



Department for Levelling Up,
Housing & Communities

Our ref: APP/Q3115/W/22/3296251

Adam Day
Wardell Armstrong LLP
Sir Henry Doulton House
Forge Lane
Etruria
Stoke on Trent
ST1 5BD

10 October 2023

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION S.78
APPEAL MADE BY J T LEAVESLEY LIMITED
LAND OFF PAPIST WAY, CHOLSEY, OXFORDSHIRE OX10 9PA
APPLICATION REF: P21/S1503/O**

This decision was made by Rachel Maclean MP, Minister of State for Housing and Planning, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of PW Clark, MA(Oxon), MA (TRP) MRTPI, MCMI, who held a public local inquiry on 31 August, 1, 2, 6-9 and 13 September 2022 into your client's appeal against the decision of South Oxfordshire District Council to refuse your client's application for planning permission for a Mixed Use development comprising up to 350 C3 residential dwellings, C2 Care and Assisted Living, E(a) retail, E(g) employment space, F2 Community Building, E(e) Daycare Nursery, Open Space and Landscaping, in accordance with application Ref. P21/S1503/O dated 24 March 2021.
2. On 25 August 2022 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 (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where noted, and agrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. 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 2017 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR2-7 the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the inquiry

6. A number of changes have occurred since the close of inquiry. The Secretary of State referred back to parties on 24 August 2023. He sought the parties' views of the implications, if any, of a decision on a planning appeal at Land off the B480, Chalgrove, dated 5 May 2023, any other changes to housing land supply (HLS), including, but not limited to, the grant of planning permission for 100 dwellings at Newham Manor P16/S3852/FUL and 19 dwellings at Land adjacent to the Orchard, Benson, Oxfordshire P21/S0882/O; and the adoption by the Council on 3 January 2023 of the South Oxfordshire Community Infrastructure Levy (CIL) Charging Schedule and the Developer Contributions Supplementary Planning Document (SPD).
7. Replies were recirculated on 18 September 2023 and 26 September 2023. The Secretary of State's conclusions on these matters are set out at paragraphs 20-25 and 38-39 below.
8. A number of other representations on the case have been received since the inquiry. 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. A list of all representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on request to the email 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 (PCPA) 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 the Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy, South Oxfordshire Local Plan 2011-2035 (SOLP), and the Cholsey Neighbourhood Plan (CNP) made on 11 April 2019 and the reviewed Cholsey Neighbourhood Plan made on 13 October 2022. The Secretary of State considers that relevant development plan policies include those set out at IR25-27.
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'). A new version of the Framework was issued on 5 September 2023; however as the changes relate solely to onshore wind development, and are not relevant to this appeal, the Secretary of State has not taken them into account in reaching his decision.

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 Secretary of State has had regard to the fact South Oxfordshire and Vale of White Horse District Councils have agreed to work together to produce a Joint Local Plan. An 'Issues Consultation' concluded in 2022, and the Councils next expect to publish a Joint Local Plan 'Preferred Options' consultation document that will set out proposed policies and any proposed sites for development.

14. 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. Given the early stage of preparation, the Secretary of State concludes that that the emerging Joint Local Plan carries very little weight.

Main issues

Character and landscape

15. For the reasons given at IR318-329 the Secretary of State agrees at IR329 that there would be no significant visual effects on the landscape in terms of long distance views or of views from the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (the AONBs) and their setting. He further agrees that there would only be minor or moderate adverse effects on the limited extent to which the site is visible in medium distance views, and so, only similar limited effects on the setting of the village of Cholsey. He further agrees that the transformational effects on the site itself would eliminate views enjoyed by private households but would provide some public benefits to the appearance of the edge of Cholsey and to the physical integration of its parts, albeit moderated by the severance which would be caused by the large road junctions to access the scheme required by the local authorities. He further agrees that the overall effect on landscape character would be neutral (IR329). He agrees with the Inspector that because the CNP defines a settlement boundary for the village, the site is defined as countryside and so, by definition, its development would contradict SOLP policy STRAT1 (IR329). He considers it would also be in conflict with CNP policy STRAT 1 (now policy CNP1) due to the conflict with the spatial strategy, which seeks to restrict inappropriate development in the countryside outside the village built up area boundary (IR344). The Secretary of State also agrees that the proposal would represent sustainable development in terms of its effects on landscape character and would be consistent with SOLP policy ENV1 (IR329).

16. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, and that development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. The Secretary of State has taken this into account. In light of his conclusions above, he considers that the impact of the proposal on the character and appearance of the area, including the impact on the setting of the AONBs, is neutral in the planning balance.

Education

17. For the reasons given at IR339 and IR386, the Secretary of State agrees that the proposal's policy-compliant contribution to education premises would not represent sustainable development in terms of its effects on social infrastructure. He further agrees for the reasons given at IR340 and IR385 that these social effects represent harm which would result from the development not complying with the spatial strategy set out in the Council's development plan (IR340). He agrees at IR386 that this is a manifestation of the proposal's conflict with the spatial development strategy of the SOLP (policy STRAT1), and CNP policies STRAT1 And EMP2).

Development Strategy

18. For the reasons given at IR341-342, the Secretary of State agrees that for the purposes of the development plan strategy this appeal scheme is to be classed as a large-scale major development, which is intended to be focused at Didcot and Culham, not at Cholsey. The proposal therefore conflicts with SOLP Policy STRAT1.

19. The Secretary of State agrees at IR343 that Cholsey has supported a locally appropriate level of housing growth in the village, in accordance with objective (now policy) CNP STRAT1 and has front-loaded its achievement of that target. For the reasons given at IR343-345 the Secretary of State agrees that two of the circumstances set out in paragraph 14 of the Framework apply, as the reviewed neighbourhood plan has become part of the development plan two years or less before the date on which this decision has been made (paragraph 14(a)), and the neighbourhood plan contains policies and allocations to meet its identified housing requirement (paragraph 14(b)) (IR382).

Housing delivery and HLS

20. The Secretary of State agrees that the Council's housing delivery since the start of the Local Plan period has been in excess of requirements and, whatever the accuracy of its forecasts, delivery over the previous three years has been well in excess of the 95% threshold indicated in paragraph 76 of the Framework (IR346). He therefore agrees that the circumstance set out in paragraph 14(d) of the Framework applies, i.e. that the local planning authority's housing delivery was at least 45% of that required over the previous three years (IR382).

21. The Secretary of State has gone on to consider the question of housing land supply. He agrees with the Inspector's approach as set out in IR347-353.

22. As set out in paragraph 6 above, the Secretary of State sought parties' views on the current HLS position in the light of a number of decisions since the inquiry. In response the Council submitted a copy of the HLS Statement for South Oxfordshire Council, dated September 2023, which sets out the position that the Council can demonstrate a 4.2 year supply of housing land. The appellant put forward an assessment that on the evidence of delivery of a number of sites within the HLS Statement, HLS is no more than 3.1 years. It is therefore the position of both parties that the current HLS in South Oxfordshire is less than 5 years but more than 3 years. The Secretary of State agrees. He considers that the HLS is in the range of 3.1-4.2 years. He does not consider it is necessary, for the purposes of this appeal, to reach a more exact figure.

23. The Secretary of State has therefore proceeded on the basis that a 5-year HLS has not been demonstrated, and that the presumption in favour of sustainable development set

out in paragraph 11(d) of the Framework is triggered. Given the agreed position that there is a more than 3-year HLS, the Secretary of State has further proceeded on the basis that paragraph 14(c) of the Framework is met.

24. He has gone on to consider whether paragraph 14 of the Framework applies overall. He has found that this is a situation where the presumption (at paragraph 11(d)) applies to an application involving the provision of housing. He has concluded at paragraph 19 above that the provisions of paragraph 14 (a) and 14(b) of the Framework have been met, and has concluded at paragraph 20 above that the provisions of paragraph 14(d) of the Framework have been met. As all elements of paragraph 14 of the Framework have been met, the Secretary of State finds that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. He returns to this matter in paragraphs 48-49 below.

