount to benefits

40. The scheme would provide 184 Class C3 and 122 Class C2 units, making a significant contribution in this District towards meeting the Government's objective of significantly boosting the supply of homes. The requirements of paragraph 73 of the Framework are satisfied by the Council currently demonstrating a 12.8-year housing land supply. Furthermore, the Government's Housing Delivery Test is met in Lichfield. Satisfying these supply and delivery requirements is not intended to place a ceiling on the provision of further housing. Nevertheless, the housing land and delivery situation in Lichfield means the benefits of the scheme's housing offer gain no significant premium in addressing any five-year supply shortfall. The overall benefits of this scheme to general housing supply are therefore given only moderate weight.
41. The Council's evidence base for the current development plan included the 2012 Southern Staffordshire Districts Housing Needs Study¹¹ (SHMA). The more recent November 2020 Housing and Economic Development Need Assessment¹² (HEDNA) provides the current evidence base for residential requirements and informs the emerging LP2040.
42. The HEDNA shows that, compared to both England and the West Midlands region, Lichfield has a relatively high proportion of people over 65 years old. This evidence shows that both the numbers and proportion of this age group will increase significantly in future years. The HEDNA reveals a current unmet need for 1,076 care and support units (C2) for older people in Lichfield, as well as a need for an additional 1,939 homes with either support or care by 2036. The current development plan provides no specific allocations to meet this current and future housing need. The benefits of this scheme include providing 122 Class C2 units for care and assisted living, helping to meet a growing unmet need, along with the minimum of 217 dwellings reserved for occupiers aged over 55 years. These benefits are afforded significant weight in response to the recent HEDNA evidence of a significant uplift in demand for accommodation suited to serve the varying needs of an ageing population, as well as the current unmet need for C2 units.
43. LPS Policy H2 sets an upper limit requirement of 40% affordable housing, with the level of contribution from a scheme established using a model of dynamic viability. This model currently identifies a requirement of 38% affordable housing from this proposal. Subject to an appropriate planning condition governing this, the development would provide a policy compliant proportion of affordable housing. The evidence shows the Council to have under-delivered by 360 units in affordable housing over the last five years¹³.

¹¹ Southern Staffordshire Districts Housing Needs Study and SHMA Update by Nathaniel Lichfield & Partners Ltd dated 10 May 2012

¹² Housing and Economic Development Need Assessment – Update (HEDNA) Lichfield District Council and Tamworth Borough Council September 2019 Update: November 2020 Prepared by GL Hearn

¹³ Lichfield District Council Authority Monitoring Report August 2020 (AMR)

A significantly lower proportion of 20% affordable housing might eventually be required for this site under the emerging policy of LP2040. On this basis, delaying any consent could result in less affordable dwellings than might currently be secured. On the basis of the above, significant weight may be given to this scheme's benefits in respect of addressing a particular need for affordable housing in this District.

44. The sequential test¹⁴ shows the main town centre uses proposed are acceptable here, and that there are no other sequentially preferable sites in the area. The neighbourhood centre with convenience store, health club, medical centre/pharmacy, children's day nursery and community centre would help meet the needs of the scheme's future occupiers, as well as benefitting existing Fradley residents by adding to the range of village facilities. The neighbourhood centre would thus offer a further significant benefit.
45. The Council is required to maintain and update a register of those individuals who are interested in building their own homes. The latest evidence shows only four individuals on the Council's register, with a significantly greater number of plots granted with self-build relief exemption from the Community Infrastructure Levy (CIL) since 2016¹⁵. The appellant's evidence¹⁶ indicates a strong unmet demand in the Lichfield area that is not reflected in the Council's register, as well as an active interest in managing the cluster of 17 bespoke dwellings proposed for self-build-occupiers. The evidence suggests this proposal would benefit a stronger latent demand for people wishing to commission or build their own homes than as indicated by the Lichfield register. I give this moderate weight in favour of the scheme overall.
46. The construction phase and the spend by future occupiers will clearly be of both temporary as well as more permanent benefit to the local economy. This benefit is afforded significant weight, in accordance with Framework paragraph 80.
47. The other benefits of the scheme, including the canal towpath improvements and a potential net-gain in biodiversity, all generally assist in off-setting the harm from developing this area of countryside, but will also benefit existing residents. That consideration adds limited further positive weight in favour of the scheme

Whether the proposal would conflict with the development plan as a whole

48. Development plan policies may pull in varying directions and, depending on the nature of the proposal under consideration, can provide differing degrees of either resistance or support.
49. CP 1 of the LPS is one of the most important policies in this appeal, being central to the main issue, as it provides the Council's spatial strategy for growth. It provides Fradley a major role in meeting the District's housing need by directing growth to its SDA. This policy is given a significant degree

¹⁴ Hay End Lane Fradley: Note on Sequential Test - DPP Planning 16 February 2021

¹⁵ AMR op. cit

¹⁶ Czero letter dated 1 February 2021

of weight through being consistent with the Framework's general aim for securing sustainable development through a plan-led approach to growth.

50. The proposal conflicts with LPS CP 6 in failing the criteria for residential development permissible in rural areas outside the Fradley settlement boundaries. There is no evidence to suggest the Fradley SDA is insufficient to provide the 1,250 homes provided through this policy. Without the restrictions this policy provides over the spatial extent of new development in Fradley, such growth might be unfettered. This could override the role that paragraph 9 of the Framework seeks for development plan policies. This is to guide development towards sustainable solutions, taking local circumstances into account and reflecting the character, needs and opportunities of each area. CP 6 is also central to this appeal decision, in relation to the locational factors of the main issue.
51. By being geared to meet the varying needs of an elderly population, this proposal complies with LPS Policy H1, which promotes the delivery of supported housing and care homes to reflect the needs of the changing demographic profile of the District's population to 2029. The proposal also satisfies LPS Policy H2 in providing a policy compliant amount of affordable housing. Whilst the benefits of compliance with these policies is accounted for, and they are afforded full weight in consistency with the Framework, neither is central to the main issue over whether this proposal is acceptable in locational terms.
52. LPS Policy Frad4 describes the role Fradley has in providing 12% of the District's housing growth to 2029, stating that the around 1,250 dwellings will be accommodated in the SDA. The proposal complies with the residential mix required under this policy, in respect of affordable housing and in meeting ageing population needs, but leaves the restrictions imposed on development outside the SDA/settlement boundaries to CP 6.
53. LPS CP 3 is a cross-cutting policy setting out criteria for delivering sustainable development and is thus consistent with the Framework. The site is in a generally accessible location and, as the proposal is in outline, many of the further policy criteria could be met by reserved matters, conditions or planning obligations. As a generic policy, CP 3 is capable of being satisfied, but is not central to a decision over the appropriateness of this location for development.
54. The more recent LPA Policy F1 establishes the settlement boundaries for Fradley, introducing the F1 Bridge Farm allocation, but adds no further restrictions to those already applied by LPS CP 6.
55. Under FNP Policy FRANP4, proposals for a new community hub within or adjacent to village settlement boundaries will be supported. This therefore supports the community facilities proposed as part of this scheme. However, as the FNP is silent on other development outside the Fradley settlement boundaries, this policy is peripheral to the assessment of the scheme as a whole.
56. LPS CP 6 executes the restrictions over housing outside the settlement boundaries. Along with CP 1, this provides the spatial strategy the proposal is in conflict with. Other than the community facilities, which FNP Policy FRANP4 might accept adjacent to Fradley's village settlement boundaries,

there is nothing in the other supporting policies to encourage a scheme of this nature being delivered on land not allocated for development. On this basis, I consider the proposal would conflict with the development plan as a whole, insofar as this establishes a spatial strategy for meeting development needs in specified amounts directed to the places most sustainable.

Whether the proposal benefits from the presumption in favour of sustainable development provided by the Framework

57. The proposal conflicts with an adopted development plan which was examined against the 2012 version of the Framework. The revised Framework of February 2019 introduced the requirements set out in its paragraph 61. This is in the context of the Framework's objectives for delivering a sufficient supply of homes, with an amount and variety of land coming forward where needed to address the needs of groups with specific housing requirements.
58. Framework paragraph 61 requires the size, type and tenure of housing needed for different groups in the community to be assessed and reflected in planning policies. These groups include those who require affordable housing, older people and people wishing to commission or build their own homes.
59. Regarding the housing needs of older people, the Planning Practice Guidance (PPG) addresses these in a section published on 26 June 2019¹⁷. Reflecting the critical housing requirements of an ageing population nationally, the PPG seeks that local planning authorities set clear policies to address the needs of this older age group. This could be by providing indicative figures or a range for the number of units of specialist housing for older people needed in an area throughout the plan period¹⁸. The PPG advises that it may be appropriate to allocate sites where there is an identified unmet need for specialist housing¹⁹.
60. As noted, LPS policies H1 and Frad4 promote the delivery of housing to meet the needs of an ageing population. However, whilst providing a statement to this effect, these policies fall short of actually assessing and then reflecting these needs, such as through indicative figures or allocations. These policies were based on the 2012 SHMA. This had not highlighted Lichfield's current unmet need for C2 units nor its comparatively high and growing proportion of older people, more recently revealed by the 2020 HEDNA.
61. As the policies most important for determining an appeal relating to a scheme geared to serve the varying needs of an ageing population, neither LPS CP 1 or 6 reflect the Framework paragraph 61 requirement to assess and reflect this housing need. In the context of this particular proposal, these development plan policies are thus shown to be out-of-date. This is sufficient to engage the so-called 'tilted balance' of Framework paragraph 11d)ii, to ascertain whether the presumption in favour of sustainable development applies.

¹⁷ Housing for older and disabled people - guidance in preparing planning policies on housing for older and disabled people. Published 26 June 2019. Ministry of Housing, Communities & Local Government

¹⁸ Paragraph: 006 Reference ID: 63-006-20190626 Revision date: 26 June 2019

¹⁹ Paragraph: 013 Reference ID: 63-013-20190626 Revision date: 26 June 2019

62. Having established the Framework's tilted balance is engaged for this reason, it is unnecessary to go into detail over any inconsistency with paragraph 61 in respect of the need for self-build dwellings, as the scheme's benefits in this regard have been accounted for.
63. The adverse impacts of this proposal relate mainly to the conflict in principle with the development plan as a whole. Tempered by the progress on LP2040, and the inclusion of the appeal site within the emerging SHA3 allocation, this factor amounts to the proposal causing a moderate degree of harm. The further harms, including those pursuant to developing further countryside alongside the Coventry Canal, would not add significantly to this. In combination, these adverse impacts do not significantly and demonstrably outweigh the benefits of this proposal. These benefits carry significant weight, particularly in respect to Framework policy for sufficient land to come forward where needed to address specific housing requirements, in this case for older age groups and those wishing to self-build, without an unnecessary delay in development.
64. For the reasons set out above, the proposal benefits from the Framework's presumption in favour of sustainable development. This provides a material consideration of sufficient weight to indicate this appeal be determined otherwise than in accordance with the development plan.