Contribution to housing supply

25. For the reasons given at IR358 and IR389, the Secretary of State agrees that the local authority area is not deficient in terms of the allocations within its plan which are well in excess of requirements. He agrees that the new homes would make a significant contribution to housing supply. While the Inspector found that this was a benefit of moderate weight, that was against a finding (IR389) that the shortfall that was so marginal as to be barely identifiable. Given that on the evidence of the parties the HLS is at best 4.2 years, and at worst 3.1 years, he concludes that the shortfall is more than marginal, and that as such the benefit of the contribution to housing supply should be afforded significant weight.
26. For the reasons given at IR359 and IR390, the Secretary of State agrees that the benefits of affordable housing which the proposal would provide would comply with SOLP policy H9 and should be afforded significant weight.
27. He further agrees, for the reasons given at IR360, that the provision of self-build housing plots would comply with SOLP policy H12 and should be afforded significant weight.
28. He also agrees, for the reasons given at IR361-363 and IR390, that significant weight should be given to the provision of extra care older person's housing.

Employment, retail and community uses

29. For the reasons set out at IR364-366 and IR391, the Secretary of State agrees that while the provision of employment space would be contrary to SOLP policies STRAT1 and EMP2, any harm would be limited (IR364). He further agrees (IR365) that there is no substantive evidence to show that the provision of retail floorspace would be harmful or contrary to any SOLP policy. He further agrees that the provision of a community building would cause no harm, but offers no special benefits (IR366). Overall, he agrees with the Inspector at IR391 that these matters are neutral in the planning balance.

Transport

30. For the reasons given at IR367-371, the Secretary of State agrees that adequate information has been provided to demonstrate safe vehicular and pedestrian access to the development, and that there is compliance with SOLP policies TRANS2, 4 and 5 (IR367). He agrees at IR368 that the bus infrastructure and contribution towards improving the local bus service which has been secured would be a public benefit, albeit not one altering the fundamental characteristics of Cholsey as a less than ideally

sustainable location, having a good train service on the edge of the village but a somewhat poorly designed bus service. He attributes limited weight to this benefit. The Secretary of State agrees with the Inspector at IR368 that overall the transport proposals associated with the development accommodate and reinforce a dependence on less sustainable transport methods characteristic of Cholsey.

Green infrastructure and open space

31. For the reason set out at IR372-374, the Secretary of State agrees with the Inspector's conclusions on these matters.

Heritage

32. The Secretary of State agrees with the Council at IR205 that harm to the listed milestone arising from its relocation would be 'less than substantial'. He has taken into account the provisions of s.66 of the LBCA and paragraph 199 of the Framework, including the requirement to give great weight to the conservation of a designated heritage asset, and has also taken into account the benefits that would arise from its maintenance and restoration, as set out in IR95. Overall, in the particular circumstances of this case, the Secretary of State considers that limited weight attaches to the 'less than substantial' harm to the milestone. In line with paragraph 202 of the Framework, the Secretary of State has weighed the 'less than substantial' harm to the significance of this designated heritage asset against the public benefits of the proposal. He has concluded that the harm is outweighed by the public benefits, and therefore the heritage test at paragraph 202 is favourable to the proposal. He agrees at IR375 that the milestone's restoration would be in accordance with SOLP policy ENV7.

Minerals

33. For the reasons given at IR376 the Secretary of State agrees that the proposal would comply with SOLP policy EP5 and with Oxfordshire Mineral and Waste Local Plan Part 1 policy M8.

Water and sewerage

34. The Secretary of State agrees at IR377 that this issue can be addressed by condition 14 such as to ensure compliance with SOLP policy INF1(4).

Best and Most Versatile Agricultural Land

35. For the reasons given at IR378-379 and IR385, the Secretary of State agrees that the loss of BMV agricultural land would conflict with SOLP policy DES7(Vii). He notes that all parties agree that the loss is a significant effect, and agrees that this is a significant material harm (IR379). He considers that in the circumstances of this case, and given the quantum of BMV land involved, this harm should attract significant weight.

Economic benefits

36. The Secretary of State has taken into account the Inspector's comments at IR388. He considers that the economic benefits of the proposal carry moderate weight. The other benefits of the proposal have been addressed in paragraphs 25-28 and 30 above.

Planning conditions

37. The Secretary of State has given consideration to the Inspector's analysis at IR272-314, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 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 56 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

38. The Secretary of State has had regard to the Inspector's analysis at IR261-271, IR330-338 and IR369-371, the deed of planning obligation dated 30 September 2022, paragraph 57 of the Framework, the Guidance and the CIL Regulations 2010, as amended, and has also taken into account the South Oxfordshire CIL Charging Schedule which was adopted on 3 January 2023. He has had further regard to the representations of the parties on this matter in response to his reference back letter.

39. The Secretary of State agrees with the Council that the monitoring fees it is seeking are justified, and notes that the appellant accepts these in relation to their proper application to the proposed development scheme. He further agrees with the appellant that there would be no impact on the signed s.106 agreement which would necessitate an updated document to be produced.

40. The Secretary of State considers that the deed of planning obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework, with the exception of the Secondary School Transport Contribution, for the reasons given by the Inspector (IR337-8). Under the clauses in the deed of obligation referred to at IR262, this part of the deed of obligation therefore has no effect.

41. In particular, the Secretary of State considers that the Secondary Education Contribution, the Special Educational Needs Contribution, the Bus Infrastructure Contribution and the Bus Service Improvement contribution are 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, for the reasons given by the Inspector (IR330-336 and IR369-372). He notes the Inspector's comments about these contributions only being necessary to the extent that such contributions are reduced in parallel with any contribution which outturns show to have been made from CIL funding and that the planning obligations concerned are a material consideration in determining this appeal only to that extent (IR336 and IR370). However, he further notes the 'clawback' provisions of Schedule 8 (referred to at IR271) and considers that nothing further is required in this regard.

42. Overall, the Secretary of State does not consider that the deed of obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

43. The Secretary of State has found that the appeal scheme is not in accordance with SOLP policies STRAT1, EMP2 and DES7(vii) and CNP policy STRAT1. Given the fundamental conflict with the spatial development plan strategy, he considers that the proposal is not 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 line with the development plan.

44. As the Secretary of State has found that the Council cannot demonstrate a 5 year HLS, 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. Weighing in favour of the proposal are the market housing which attracts significant weight, affordable housing which attracts significant weight, self-build housing which attracts significant weight, and older people's housing, which also attracts significant weight. The improvements to bus infrastructure and service attract limited weight, while the economic benefits attract moderate weight.
46. Weighing against the proposal is the loss of BMV land, which attracts significant weight, and the identified 'less than substantial' harm to the significance of the listed milestone, which in the circumstances of this case carries limited weight.
47. The Secretary of State has found that the heritage balancing exercise under paragraph 202 of the Framework is favourable to the proposal. The Secretary of State considers that in terms of paragraph 11(d)(i) of the Framework, there are no protective policies which provide a clear reason for refusing the development proposed.
48. In considering paragraph 11(d)(ii) of the Framework, the Secretary of State has taken into account his policy at paragraph 14 of the Framework, his finding at paragraph 24 above that the circumstances of paragraph 14 all apply and that the proposal conflicts with the neighbourhood plan.
49. The Secretary of State finds that the adverse impacts of allowing this development significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. The presumption in favour of sustainable development is therefore disapplied.
50. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.
51. The Secretary of State concludes that the appeal should be dismissed and planning permission refused.

Formal decision

52. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a Mixed Use development comprising up to 350 C3 residential dwellings, C2 Care and Assisted Living, E(a) retail, E(g) employment space, F2 Community Building, E(e) Daycare Nursery, Open Space and Landscaping, in accordance with application Ref. P21/S1503/O dated 24 March 2021.

Right to challenge the decision

53. 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 TCPA 1990.