Habitats Regulations Assessment

65. The River Mease is approximately 3.8km away from the proposal and is a Special Area of Conservation (SAC), designated under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The Council has provided a screening matrix and appropriate assessment statement for my benefit, as the competent authority under the Habitats Regulations.
66. The appeal site is a sufficient distance away from, and outside the fluvial catchment of, the River Mease, such that I am able to conclude that this proposal would have no likely significant effect on the internationally important interest features of the SAC, either by itself or in combination with other plans and projects, and therefore satisfies the Habitats Regulations.

Unilateral Undertaking

67. The UU provides for various measures. There is the laying out and maintenance of common amenity areas for each phase of the development. The funding and implementation of a framework of Travel Plans for the entire development is secured. The UU also provides for the funding and implementation of sustainable transport measures, including a highway loop within the development to permit a bus service through-route. Included in the highway matters is a commitment to provide traffic lights at the Gorse Lane canal bridge. The UU covenants to pay the primary and secondary education contributions sought by the County Council. I am satisfied these sums be paid in stages, linked to commencement of development and the occupancy of various numbers of dwellings. The funding sought by the Canal and River Trust for towpath improvement works along the adjacent stretch of the Coventry Canal is also provided for.

68. I have considered the UU against the advice in paragraph 56 of the Framework and the statutory requirements of Regulations 122 and 123 of the CIL Regulations. These require that such planning obligations only be accepted where they are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to it. I am content that the UU satisfies these tests.

Planning Conditions

69. The planning conditions suggested by the main parties were discussed at the Inquiry. I have considered these against the tests provided in paragraph 55 of the Framework and the advice on the use of planning conditions set out in the PPG. With those conditions found necessary I have in some cases made amendments, mainly for brevity, clarity, enforceability and in ordering.
70. The requirement for submission of the outstanding reserved matters for the phases of the development, the timescale for this and the resulting time limit for commencement are standard conditions (1-3).
71. A plan compliance condition is necessary for certainty, including the details of the site accesses, although I have not specified the masterplans, layouts, parameters and built out plans as these were illustrative only and relate to details covered in later conditions (4).
72. Certain details are required prior to the submission of reserved matters. As a basis for what these reserved matters and other conditions should provide, these include approval of an overall masterplan. This requires, amongst other matters, the quantum for the varying land uses/housing categories proposed and the phasing by which these come forward to be approved. This is necessary to secure the benefits of the shops and community facilities and differing use classes of housing, including those intended to meet the varying needs of older occupiers, upon which the decision was based (5). Conditions required prior to reserved matters are also necessary to secure an approved scheme for biodiversity offsetting and a Construction Environment Management Plan and Habitat Management Plan for the development (6, 7). These are all in the interests of enhancing biodiversity and the natural environment.
73. A number of conditions are necessarily worded as pre-commencement, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measures which could be used. The first of these deals with the provision of affordable housing, which is fundamental to the development being acceptable (8). I am satisfied this meets the required six tests and permits this phased scheme of varying types of housing to progress.
74. Another is needed to secure the age restricted housing intended, similarly fundamental to the acceptability of the overall scheme (9). It is necessary that the development takes place in accordance with a CMP (10), in the general interests of environmental health and the living conditions of existing residents of the area. This covers details of construction waste management, obviating the need for a separate condition.

75. Further pre-commencement conditions are required to secure the necessary off-site highway improvements, cover the revised access details required by the LHA and ensure the internal road and footway details are all delivered to an appropriate timescale (11 - 13). Other conditions are required to cover site contamination, archaeology, surface water drainage and tree protection (14 - 17). Given that a satisfactory noise assessment for the proposal as a whole was provided with the application, it is not necessary to condition commencement of each phase to approval of further of these. Regarding boundary treatments, these might be matters provided for through reserved matters, again avoiding the specific condition suggested. The same applies to a landscape management plan for each phase of the development.
76. Further conditions are necessary prior to occupancy, including the provision of electric vehicle charging points (18), car parking and cycle storage for all dwellings and other buildings (19) and external lighting arrangements (20). Ensuring each dwelling is connected to a means of sewage disposal does not seem to be a matter requiring a planning condition. The condition requiring the quantum of each land use to be approved through a masterplan means there is not the necessity for a further condition setting floorspace levels within the neighbourhood centre, nor adequate justification for this also restricting permitted development rights. The same applies to conditions specifying the maximum numbers of C2 and C3 units. Finally, a condition is needed to ensure the development proceeds in accordance with the recommendations in the Preliminary Ecological Appraisal, in the interests of avoiding unnecessary harm to natural habitat and wildlife (21).

Conclusion

77. Subject to these conditions, and for the reasons set out in preceding paragraphs, I conclude on balance that the appeal be allowed.

Jonathan Price

Inspector

APPEARANCES

For the local planning authority:

Mr Freddie Humphreys of
Counsel

He called

Mrs Sarah Matile BA (Hons), MPlan, MRTPI - Spatial Policy and Delivery Officer

Glen Baker-Adams - Senior Planning Officer

For the appellant:

Mr Killian Garvey of Counsel
He called

Stephen Stoney BA (Hons) MRTPI DMS - Technical Director, Wardell Armstrong
LLP

David R. Hardy – Partner, Squire Patton Boggs (UK) LLP

Interested person:

Mr Stuart Green

Local resident

INQUIRY DOCUMENTS

The following documents were submitted and accepted by the Inquiry:

On behalf of the local planning authority:

Opening submissions by Mr Humphreys

Gladman Developments Limited v SSHCLG, Corby Borough Council, Uttlesford District Council [2021] EWCA Civ 104

Appeal Ref: APP/K3415/W/17/3188253 Westwood School, Blithbury Road, Blithbury, Rugeley

Appeal Ref: APP/K3415/W/17/3178356 Land adjacent to The Crown Inn/East of Uttoxeter Road, Handsacre, Staffordshire

Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Screening Opinion for Canalside, Hay End Lane, Fradley, Lichfield June 2020

Canal and River Trust response to appeal proposal 24 March 2021

Closing submissions by Mr Humphreys

On behalf of the appellant:

Opening submissions by Mr Garvey

R v Rochdale 2000 WL 1151364

R (oao William Corbett) v Cornwall Council & Stephen Taverner [2020] EWCA Civ 508

Tesco Stores v Dundee [2012] UKSC 13

Chichester District Council v SSHCLG [2019] EWCA Civ 1640

Verdin v SSCLG & Cheshire West and Chester BC & Winsford Town Council [2017] EWHC 2079

Consent order CO/4776/2020 *Greystoke Land Limited v SSHCLG/Wiltshire Council*

PPG Housing for older and disabled people - 26 June 2019

PPG Self-build and custom housebuilding - 8 February 2021

Southern Staffordshire Districts Housing Needs Study and SHMA Update by Nathaniel Lichfield & Partners Ltd dated 10 May 2012

Closing submissions by Mr Garvey

Jointly on behalf of the local planning authority and appellant:

Jointly signed Statement of Common Ground - 23 March 2021

Draft Unilateral Undertaking with Council's comments.

Lichfield District Local Plan 2040 Proposed Submission Plan - February 2021

SCHEDULE OF CONDITIONS

Standard time limit conditions for commencement with outline permission

- 1) Details of the appearance, landscaping, layout and scale for each phase of the development hereby permitted (hereinafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before development of that phase begins and the development shall thereafter be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than five years from the date of this permission.
- 3) The development hereby approved shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

The details and drawings subject to which the outline planning permission is granted

- 4) The development hereby approved shall be carried out in accordance with the following approved plans, except insofar as may otherwise be required by other conditions to which this permission is subject:
 - IPD-15-348-100a - site location plan
 - IPD-16-348-110n - off site highway layout
 - IPD-16-348-111e - 1-250 off site highway layout 1 of 5
 - IPD-16-348-112d - 1-250 off site highway layout 2 of 5
 - IPD-16-348-113e - 1-250 off site highway layout 3 of 5
 - IPD-16-348-114d - 1-250 off site highway layout 4 of 5
 - IPD-16-348-115d - 1-250 off site highway layout 5 of 5
 - IPD-16-348-116c - on site highway layout
 - IPD-16-348-120d - Gorse Lane highway layout
 - IPD-16-348-500e - outline drainage strategy
 - IPD-16-348-501 - drainage catchments

Conditions required to be complied with prior to submission of reserved matters

- 5) Prior to the submission of any of the reserved matters, a masterplan for the site (hereinafter referred to as 'the masterplan') shall be submitted to and approved in writing by the local planning authority.

The masterplan shall include the following:

- i. land uses, including the quantum of those falling within Use Class C2, Use Class C3 (including custom and self-build dwellings) and the neighbourhood centre including community hub (Use Classes E(a), E(d), E(e), E(f) and F2);
- ii. a design and access parameter plan;
- iii. a movement framework for all transport modes, including the layout and hierarchy of street types;
- iv. the phasing of the development and land uses across the site;
- v. a design code to include character areas, principles of building forms and heights and their visual relationship with the Coventry Canal;
- vi. details of key green infrastructure elements.

The development hereby permitted, and details of reserved matters and for the discharge of further conditions, shall thereafter be in accordance

with the approved masterplan, including in respect of the uses permitted, the quantum of these and the phasing of their delivery.

- 6) Prior to the submission of reserved matters, a scheme providing for the offsetting of biodiversity impacts in the respective phase ('the biodiversity offsetting scheme') shall have been submitted to and approved in writing by the local planning authority. Across the entirety of the development hereby permitted, a total value of not less than 18.29 Biodiversity Units shall be offset. The biodiversity offsetting scheme shall include:
- i. identification of receptor site or sites, which accord to the requirements of the Lichfield District Council Biodiversity and Development SPD;
 - ii. details of the offsetting requirements of the development in accordance with Biodiversity Metric 2.0, which has been calculated at 18.29 Biodiversity Units post intervention for the entirety of the development hereby permitted;
 - iii. the provision of evidence of arrangements to secure the delivery of offsetting measures, including a timetable of delivery; and
 - iv. a management and monitoring plan, to include the provision and future maintenance of the offsetting measures.

The biodiversity offsetting scheme, including its timetable for delivery, shall thereafter be implemented as approved.

- 7) Prior to the submission of reserved matters, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) for that phase shall have been submitted and approved in writing by the local planning authority, detailing in full the future habitat creation works and sustained good management thereof. The development shall thereafter be implemented in accordance with the approved CEMP/HMP.

Pre-commencement conditions

- 8) No development within any phase shall commence until a scheme for the provision of affordable housing (as defined in Annex 2 to the National Planning Policy Framework and any successor document) for that phase has been submitted to and approved in writing by the local planning authority.

Across the development hereby permitted as a whole, a maximum provision of 38% affordable housing shall be made (the final figure to be confirmed in the approved affordable housing scheme and calculated at all times in accordance with (1) the Authority Monitoring Report and (2) relevant principles set out in the Lichfield District Council Supplementary Document: Developer Contributions (2016) or successor document) with a tenure split of 65% affordable housing for rent/35% other routes to affordable home ownership.

The affordable housing scheme shall also include:

- i. the numbers, type, tenure, mix and location of the affordable housing provision to be made within each phase hereby permitted;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of market housing;

- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider;
- iv. the mechanism to ensure that the affordable housing is affordable to both first and all subsequent occupants; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria will be enforced.

Thereafter the approved affordable housing scheme shall be implemented in full and retained for the lifetime of the development.

- 9) No development within any phase shall commence until a scheme for the provision of age-restricted dwellings within that phase, providing a minimum of 217 dwellings across the entire development where occupancy is eligible only for those aged 55 years or over, has been submitted to and approved in writing by the local planning authority. No dwelling in any phase forming part of this provision shall be occupied other than in accordance with the approved scheme.
- 10) No development in any phase shall commence (including any works of demolition) until a Construction Method Plan (CMP) for that phase has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved CMP. The CMP for each phase shall include, but is not confined to, details of:
 - i. the method to be used and undertaken to control the emission of dust, noise and vibration from works;
 - ii. a scheme for dust deposition monitoring;
 - iii. measures (including wheel wash facilities) to control the deposit of mud and similar debris on adjoining public roads;
 - iv. recorded daily inspections of the condition of the highway adjacent to site access points;
 - v. site management arrangements, including on-site storage of materials, plant and machinery, temporary offices, contractor's compounds and other facilities, on-site parking and turning provision for site operatives, staff, visitors and construction vehicles and provision for the loading/unloading of plant and materials within the site;
 - vi. site fencing and security;
 - vii. details of the use of generators;
 - viii. a program of works (including measures of traffic management);
 - ix. routes for construction traffic and proposed temporary traffic restrictions;
 - x. pedestrian and cyclist protection;
 - xi. delivery and construction working hours;
 - xii. a construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, including vegetation, together with measures for dealing with such materials so as to minimise waste and to maximise re-use and recycling; and
 - xiii. arrangements for the control of surface water.
- 11) No development in any phase shall commence until detailed schemes, including details for the timing of implementation, for the following off-site

highway improvements have been submitted to and approved in writing by the local planning authority:

- i. junctions of development access points with Hay End Lane;
- ii. highway improvements to Hay End Lane including street lighting and amended speed limit;
- iii. new traffic signals scheme to Gorse Lane canal bridge.

The approved schemes shall thereafter be fully implemented in accordance with the agreed details and timescales.

- 12) Notwithstanding the submitted highway details, no development hereby permitted shall commence until a revised access plan, indicating a priority junction for the western access point on to Hay End Lane, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the agreed revised access plan.
- 13) No development in any phase shall commence until a scheme providing for the following internal highways details for that phase has been submitted to and approved in writing by the local planning authority:
 - i. street layout, surface treatments, visibility splays and measures to restrain vehicle speeds to 20mph;
 - ii. turning and servicing provision for all dwellings/units including a swept path analysis to cater for a 11.9m long refuse vehicle;
 - iii. adoptable pedestrian footway through the development linking Hay End Lane to Gorse Lane;
 - iv. clear delineation of streets and footways to be offered for adoption; and
 - v. a timetable for implementation.

The development shall thereafter be carried out in accordance with the approved scheme.

- 14) No development in any phase shall commence until a detailed scheme for the investigation and recording of any contamination in that phase has been submitted to and approved in writing by the local planning authority. The contamination scheme shall identify any contamination on the site in that phase, the subsequent remediation works considered necessary to render the contamination harmless and the methodology used. The approved remediation shall thereafter be carried out and a validation report submitted to and approved in writing by the local planning authority within one month of the approved remediation being completed.
- 15) No development in any phase shall commence until a written scheme of archaeological investigation for that phase has been submitted to and approved in writing by the local planning authority. The archaeological scheme shall provide details of the programme of archaeological works to be carried out within that phase on the site, including post-excavation reporting and appropriate publication. The archaeological site work shall thereafter be implemented in full in accordance with the approved archaeological scheme. No part of the development in any phase shall be

occupied until the site investigation and post-excavation assessment for that phase has been completed in accordance with the archaeological scheme and provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

- 16) No development in any phase shall commence until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall be maintained thereafter for the lifetime of the development hereby permitted. The surface water drainage details shall include the following:
- i. Details of appropriate soakaway testing to demonstrate feasibility of infiltration across parts of the site to BRE365 standards and taking into account local temporal variations in any groundwater conditions;
 - ii. Limiting any discharge rate generated by all rainfall events up to the 100 year plus climate change critical storm to greenfield equivalent rates of runoff;
 - iii. Provision of sufficient surface water run-off attenuation storage;
 - iv. Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods;
 - v. The provision of surface water treatment in accordance with CIRIA C753 Simple Index Approach;
 - vi. Provision of a management and maintenance plan for surface water drainage to ensure that the surface water drainage systems are maintained and managed for the lifetime of the development; and
 - vii. Opening up of a culvert across site.
- 17) No development in any phase shall take place until a scheme providing for tree/hedge protection in that phase in accordance with BS5837:2012 has been submitted to and approved in writing by the local planning authority. The approved tree/hedge protection scheme shall be kept in place until all parts of that phase have been completed, and all equipment; machinery and surplus materials have been removed for that phase.

Pre-occupancy conditions

- 18) No commercial unit in any phase hereby permitted shall be occupied until details of a minimum of four electric vehicle charging car parking spaces with infrastructure (cabling etc) have been submitted to and approved in writing by the local planning authority. The electric vehicle charging car parking spaces shall thereafter be provided in accordance with the approved details and shall be retained for the life of the development.
- 19) No dwelling or other building in any phase hereby approved shall be occupied until car parking and turning areas and cycle storage for that dwelling or other building have been provided in accordance with details

that shall have had the prior written approval of the local planning authority. The car parking and turning areas and cycle storage shall thereafter be retained for duration of occupancy.

- 20) No dwelling, commercial or other building in any phase shall be occupied until a scheme for external lighting has been submitted to and approved in writing by the local planning authority. The lighting scheme shall thereafter be implemented as approved and retained for the lifetime of the development.

Other conditions

- 21) Each phase of the development hereby permitted shall be carried out in accordance with the recommended methods of working set out in the Preliminary Ecological Appraisal reference ST18093 003 dated June 2020.

Appendix 6

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	27 May 2020
Application Number	20/02387/OUT
Site Address	Land at Pound Farm, South View, Lyneham, Wiltshire
Proposal	Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development of up to 50 dwellings and provision of land for D2 use; including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure
Applicant	Gleeson Strategic Land
Town/Parish Council	LYNEHAM AND BRADENSTOKE
Electoral Division	Lyneham - Councillor Allison Bucknell
Grid Ref	402116 179390
Type of application	Outline Planning
Case Officer	Nicole Gillett

Reason for the application being considered by Committee

Councillor Bucknell has requested the proposal be put before committee to examine;

- Evidence of need
- Community Engagement
- Sustainability
- Public Amenity/Design
- Access to the site / Road Safety

The application is before the Strategic Planning Committee as the number of dwellings proposed could make a meaningful contribution to help address the current shortfall in the Council's 5 year housing land supply.

1.0 PURPOSE OF REPORT

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the

application be approved subject to conditions and completion of a S106 within 6 months of the date of the resolution; or in the event that the applicant declines to enter into the agreement to refuse for the reason identified below.

2.0 REPORT SUMMARY

ISSUES

The main issues for consideration are:-

- Principle of the Development
- Deliverability
- Heritage Assets
- Character and Appearance
- Impact on Neighbour Amenity
- Flooding and Drainage
- Transport and Access
- Ecology
- Rights of Way
- Archaeology
- S106 contributions
- Other Matters

115 Representations were received. A total of 5 from; Lyneham and Bradenstoke Neighbourhood Development Plan Steering Group, CPRE, James Grey MP, Councillor Bucknell and Wiltshire Swifts. 100 letters of objection and 10 support letters have been received. Lyneham and Bradenstoke Parish Council raised objection to the proposed development.

3.0 PROPOSAL

The application is for outline planning permission for a residential development of up to 50 dwellings (of which 40% would be affordable) and provision of land for D2 use (assembly and leisure); including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure.

The application is identical to 19/08298/OUT.

EIA

The proposal is for 50 dwellings covering 3.9 hectares. The proposal is not;

(i) development that includes more than 1 hectare of urban development which is not dwellinghouse development; or

(ii) development that includes more than 150 dwellings; or

(iii) development that exceeds 5 hectares. greater than 5 hectares or consist of 1 hectare on non dwelling housing development.

The proposal would not therefore fall within any of the criteria set out within Schedule 2, subsection 10(b) of The Town and Country Planning Environmental Impact Assessment Regulations 2017. As such, an Environmental Impact Assessment is judged not to be required in this case.

4. SITE CONTEXT

The application site is located to the north east of Lyneham and to the south of the A3102 (South View). The site is outside but adjacent to the defined settlement framework boundary of Lyneham and therefore is in the open countryside. The site comprises two medium sized fields which are bounded by mature hedgerows with existing housing along the western edge. The site is criss-crossed by a network of footpaths, a small stream and overhead electricity cables. There are no ecological or landscape designations on the site. To the north and east of the site is the Old Rectory, a Grade II Listed Building on the A3102. Cowleaze Copse woodland lies just beyond the eastern edge of the site and Bailey's Hill Woodland, a County Wildlife Site, is within 500m.

5. PLANNING HISTORY

15/11047/SCR	Screening Opinion Request Relating to Proposed Residential Development of 111 Dwellings	No EIA required
15/12487/OUT	Outline Planning Application for up to 111 Dwellings, Vehicular Access, Public Open Space, Natural Children's Play Area, Landscape Planting, Pumping Station, Surface Water Attenuation & Associated Infrastructure (All Matters Reserved Except Means of Access	Refused

	Only in Relation to a New Point of Access into the Site)	
16/05959/OUT	Outline planning application for residential development of up to 60 dwellings; including the creation of new vehicular access, public open space, natural children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (all matters reserved except means of access only in relation to a new point of access into the site) (Resubmission of 15/12487/OUT)	Refused
APP/Y3940/W/16/3162581	Outline planning application for residential development of up to 60 dwellings; including the creation of new vehicular access, public open space, natural children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (all matters reserved except means of access only in relation to a new point of access into the site) (Resubmission of 15/12487/OUT)	Appeal Dismissed
19/08298/OUT	Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development of up to 50 dwellings and provision of land for D2 use; including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure	Refused – applicants have lodged an appeal

6 PLANNING POLICIES

Wiltshire Core Strategy

Core Policy 1: Settlement strategy
Core Policy 2: Delivery strategy
Core Policy 3: Infrastructure requirements
Core Policy 19: Spatial Strategy: Cricklade and Royal Wootton Bassett Community Area
Core Policy 43: Providing affordable homes
Core Policy 45: Meeting Wiltshire's housing needs
Core Policy 50: Biodiversity and geodiversity
Core Policy 51: Landscape
Core Policy 57: Ensuring high quality design and place shaping
Core Policy 58: Ensuring the conservation of the historic environment
Core Policy 60: Sustainable transport
Core Policy 61: Transport and new development
Core Policy 62: Development impacts on the transport network
Core Policy 63: Transport strategies
Core Policy 67: Flood Risk

The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted 25 February 2020.

Wiltshire Council Waste Core Strategy 2009

WCS6 – Waste Reduction and Auditing

Saved policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006).

H4: Residential Development in the open countryside

NE14 Trees and the control of new development

NE18 Noise and Pollution

CF3 Provisions of Open Space

National Planning Policy Framework 2019

Paragraphs; 2, 8, 11, 12, 14, 38, 47, 73, 74, 76, 108, 109, 110, 127, 163, 165, 170, 175, 190, 192, 196 and 197.

Sections 66(1) and 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Supplementary Planning Guidance and Other Relevant Documentation

- Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – Minimum residential parking standards.
- Local Transport Plan 2011-2026 Cycling Strategy (March 2015) – Appendix 4
- Open Space provision in New Housing Developments – A Guide
- Wiltshire Council Waste Collection Guidance for New Development
- Wiltshire Housing Land Supply Statement April 2018 (published August 2019)
- Wiltshire CIL Charging Schedule May 2015
- Wiltshire Planning Obligations SPD May 2015

Emerging Policy

The Local Plan Review: Consultation on the Pre-Submission version is due in 2020. Due to the early stage in the process the Plan carries negligible weight.

As noted by the Spatial Planning Officer, the Lyneham Neighbourhood Plan: A consultation plan (Regulation 14) is due to be published shortly, but at such an early stage it would carry insignificant weight as it has not sufficiently progressed.

7. CONSULTATION RESPONSES

Wiltshire Council Spatial Planning Officer: Conclude that the proposal is not in accordance with the development plan. Confirm that the Lyneham NP is not sufficiently progressed. Considers that conflicts with planning policy are not as limited as the applicant asserts and the material considerations require careful consideration. The Council is not able to demonstrate a 5-year land supply and the tilted balance is triggered (planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits). It is for the decision maker to weigh in the balance the conflict with the policies of the development plan together with all other material considerations.

Wiltshire Council Drainage Officer: No objection and requested a surface water drainage condition.

Wiltshire Council Urban Design Officer: General comments on the illustrative layout and design concepts. Recommended conditions, if improved, to; consult with community on Reserved Matters,

for Reserved Matters to be in accordance with the principles of the masterplan or a statement showing how each Reserved Matters complies with the Design and Access statement.

Wiltshire Council School Development Officer (Education):

There is no requirement for Early years contribution.

There is no spare capacity currently available at Lyneham Primary. There are no other primaries within the 2 miles statutory safe walking distance from the development site. The council therefore require a developer contribution towards the provision of the 14 places that this development requires.

Using the current* cost multiplier of £18,758 per place: $14 \times £18,758 = £262,612$ subject to indexation.

There is no spare capacity available at RWB Academy. Forecasts indicate that this pressure will continue for the next few years and so necessitates the provision of additional places at the school. The council therefore require a full developer contribution towards the 10 secondary places that this development generates a need for.

Using the current* capital cost multiplier: $10 \text{ places} \times £22,940 = £229,400$, subject to indexation.

*(It is important to note that the cost multiplier quoted applies for 2018/19 and is due to be updated shortly for the 2019/20 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

Wiltshire Council Tree Officer: No objection.

Wiltshire Council Ecology Officer: As no major changes have taken place either in the physical attributes of the site or changes in available information regarding notable habitats or species in the wider local area, the previous Ecological Officer's response is applicable to this submission. The previous officer advised they were satisfied that observations on the previous application (15/12487/OUT, see memo dated 25/01/16) remain valid consequently it is recommended the same set of conditions are attached to any permission granted (see full response online) and no objection is raised.

Wiltshire Council Conservation Officer: As the proposal shows the same area for development as 19/08298/OUT, comments therefore remain as stated for the previous application.

The Conservation Officer's 19/08298/OUT comments: Although the spread of development has reduced since the last 2016 scheme was submitted, the Conservation Officer still feels that there is harm caused to the views to and from the listed building by bringing a road across the water course and filling field 2 with houses.

The Conservation Officer noted the Inspectors previous conclusion that the harm was less than substantial and at the lower end.

Wiltshire Council Landscape Officer: No objection in light of previous revisions and appeal decision.

Wiltshire Council Highways Officer: No objection, recommended conditions. Their comments are discussed at length in the highways section of this report.

Wiltshire Council Archaeologist: Evaluation carried out in relation to a previous development proposal indicated the presence of archaeological remains in the northern part of this site. The Officer recommended an Archaeological condition required to secure the implementation of an archaeological excavation in the northern part of the proposed development site.

Wiltshire Council Affordable Housing Officer: No objection to the proposed number of affordable units. The Officer stated to meet the need the affordable housing units should be provided with a tenure mix of 60% of the units (12 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership. The Officer outlined the indicative mix but stated this could be discussed further. The Officer provided advice regarding National Space Standards and stated the affordable dwellings will be required to be transferred to a Registered Provider, approved by the Council, or to the Council on a nil subsidy basis.

Wiltshire Council Public Art Officer: Requirement for a public art contribution. It is considered that this is covered by CIL/on-site installations.

Wiltshire Council Open Space and Leisure Officers: The Officer used the dwelling mix provided in the design and access statement to calculate the POS requirements for the 50 dwellings proposed.

The Officer confirmed a total of 3,120m² POs including 270m² equipped play is required. No play areas are currently included in the current proposals and there is mention of creating access to the adjacent play area; in this case the Officer requested an off-site contribution to upgrade the adjacent play area of £39,420.00 in lieu of providing the play on site. The POS would need to be secured and managed in perpetuity, Wiltshire Council would not adopt the on-site POS.

The 50 dwellings would also generate a requirement for 1391.5m² sports pitches which equates to an off-site contribution of £13,915.

The Wiltshire Playing Pitch Strategy (adopted Feb 2017) has Ballards Ash (Rugby Ground) at RWB as the nearest beneficiary, it is the nearest Rugby Club to Lyneham and therefore is relevant to the development for the £13,915 off-site contribution.

Wiltshire Council Environmental Health Officer: No major concerns, however any fixed plant associated with the D2 use shall have to be noise assessed, which could be undertaken at reserved matters stage when D2 use building details are known.

Furthermore, a Construction Environmental Management Plan would need to be conditioned if approved.

The Officer reviewed the submitted Air Quality Assessment and found it sufficient to overcome the need for an AQA condition. Further, the Officers advised they would require a scheme of ULEV infrastructure e.g. EV charging secured via condition.

Wiltshire Public Rights of Way: No objection.

Lyneham and Bradenstoke Parish Council:

Object on the following grounds;

- Development outside of settlement boundary
- Unsustainable location
- Lack of infrastructure requirements
- Conflict with plan should be given significant weight despite out of date
- No identified need
- Loss of green field land
- Consultation should be put on hold due to COVID-19

- Applicant is attempting to burnt out the system

8. REPRESENTATIONS

Lyneham and Bradenstoke Neighbourhood Development Plan (NDP)

Steering Group (SG) object on the below grounds:

- No evidence of need for 50 houses in Lyneham
- Does not conform with Core Strategy being more than 10 on green fields outside village boundary
- Applicant tactics of multiple applications
- All decisions should be suspended during COVID-19

Cllr Bucknell: The Councillor raises concerns which fall into the following categories;

- Evidence of need
- Community Engagement
- Sustainability
- Public Amenity/Design
- Access to the site / Road Safety

James Gray MP: “I write on behalf of a number of my constituents... I share my constituents concerns and agree with the points they have made. This application has previously been rejected three times and it does not seem appropriate that it should be considered again during the current climate.”

Wiltshire Swifts: Objected and recommended the application should use swift boxes.

Campaign for Rural England: Objected on the below grounds;

- Housing design
- Opportunistic repeat
- Sustainability

Letters: There have been 100 letters of objection with 10 in support. The clear main issues highlighted by objectors were the lack of need for houses, lack of infrastructure, character and appearance and the need to build on greenfield land, and highway safety concerns.

Many objectors stated their previous concerns raised under the 2019 application still stand. Objectors comment decisions should be postponed during the COVID-19 epidemic. However, the proposal has received the same number of objections as previous. Therefore, it is considered people were able to comment and were not disadvantaged.

Housing Demand

Many objections highlighted that Lyneham had no additional housing need. It was considered that this was against planning policy and delivery strategy of the Wiltshire Core Strategy and would mean the loss of green fields and agricultural land.

Many responses highlighted that other brownfield sites existed in the area, homes remained unsold in the area and noted that there was a large number of empty normal and MoD houses in the village.

Several responses noted there was no requirement for affordable homes in the area as these had been met or will be met by other developments.

Highway Safety

Concerns were raised over highway safety and the proposed access to the north of site. Many commentators raised issues around congestion and the impact of the development on the transport network.

Character of the Village

The area is noted as being valued for recreation and the loss of green fields and agricultural land will have negative affect on the character village. It is was noted that Lyneham is village and should kept this way. Comments noted the village would become a town.

Lack of infrastructure

Representations expressed a lack of all infrastructure facilities, individuals mentioned; lack of workplaces, school places, doctors, dentists, shops and facilities for daily life.

Other matters raised

- Future intentions of the developer
- The site will not help the elderly
- Contrary to development plan
- Circumvents the core strategy
- No benefit to Lyneham
- Sole motivation of land owner is profits
- Questions intentions of old parish council
- Questions intentions of supporters
- Houses should be in towns
- Purton road was dismissed therefore this scheme should be
- NHP is on hold due to COVID19
- Poor community engagement
- Flooding
- Suspect community building will become housing
- Out of date policies do not mean it should be approved
- Need new traffic surveys
- Harm to ecosystem
- Incorrect information in submission
- Houses should have solar panels
- Garages should be wide
- Anti-social behaviour
- As its outline no guarantee of what will be built
- Is had not been established Wiltshire has a shortfall in its 5-year housing supply
- Developer uses loop holes
- Homes should be sustainable
- No benefit to military families
- Effect on air quality
- Waste of council money processing multiple applications
- The landowner has made accessing right of way difficult

10 support letters were received raising the below themes;

- Affordable homes of benefit
- The development will provide bungalows
- Need for houses

9. ASSESSMENT

9.1 Principle of the Development

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006).

This proposal is similar to a scheme previously refused by the Council (16/05959/OUT) and dismissed at appeal (copy of decision attached as an appendix to this agenda) but reduced by 10 dwellings and includes D2 use building. While every case has to be assessed on its merits, there are very clear parallels with the previous proposal in terms of the principle of development. The application is identical to 19/08298/OUT, which was refused on the below grounds;

- 1. The site lies outside of the limits of development defined for the village in the Wiltshire Core Strategy. It has not been brought forward either through a Site Allocations DPD or a neighbourhood plan and does not fall within any of the proposed exceptions identified in CP2. Consequently, the development would conflict with Policies CP1 & CP2 of the Wiltshire Core Strategy (2015), as well as the principles set out within National Planning Policy Framework that planning should be genuinely plan-led (paragraph 15) and with paragraph 12 that states that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.*

2. *The proposed development would provide an unsustainable level of housing in a rural area and would not be in line with the objectives of the Wiltshire Core Strategy to promote self-containment by delivering development at sustainable settlements. The proposal is therefore contrary to policies CP1, CP2 and CP19 of the Wiltshire Core Strategy (2015), saved Policy H4 of the North Wiltshire Local Plan 2011, as well as the principles set out within National Planning Policy Framework (paragraph 9) which confirms that the planning system should play an active role in guiding development to sustainable locations.*
3. *The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.*

Core Policy 1 of the WCS identifies the most sustainable locations for growth within Wiltshire on the basis of a settlement hierarchy, with the focus on the Principal Settlements and Market Towns. Core Policies 1 and 19 set out that Lyneham is a large village in the Cricklade and Royal Wootton Bassett (C&RWB) Community Area. Large Villages are defined as settlements with a limited range of employment, services and facilities that can accommodate new development that is needed to help meet the housing needs of the settlement and to improve employment opportunities, services and facilities. The policy wording states that new residential development will be limited to small housing sites which should generally involve fewer than 10 dwellings i.e. not a major application.

Core Policy 2, the delivery strategy, identifies a minimum housing requirement for Wiltshire of 42,000 dwellings with 24,740 to be provided in the NWHMA in the plan period. The policy notes this will be delivered in a sustainable way including to limit the need for development on greenfield sites and that sites for development in line with the area strategies will be identified in forthcoming DPDs and Neighbourhood Plans. The policy confirms that there is a presumption in favour of sustainable development within the limits of development at each of the settlements in the tiers. Outside the limits of development, it confirms that development will not be permitted other than by other policies in the plan. The limits of development are set by the settlement boundaries established by the recently adopted Housing Sites Allocation Plan. The limits of development continue to exclude the site from the settlement. Whilst the

Lyneham Neighbourhood Plan has not significantly progressed the draft plan does not allocate the site.

The 60-dwelling application (16/05959/OUT) was refused in October 2016. The decision was appealed and dismissed after a 5-day public inquiry in July 2017. In Summary, at paragraph 79 the inspector concluded at that time that the Council could demonstrate a 5-year housing land supply; the Community Area was meeting its requirement and the proposed development was not in accordance with the settlement strategy. In 2019 the 50-dwelling scheme (19/08298/OUT) was refused as at that time it was considered that the Council could demonstrate a 5-year housing land supply, and therefore nothing had materially changed since the earlier dismissed appeal to justify a different outcome.

This scheme of 50 dwellings is still outside the settlement boundary. Core Policy 19 sets the spatial strategy for the Royal Wotton Bassett and Cricklade Community Area (RWBCCA) which amongst other matters identifies 1,445 homes to be built in the area of which some 385 would be provided in the rest of the community area outside Royal Wotton Bassett. The site is not identified in the Sites Plan or Neighbourhood Plan and does not fall within one of the exception policies as listed at paragraph 4.25 of the WCS. Regarding the indicative housing requirement for the remainder of the RWB&C CA, the oversupply was 281 dwellings as of April 2018 (2018 HLSS Appendix 6). Since then, additional permissions have been granted, for instance at Purton (Land at Restrop Road, 38 dwellings¹).

The services and facilities in Lyneham have not significantly changed. Therefore, the village is as sustainable as it was considered to be when the Inspector reached his conclusions in 2017 and during the 2019 refusal. This development would still lead to an increased reliance on the use of the private car to access daily services. Consequently, this is in conflict with the Core Strategy which is seeking to achieve a sustainable pattern of development. Whilst paragraph 103 of the NPPF states that decision makers should take account of the fact that that sustainable transport solutions will vary between urban and rural areas, it still emphasised that significant growth should be focused on locations that can be made more sustainable (e.g. nearby settlements such as Royal Wootton Bassett or Chippenham). The proposal would be considered significant growth and therefore should still be focused in higher order settlements as envisaged by the NPPF and Local Plan Policy.

¹ 16/10513/FUL, approved 22nd May 2019

9.1.1 Material Considerations relevant to the principle of development

The Core Strategy was adopted in January 2015 and is now more than five years old. Both the Courts and Planning Practice Guidance make it clear that the policies of a development plan do not become out of date automatically after passage of 5 years. However, the NPPF makes it clear that housing land supply must now be assessed against Local Housing Need for the whole of Wiltshire, rather than the previous Housing Market Areas, as per para 73 of the NPPF. Councillor Bucknell and several representations express there is no evidence of need for houses in Lyneham. However, it should be noted Local Housing Need is now assessed county wide.

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing land supply. The NPPF makes it clear that where this cannot be demonstrated, the policies which are most important for determining the application (which in this case would include CP1, CP2 and CP19 in relation to limits of development) cannot be considered up to date, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This was the position of the Planning Inspector who considered an appeal at Purton Road.

Following the Purton Road appeal decision, it has become apparent that at present, Wiltshire has 4.62 years of housing land supply. In these circumstances, NPPF Paragraph 11d advises that policies which are most important for determining the application should not be considered up to date. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

It can be seen therefore that Core Policies 1, 2 & 19, saved Policy H4 are all policies which are most important for determining the application and under the provisions of the NPPF are to be considered out of date.

As noted above, it is acknowledged that recent planning approvals and commitments in the Cricklade and Royal Wootton Bassett Community Area mean that the indicative housing requirements for the Cricklade and Royal Wootton Bassett Community Area (up to 2026) have

been met. However, it is important to consider that for the purposes of paragraph 73 and the presumption in favour of sustainable development set out in the NPPF, housing supply is assessed at the Wiltshire wide level – where, as set out previously, the Council cannot currently demonstrate an adequate supply of housing. Whilst the fact that the indicative requirements have been met in this community area is a consideration, given the circumstances of this particular application, as outlined below and in the planning balance, it is not considered that this can be determinative in this instance.

Case law has examined the interpretation and operation of national policy with regards the ability to demonstrate a five-year housing land supply, and the presumption in favour of sustainable development. Court judgments have established that:

- (i) Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37).
- (ii) The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (most recently in *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808).

The implications of the Council's 5-year housing land supply position, and the weight to be attributed to the development plan policies, must be taken into account in the determination of the application. The extent of the 5-year housing land supply shortfall, and the potential for the proposal to deliver housing in the current 5-year period of 1 April 2018 – 31 March 2023 to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise.

Appeal and court decisions confirm that ultimately it will be up to the decision maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date'. Therefore, consideration of the weight which can be provided to the above policies is considered in the balancing exercise at the end of this report.

Deliverability

The NPPF requires sites to be included in the council's five-year supply to be deliverable.

The definition of deliverable is set out in NPPF glossary as follows:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”*

The applicant has provided a deliverability statement that outlines, if permitted, the applicant anticipates work on site commencing on March 2022 with first occupation in December 2022. The applicant states the site is likely to be completed by March 2024, and even with a year's slippage to March 2025 the document states the site will deliver within five years.

The applicant states they believe the site is viable based on their current understanding of the S106 contributions, conditions, and site constraints. The applicant confirms when the site is marketed, the full costs associated with the permission will be known and reflected in the land price ultimately agreed. Further, there are no abnormal infrastructure costs or large land requirements (resulting in constrained land) associated.

The applicant has agreed to shorter commencement conditions, which state reserved matters will be submitted within one year from the date of outline consent and work on site will commence one year from reserved matters approval. Consequently, there is further assurance the site can come forward within the five-year period. This is relevant and of material importance in accordance with the NPPF as it requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing land supply. The document demonstrates the applicant's intention to deliver the site quickly, and this is a material consideration of substantial weight in the context of the current housing land supply position.

9.2 Heritage assets

The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 16 and 66).

Paragraph 190 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 195 and 196 require local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset. Core Policy 57 of the Core Strategy for Wiltshire requires, amongst other things, that new development must be sympathetic to and conserve historic buildings. Core Policy 58 requires that development should protect, conserve and where possible enhance the historic environment.

The Old Rectory is a Grade II listed building located to the north east of the application site. The significance of the Old Rectory is derived from: its aesthetic value, in terms of the appearance and architectural quality of the building; its communal value, in terms of its use as a rectory and its association with the village; in evidential value, identifying the historic associations with the parish church and Lyneham; and its historical value, as an illustrative remnant of Lyneham. The development would not directly impact on the building itself or indeed on its curtilage.

In respect of this heritage asset the inspector in the previous appeal concluded at paragraphs;

100 *“accept that there would be some harm to the setting of the listed building by development in the intervening space between the village and the asset. This does not however directly affect the asset or its curtilage and affects only a small proportion of the wider setting of the building and has a limited effect on the contribution the setting has to the significance of the asset, in terms of its effect on the associative relationship and physical separation between the village and the asset. I conclude that the harm would in the context of the Framework to be less than substantial and that this would be at the lower end of that harm. I give this harm considerable importance and weight.”*

102 *“The proposal would make provision for affordable housing, some 40% of the units, the development would also provide for a total of 60 new homes, there would be landscape*

enhancements to the village edge which would improve the character and appearance of the area, and the proposal proposes additional open space above the requirements of the development plan. These are significant public benefits of the scheme to which I give significant weight and in my view they outweigh the less than substantial harm that would arise from the development.”

Since this appeal was determined, there has been a reduced scale of development. It is acknowledged that by creating a level of harm the proposed development would be contrary to Core Policy 58 of the Wiltshire Core Strategy.

In accordance with paragraph 196 of the NPPF where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this case, the proposal would make provision for affordable housing, some 40% of the units, the development would also provide for a total of 50 new homes, land for a community building and the proposal proposes additional open space above the requirements of the development plan. In these circumstances, and given the Inspector's findings on the previous scheme, it is considered that these are significant public benefits of the scheme which outweigh the less than substantial harm that would arise from the development.

Whilst the proposal may therefore not be in strict accordance with CP 58, as there is harm, the material considerations identified and the approach advised in paragraphs 195 and 196 of the NPPF, suggest the proposal is acceptable in heritage terms.

9.3 Character and appearance

The appeal decision for 60 dwellings was not dismissed on landscape grounds. In summary, at paragraph 84 the Inspector judged;

84 *“On this basis I conclude that whilst there would be a loss of open land, the end result would be a more coherent better assimilated and much improved village edge with enhanced landscaping. In my view this would be a positive benefit of the scheme and improve the landscape character and appearance of the area.”*

88 *“I am satisfied that the scheme does address the identity of the village, its transition between man-made and natural landscapes, the locally distinctive character of Lyneham and the landscape features of value in the area.”*

89 *“On balance and for the reasons given above I conclude that the proposal would not result in material harm to the character and appearance of the area. The proposal would therefore not conflict with policy CP51 of the WCS which seeks to protect and conserve landscape character and appearance.”*

The application is submitted in outline with only the access into the site being a matter for consideration at this stage. There has been illustrative material provided which gives an indication of one way in which the site could be developed but which is not determinative.

The site has no landscape designation. The Council's Landscape Officer has re-confirmed the advice provided on the previous application. It was previously noted that the site is visually contained in the wider landscape and that the potential visual impacts are limited to adjacent residential properties and the site, with the impact on wider views limited. The proposal would essentially move the village edge. However, the current hard edge can be softened by the proposal.

Considering the points raised by the Inspector and as per the previous 2019 decision, the loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. There would be adverse visual effects, particularly for nearby residents. Policy CP51 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. The proposal is not considered to conflict with CP51 as the effects of the scheme can be mitigated through appropriate landscaping, as indicated by the previous Inspector. Further, the management of the public open space could be controlled by a Landscape Management Plan with contributions via a S106 agreement.

Councillor Bucknell raises concern with public amenity and design of the proposal and requested a condition, should permission be granted, to ensure no building is greater than two storeys and 6 bungalows are provided. The applicant agrees to these conditions.

9.4 Impact on Neighbour Amenity

The Inspector and the 2019 report raised no concerns regarding neighbour amenity. The application is for outline planning permission and therefore, layouts are only indicative at this stage. However, in principle, it is considered that the site could feasibly accommodate 50 dwellings in a layout that would not give rise to amenity issues between the new dwellings (the illustrative layout would suggest this to be the case). Furthermore, the site can accommodate this level of development without the new houses affecting the amenity of existing housing on the south and west edge of the site.

9.5 Flooding and Drainage

The Inspector did not dismiss the appeal on flooding or drainage grounds. The site is within Flood Zone 1, the lowest flood risk area, although the area is identified as at risk to surface water flooding. The applicant has confirmed that infiltration on the site is not possible and proposes attenuation basins to achieve the uplifts in storm water drainage and site run-offs required by Core Policy 67. Foul water drainage will be connected to a public sewer but is likely to require a pumping station.

The management of Foul Water is undertaken by Wessex Water and they have raised no objection. Wessex Water require the developer to contact them to agree details prior to works, an informative has been added in this respect.

The Council's drainage officer offered no objection and recommended a surface water drainage condition. The final design will in a large part dictate storm drainage plans. Therefore, the final details of the scheme can be conditioned to use SUDs and provide the additional information requested.

9.6 Transport and Access

Access to the site and the development proposed therein is a detailed matter for determination at this stage. The proposal includes a single point of vehicular access to the north of the site from the A3102 and pedestrian and cycle links to the existing developed area of Lyneham to the west including a significant link via Webbs Court.

Cllr Bucknell raises concern with the appraisal of journeys showing 16% of journeys would be local – this means that 84% of journeys would be outside of the village. The appeal decision for 60 dwellings noted the scheme will result in the increased need to travel by private car to services. The Inspector noted in the conclusion;

133 *“in doing so to grant permission would undermine the development plan and the sustainable pattern of development that it seeks to achieve across the County and would lead to additional travel patterns to meet future residents’ everyday needs for access to services and facilities.”*

The Council’s Highway Officer did not object to the proposal in 2016 on transport sustainability and having reviewed the application submissions maintains this view considering that it is possible the sustainable transport services could support 50 dwellings. However, if a significantly greater number of dwellings were proposed there would be considerable concern regarding transport sustainability. Despite the appeal conclusions the Council’s Highway Officer maintains no objection to this 50-dwelling scheme on transport sustainability grounds.

In terms of vehicular access the Highways team are satisfied that the priority junction is a suitable means of providing access to the development. The Inspector raised no adverse comments with regards to highway safety matters. A number of objectors have stated that traffic generation will be an ongoing issue and have highlighted safety issues on this stretch of road. The Highways team are satisfied that the traffic impact on the highway network is acceptable. The Highways team are also satisfied the access can operate satisfactorily to cater for the proposed level of development subject to the required visibility splays being achieved, and the position of the speed limit being adjusted eastwards so that the access is more within the 30 limit. The Highways Officer has recommended several conditions, which have been added to the recommendation.

Specific concerns have been raised by the representations and Councillor Bucknell regarding the traffic count on the A3102, pedestrian safety crossing the junction and formalised walking/cycling routes. The Highways Officer was asked to directly review these matters. The Highways Officer advised;

“The 2015 traffic data within the TA was growthed to 2019 to obtain baseline traffic figures, using a recognised methodology using TEMPro growth factors, these would give an indication of the traffic levels on the road and allow for further growth rates to be applied in order to anticipate traffic levels for future years to test, in this case 2022 and 2024. Therefore it is considered this is a robust assessment especially when the traffic figures have been interrogated by comparison with another 2019 traffic count observed from application 17/03292/OUT. The 2019 growthed figures have been shown to be not dissimilar to those observed and therefore will suffice in the assessment of the proposed development.

The access has been considered thoroughly in order to mitigate against any highway safety issues and through good design practices with regard to safety audits, the visibility splays shown are commensurate with the speeds on the roads and clearance of these splays will provide improved forward visibility on the main road for vehicles travelling in either direction. The relocation of the speed limit change will further improve the amenity in this location as it will reduce speeds on the main road and help to improve highway safety.

The indication of crossing points with dropped kerbs/tactile paving at the access and further off-site pedestrian improvements are noted within the drawings in the TA, these should be discussed further in order to achieve acceptable improvements at full application stage and I would request that the PROW team are consulted regarding LYNE4 and LYNE5, also LYNE57 and LYNE58, and any other affected PROW on or off-site. The site has an emergency access to the south onto Webbs Close which has also been indicated as a pedestrian and cycle link for the development, given that there are numerous opportunities to link through to PROW's and other access points there would be no concern over the footfall anticipated for the existing footways in this area and the levels of traffic experienced within this cul-de-sac would not highlight a concern for pedestrian or cyclist safety."

Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if the cumulative impact on highway capacity would be severe or highway safety is adversely affected. The Highways Officer has not raised an objection on highway safety grounds nor did the Inspector whom considered the previous appeal. Given these expert opinions, it is not considered a highway safety refusal would be warranted on this basis.

9.7 Public Rights of Way

The appeal decision for 60 dwellings was not dismissed on PROW grounds. In summary, at paragraph 88 the Inspector commented;

Paragraph 88 *"there is a negative effect on Lyne 4 and a lesser but still negative effect on Lyne 5 however these can be mitigated, particularly in respect of Lyne 5 by appropriate landscaping which could be the subject of an appropriate condition."*

There are a number of public rights of way (PROW) that pass through the site, in particular Lyne 4 and Lyne 5. The development of the site would affect Lyne 4, which runs west east from Pound Close across field 2 to meet with Lyne 1 and head south towards Lancaster

Square. The illustrative layout has the alignment retained but adjacent to residential plots and along footpaths in the estate. This would change the character of the experience for footpath users who would not get into the countryside as quickly. In terms of Lyne 5, which runs west to south east through the site, this is proposed along a strip of landscaping. The effects on the experience of this PROW are less than Lyne 4.

The PROW Officer did not object to the current proposals. Policy CP51 and CP57 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. As previously found in the 2019 report, the proposal is still not considered to conflict with CP51 as the effects on PROW Lyne 4 and 5 can be mitigated through appropriate landscaping.

9.8 Ecology

The Inspector and the 2019 report raised no adverse comments with regards to ecological matters. The Council's Ecologist advised as since no major changes have taken place either in the physical attributes of the site or changes in available information regarding notable habitats or species in the wider local area, the previous Ecological Officer's response is applicable to this submission. In 2016, the previous officer advised they were satisfied that observations on the previous application (15/12487/OUT, see memo dated 25/01/16) remain valid consequently it is recommended the same set of conditions are attached and no objection is raised.

9.9 Archaeology

The Inspector and 2019 report raised no adverse comments with regards to Archaeological matters. Evaluation carried out in relation to a previous development proposal indicated the presence of archaeological remains in the northern part of this site. The Council's Archaeologist recommends an archaeological condition required to secure the implementation of an archaeological excavation in the northern part of the proposed development site. As the appealed scheme was to deal with archaeology by way of a planning condition the same approach can be applied here.

9.10. S106 contributions

Wiltshire Council has a Planning Obligations Supplementary Planning Document. This should be read in conjunction with the WCS (primarily Core Policy 3) and the Wiltshire CIL charging schedule. This SPD identifies the planning obligations that will be sought by the Council for development that generates a need for new infrastructure and should be a material consideration in planning applications.

In addition to this, Wiltshire Council has adopted CIL. This would be calculated at Reserved Matters stage.

The Council is also mindful of the tests for s106 legal agreements that are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

Any requests that do not meet the above tests will not be actively sought by the Council.

9.10.1 Recreation Provision

3,120m² Public Open Space including 270m² equipped play is required. No play areas are currently included in the current proposals and there is mention of creating access to the adjacent play area; in this case the Open Space Officer requested an off-site contribution to upgrade the adjacent play area of £39,420.00 in lieu of providing the play on site. The POS would need to be secured and managed in perpetuity, Wiltshire Council would not adopt the on-site POS.

The 50 dwellings would also generate a requirement for 1391.5m² sports pitches which equates to an off-site contribution of £13,915.

The applicant has agreed to the contribution and this will be secured by way of S106.

Early Years / Education Provision

There is no requirement for Early years.

There is no spare capacity currently available at Lyneham Primary. There are no other primaries within the 2 miles statutory safe walking distance from the development site. The council therefore require a developer contribution towards the provision of the 14 places that this development requires.

Using the current* cost multiplier of £18,758 per place: $14 \times £18,758 = £262,612$ subject to indexation.

There is no spare capacity available at RWB Academy. Forecasts indicate that this pressure will continue for the next few years and so necessitates the provision of additional places at the school. The council therefore require a full developer contribution towards the 10 secondary places that this development generates a need for.

Using the current* capital cost multiplier: $10 \text{ places} \times £22,940 = £229,400$, subject to indexation.

*(It is important to note that the cost multiplier quoted applies for 2018/19 and is due to be updated shortly for the 2019/20 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

The applicant has agreed to the contribution and this will be secured by way of S106.

Affordable Housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 40% on-site affordable housing provision: on all sites of 10 or more dwellings; or on sites of between 5 - 9 dwellings if the development site is 0.5ha or greater, within the 40% Affordable Housing Zone, which the site is within. There is therefore a requirement to provide 20 affordable units within a scheme of 50 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing in the Royal Wootton Bassett & Cricklade Community Area.

The Affordable Housing Officer advised to meet the need the affordable housing units should be provided with a tenure mix of 60% of the units (12 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership

The application proposes the minimum 40% affordable housing with the mix indicative and subject to negotiation. The mechanism for delivery of affordable housing is set out in Core Policy 43 where it states that it will be subject to an appropriate legal agreement. Such a legal agreement is considered to meet the CIL tests.

The applicant has agreed to the affordable housing levels and this will be secured by way of S106.

Waste and Recycling

The submitted Waste and Recycling audit by Terence O'Rourke 2019 states the collection of recycling will be undertaken by the local authority. The Waste and Recycling Management Team require the cost of the provision of waste and recycling containers for each residential unit to be absorbed by the applicant / developer. The current cost is £91 per dwelling which is indexed linked. The total sum for 50 dwellings would be therefore £4,550. Core Policy 3 listed waste management services such as recycling and collection facilities as priority theme 1 infrastructure and the cost to the Council is a direct impact of the development. It is therefore a reasonable request to make that the developer bears these costs. The Council contends that this request meets the tests set out under 122 and 123 of the CIL regulations.

The applicant has agreed to the contribution and this will be secured by way of S106.

Other matters

Concern has been raised regarding the D2 use building. The developer does not propose to construct the building but to provide the land for free. No end user has been identified, but the permission provides the opportunity for a D2 use to come forward on the site.

10. The Planning Balance and Conclusion

As stated above, in the determination of planning applications the first issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS). If it does not do so then the issue arises as to whether material considerations, including relevant policies in the NPPF, mean that the development can be regarded as sustainable and that permission should be granted otherwise than in accordance with the plan. Ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies which are most

important for determining the application that are 'out of date' and attract reduced weight, and the NPPF guidance intended to boost housing land supply where the development can be judged sustainable.

Importantly, paragraphs 11d of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and the weight given to such policies is not dictated by the NPPF and, as noted above, will vary according to circumstances on a case by case basis. It is also important to consider the extent to which the land available for housing in Wiltshire falls short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. In this regard and since the refusal of the last application the Council has continued to promote development in the North & West Wiltshire Housing Market Area at sustainable locations. Nevertheless in 2019, when the decision on 19/08298/OUT was made, the Council could demonstrate a 5-year housing land supply in the North & West Wiltshire Housing Market Area, the Community Area was meeting its requirement and the proposed development was not in accordance with the spatial strategy, therefore during the balancing exercise carried out at that time it was deemed 19/08298/OUT should be refused.

The Council is now faced with an identical scheme for 50 dwellings, with the addition of a D2 use. Since the refusal was decided the Council's housing land supply position has changed. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Council must now look at the proposal for 50 dwellings and D2 use in light of the changes to the housing land supply to see whether or not permission should now be granted. Therefore, of key consideration are the benefits and harms associated to the development and the level of weight which may be attributed to them in the planning balance.

Benefits

Noted by the inspector at previous appeal;

- 20 affordable housing units (significant weight by inspector)
- 60 new dwellings (significant weight by inspector)
- Improved village edge (moderate weight by inspector)

- Additional open space and landscaping (moderate weight by inspector)
- Construction activity (limited positive weight by inspector)
- Increase in Council tax receipts (limited positive weight by inspector)

Additional benefits noted by the applicant;

- Community building
- Net biodiversity gain
- Increased local population economic benefit
- Reduced traffic on A3102
- Deliverability

The Council considers the benefits as follows;

Provision of Affordable Housing

Additional affordable homes in Wiltshire is afforded substantial weight.

Provision of open Market Housing

Given the current 5-year land supply position in Wiltshire it is considered that the provision of 50 dwellings is afforded substantial weight.

Improved village edge

This was found by the inspector as a benefit. Whilst it is a benefit it would in effect be mitigating the scheme as the village edge could be improved by residents on the southern section changing their boundary treatments and it is given moderate weight.

Additional open space

The field is already used by residents using the PROW as open space to walk dogs and enjoy the countryside. There is a requirement to provide public open space on major housing developments and this would be secured via a s106 agreement. It is not therefore a benefit of the scheme but rather mitigation against the impacts of the development i.e. to provide recreation space for the occupants of the development. It is given limited positive weight, as it is effectively mitigation.

Creation of construction jobs

In the context of housing construction 50 dwellings is a small development and therefore, will not generate substantial amounts of construction jobs over a long period of time. There will be a short-term gain. Limited positive weight is given to this point.

Council tax

As per the Inspector, limited positive weight is given to this.

Deliverability

Given the modest shortfall in housing land supply, the deliverability statement highlighting likely occupation in December 2022 and conditions on the permission stating reserved matters to be submitted within one year and commencement one year from reserved matters approval. The ability of the site to contribute to the modest shortfall relatively quickly is given substantial weight.

Community Building

Gleeson is only proposing to make the land available for community use, with the community body paying for the building to be built and paying for its ongoing maintenance. At the time of writing there is no identified end user or specific requirement for a community use building in this location. Limited weight is given to this benefit.

Net biodiversity gain

The outline application does not contain the specific details of how biodiversity is increased on the site and is required by CP50 and the NPPF. Therefore, this is given limited weight.

Increased local population economic benefit

To a large degree this depends on the buying preferences of the future residents. Given Lyneham is a village many residents will rely on other areas for shopping and entertainment. Moderate weight is given to this point.

Reduced traffic speeds on A3102

Whilst reducing speeds to 30 miles per hour is a benefit this could be undertaken by the Local Authority reviewing the highway and adjusting the speed. The need to reduce the speed is due to the junction the proposal creates, consequently speed reduction is mitigation and not afforded anything more than limited weight.

The site is acceptable in terms of flooding, highway safety, ecology and no other site constraints are identified that make this site unsuitable for development. As examined above,

it is considered there are no site-specific harms arising from the proposal other than the loss of a greenfield site in agricultural use that would result in some harm to the character and appearance of the area. However, as noted by the inspector, landscaping will ensure a softer treatment to the village edge. It is noted the scheme causes less than substantial harm to a heritage asset, however it is deemed the benefits of the proposal outweighed the less than substantial harm.

Harm

The main harm identified is conflict with Core Policies 1, 2, & 19 of the WCS – in essence, the spatial policies of the development plan that seek to provide housing in settlements with the facilities to support increased provision. Lyneham is identified as a 'large village' and as such would not normally be expected to receive developments of more than ten houses.

However, it is instructive to examine the appeal decision determined 18 months ago at Alderbury, South Wiltshire (17/04001/OUT – copy attached as an appendix to this agenda). Alderbury too is designated a large village in the settlement hierarchy of the WCS and that proposal was also for up to 50 dwellings outside of the limits of development. As with this appeal, the Council could not demonstrate a five-year land supply for housing. The Inspector noted that Alderbury had a good level of services for a large village and found that there was no evidence that the proposal would harm any local services and facilities, nor at this scale, would it in his view undermine the spatial strategy or amount to unsustainable development. He could find no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal, that included helping to erode the deficit in housing land supply and increasing the supply of affordable housing. Accordingly, he allowed the appeal and granted planning permission. Whilst each application should be considered on its own merits, it is noticeable that Lyneham too has a good level of services, with two small stores (Tesco/Co-op), a primary school, community halls and other facilities and that there is no evidence here that the proposal would harm local services or facilities.

Given the conflict with the policies of the development plan, the key test is whether the adverse impacts of granting permission significantly and demonstrably outweigh the benefits. The latest housing land supply position shows a modest shortfall that will in part be met by this development. Although there is some harm identified to the heritage asset these harms are considered to be clearly and demonstrably outweighed by the benefits of development. Urbanising the green field with the associated landscaping was noted as an improvement on the village edge by the Inspector. There are no other site-specific harms. Conditions placed upon this permission and Section 106 contributions ensure the scheme is fully mitigated to ensure infrastructure is in place to support the development.

On balance, it is considered that the very limited adverse impacts identified do not significantly and demonstrably outweigh the benefits that the development would provide. Accordingly, it is recommended that planning permission be granted, subject to the prior completion of a section 106 legal agreement

RECOMMENDATION:

It is recommended that authority be delegated to the Head of Development Management to **GRANT** planning permission, subject to conditions listed below and completion of a S106 legal agreement covering the areas outlined below in the Heads of Terms, within six months of the date of the resolution of this Committee.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to **REFUSE** planning permission for the following reason: -

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.

Heads of Terms for Section 106 legal agreement to secure the following:

- 40% affordable housing - 60% of the units (12 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership.
- Primary school contributions (£262,612)
- Secondary school contributions (£229,400)

Regarding education payments *(Please note however, that the cost multiplier quoted applies for 2018/19 and is due to be updated shortly for the 2019/20 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

- Off-site sports pitch contribution (£13,915) The Wiltshire Playing Pitch Strategy (adopted Feb 2017) has Ballards Ash (Rugby Ground) at RWB as the nearest

beneficiary, it is the nearest Rugby Club to Lyneham and therefore is relevant to the development. The project would be for general pitch and changing upgrading.

- Open space - 3,120m² POs including 270m² equipped play required (or off-site contribution of £39,420.00 in lieu of providing play on site). If POS provided on site The POS would need to be secured and managed in perpetuity, Wiltshire Council would not adopt the on-site POS.

Open space management

- Waste and recycling contribution £4,550.
- £6,000 towards a TRO to move the speed limit.

1 OUTLINE PLANNING PERMISSION COMMENCEMENT

The development hereby permitted shall be begun either before the expiration of one year from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 APPROVAL OF CERTAIN RESERVED MATTERS

No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development,
- (c) The external appearance of the development;
- (d) The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

3 RESERVED MATTERS TO BE SUBMITTED

An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4 APPROVED PLANS

The development hereby permitted shall be carried out in accordance with the following approved plans and documents unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

Site Location Plan 1275.01

Site Survey Plan 1275.02

Design and Access Statement and principles in the Illustrative Site Layout 1275.03

Heritage Desk Based Assessment CR0097_01

Transport Assessment TW/IN/BB/ITB10092-010A R

Travel Plan TW/IN/BB/ITB10092-011A R

Sustainability and Energy Statement by Daedalus

Landscape and Visual Appraisal by Enderby associates

Arboricultural Impact Assessment and Method Statement
PoundFarm_AIA_AMS_062019

Flood Risk Assessment TRS/GLE/E4389/15900

Ecology Appraisal 5633 EcoAp dv5/JoC/HG

All received 13th March 2020

Air Quality Impact Assessment 01.0048.005/AQ v1 received 26th March 2020

REASON: For the avoidance of doubt and in the interests of proper planning.

5 RESTRICTION ON DEVELOPMENT

Notwithstanding the details set out in the description of development, the development hereby approved shall comprise no more than 50 dwellings and a D2 use building.

REASON: The maximum number of dwellings is required to be stated in order to ensure the development can be provided in an acceptable manner to ensure high quality design is delivered.

6 UNIT HEIGHT

Notwithstanding the details set out in the description of development, the dwellings and D2 use building shall be no greater than two storeys in height.

REASON: Restricting height is required in order to ensure the development can be provided in an acceptable manner to ensure high quality design is delivered.

7 BUNGALOWS

The first reserved matters application shall contain a minimum of six no. two or three-bedroom bungalows.

REASON: To define the scope of the development based on the design and access statement.

8 SITE LEVELS

No development shall take place until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads and footpaths), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure the finished levels are acceptable in the interests of visual amenity.

9 LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN (LEMP)

The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) in accordance with the measures outlined in the Ecological Assessment shall be submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:

a) Description and evaluation of features to be managed;

b) Landscape and ecological trends and constraints on site that might influence management;

c) Aims and objectives of management, including long term objectives to ensure management in perpetuity on land outlined in red on the Site Location Plan 1275.01

- d) Appropriate management options for achieving aims and objectives as set out in points a)-c) above ;
- e) Prescriptions for management actions for the site outlined in red on the Site Location Plan 1275.01
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period;
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures which shall include measurable targets;
- i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery.

The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. A report shall be submitted to the local planning authority annually detailing the works undertaken and performance against the targets set .

The LEMP shall be implemented in full in accordance with the approved details.

REASON: The matter is required to be agreed in writing with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species and priority species.

10 ECOLOGY CEMP

No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities
- b) Identification of 'biodiversity and tree protection zones'
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialists ecologists need to be present on site to oversee works

- f) Responsible persons and lines of communication
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority every three months from the start of the development until the completion of the final planting.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

11 ARCHAEOLOGY

Prior to the submission of the first reserved matters application a written programme of archaeological investigation including a timeframe for on site work and off site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority. The programme shall be carried out in accordance with the approved timeframe.

REASON: To enable the investigation of the presence of heritage assets at the site, incorporation of any mitigation measures and recording of any matters of archaeological interest.

12 LANDCAPING IMPLEMENTATION

All soft landscaping comprised in the approved details of landscaping, as required by the reserved matters applications and details required by conditions within this decision notice shall be carried out in the first planting and seeding season within or following the completion of each phase, first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

13 CONSTRUCTION METHOD STATEMENT

No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- h) measures for the protection of the natural environment.
- i) hours of construction, including deliveries; and
- j) drainage arrangements during the construction works;
- k) vehicle routing for construction vehicles.

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

14 ACCESS

Prior to first occupation of any dwelling hereby permitted the access shall be provided with visibility with nothing to exceed the height of 600mm above carriageway level between the carriageway edge, and a line drawn from a point 2.4 metres back along the centre line of the access from the carriageway edge, to points on the nearside carriageway edge 90 metres to the east, and 59 metres to the west.

REASON: In the interests of highway safety.

15 A3201 UPGRADE

Prior to first occupation the street lighting of the A3102 shall have been upgraded to BS5489-1;2013 BS EN123202-2 2003 for a distance of 60 metres to either side of the access position, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of safe and convenient operation of the site access during the hours of darkness.

16 TRAVEL PLAN

No part of the development shall be occupied prior to the implementation of the Framework Travel Plan, (or implementation of those parts capable of being implemented prior to occupation). Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein.

REASON: In the interests of reducing the amount of private car movements to and from the development.

17 LYNE4

Prior to occupation of the 20th dwelling footpath LYNE4 shall be planed off, resurfaced and street lit between the development and The Green, including new dropped kerbs where it crosses Pound Close, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility to and from the development.

18 DROPPED KERBS

Prior to first occupation new sets of dropped kerbs shall be provided at the end of Farthing Lane and at 2 locations on Pound Close in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility to and from the development.

19 LYNE57

Prior to occupation of the 20th dwelling footpath LYNE57 shall have been planed off and resurfaced between the point where it joins LYNE4, to the point where it connects

with the proposed pedestrian link to Pound Close near 71 Pound Close, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility to and from the development.

20 ACCESS LINK

Prior to occupation of the 30th dwelling a 3.5 metre wide bollarded, emergency, pedestrian and cycle access link shall have been provided between the development and Webbs Court in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving emergency, pedestrian and cycle accessibility to and from the development.

21 ULTRA LOW ENERGY VEHICLE INFRASTRUCTURE

No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to and approved by the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained.

REASON: Core Policy 55; Development proposals, which by virtue of their scale, nature or location are likely to exacerbate existing areas of poor air quality , will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

22 CONTAMINATED LAND

No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination (including asbestos) on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;

- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwater and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the

23 SURFACE WATER DISCHARGE

No development shall commence on site until a scheme for the discharge of surface water from the site /phase, including SuDS (sustainable drainage systems) and all third party approvals (as necessary), has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority and the sewerage undertaker . Scheme details shall include any required off-site capacity improvements needed to allow the site/phase to be served, and to include a programme allowing sufficient time for the delivery of any required improvements.

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy (adopted January 2015) and to ensure that the development can be adequately drained without increasing flood risk to others.

24 ECOLOGLY & LIGHTING

Reserved matters applications shall be in accordance with the mitigation measures set out in Ecological Assessment (Aspect Ecology, 2019), each reserved matter application shall be accompanied by a 'Lighting Design Strategy for Biodiversity'. The strategy will cover both construction and operation phase and shall:

1. Identify those features/ routes that are important to light sensitive/ nocturnal species such as bats, badgers and hedgehog and to be retained within dark corridors.
2. Show full details of proposed construction and operational lighting, including lux plots to show there is no lighting impact to the features/ routes identified. Lux plots should be presented on a scaled site drawing and the light levels must be shown at ground level and at 2m above the ground (horseshoe bats fly typically within this range). The light levels should also be shown as "from new", not as normally calculated levels after some months or years of use.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other lighting be installed without prior consent from the local planning authority.

REASON: As required by Core Policy 50 to ensure the long-term functioning of wildlife corridors and Core Policy 52 the retention and green infrastructure.

25 ARBORICULTURAL METHOD STATEMENT

No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:

- " A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;

- " A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;

- " A schedule of tree works conforming to British Standard 3998: 2010;

- " Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;

- " Plans and particulars showing the siting of the service and piping infrastructure;

- " A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including

details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;

- " Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of

the findings of the supervisory visits; and

- " Details of all other activities, which have implications for trees on or adjacent to the site.

- " Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved

remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

26 INFORMATIVE: You are advised to contact Wessex Water directly regarding sewers adoption.