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

Yours faithfully

Phil Barber

Decision Officer

This decision was made by the Minister of State for Housing and Planning, Rachel Maclean MP on behalf of the Secretary of State, and signed on her behalf

Annex A

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date received
South Oxfordshire District Council	8 August 2023
Elizabeth Haydn	24 August 2023
South Oxfordshire District Council	9 October 2023
South Oxfordshire District Council	9 October 2023

Representations received in response to the Secretary of State's reference back letter of 24 August 2023

Party	Date received
Wardell Armstrong on behalf of the appellant	5 September 2023
Cholsey Parish Council	14 September 2023
Wardell Armstrong on behalf of the appellant	15 September 2023
South Oxfordshire District Council	15 September 2023

Representations received in response to the Secretary of State's recirculation letter of 18 September 2023

Party	Date received
Wardell Armstrong on behalf of the appellant	25 September 2023
Cholsey Parish Council	25 September 2023



Report to the Secretary of State for Levelling Up, Housing and Communities

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI

an Inspector appointed by the Secretary of State

Date 12 January 2023

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY J T LEAVESLEY LIMITED

SOUTH OXFORDSHIRE DISTRICT COUNCIL

Inquiry Held on 31 August, 1, 2, 6-9 and 13 September 2022

Land off Papist Way, Cholsey, Oxfordshire OX10 9PA

File Ref: APP/Q3115/W/22/3296251

LIST OF ABBREVIATIONS

AIA	Arboricultural Impact Assessment
ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
BBOWT	Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust
BMV	Best and Most Versatile
CCB	Chilterns Conservation Board
CD	Core Document
CIL	Community Infrastructure Levy
CNP	Cholsey Neighbourhood Plan
CO ₂	Carbon Dioxide
CROW	Countryside and Rights of Way
DEFRA	Department for Environment, Food and Rural Affairs
DfE	Department for Education
DGT	Didcot Garden Town
EA	Environment Agency
EBDOG	Educational Building and development Officers' Group
EIA	Environmental Impact Assessment
ES	Environmental Statement
EV	Electrical Vehicle
GI	Green Infrastructure
GP	General Practitioner
GVA	Gross Value Added
IAQM	Institute of Air Quality Management
LAP	Local Area of Play
LCA	Landscape Character Area
LCT	Landscape Character Type
LEAP	Local Equipped Area of Play
LNR	Local Nature Reserve
LVIA	Landscape and Visual Impact Assessment

LWS	Local Wildlife Site
NHLE	National Heritage List for England
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
OCC	Oxfordshire County Council
POS	Public Open Space
PV	Photovoltaic(s)
RM	Reserved Matters
SEN	Special Educational Needs
SLOAP	Space Left Over After Planning
SOCG	Statement of Common Ground
SODC	South Oxfordshire District Council
SOLP	South Oxfordshire Local Plan
SPD	Supplementary Planning Document
SPRU	Strategic Planning Research Unit
SuDS	Sustainable Drainage System(s)

File Ref: APP/Q3115/W/22/3296251

Land off Papist Way, Cholsey, Oxfordshire OX10 9PA

- 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 J T Leavesley Limited against the decision of South Oxfordshire District Council.
- The application Ref P21/S1503/O, dated 24 March 2021, was refused by notice dated 4 February 2022.
- The development proposed is a Mixed Use development comprising up to 350 C3 residential dwellings, C2 Care and Assisted Living, E(a) retail, E(g) employment space, F2 Community Building, E(e) Daycare Nursery, Open Space and Landscaping.

Summary of Recommendation: The appeal be dismissed

Procedural Matters

1. The application is made in outline. The Secretary of State is asked to determine some details of two accesses to the site now¹. Other details of pedestrian and cycle access to the site and all access within the site, appearance, landscaping, layout and scale would be reserved for later consideration if permission is given.
2. The proposal exceeds all three thresholds for screening for the need for an Environmental Impact Assessment set out in Schedule 2 of the Environmental Impact Assessment Regulations and so, a Screening Opinion was sought². This determined that an Environmental Impact Assessment is required³.
3. Consequently, the application is accompanied by an Environmental Statement and three Parameter Plans covering movement (drawing number 5775 4.2 SK-003 Rev C), landscape and open space (drawing number 5775 4.2 SK-004 Rev C) and land use and density (drawing number 5775 4.2 SK-005 Rev C)⁴. In accordance with decisions of the courts⁵ these parameter plans must be applied by condition, if permission is granted, so as to establish an envelope within which the detailed design and discharge of reserved matters can proceed, irrespective of whether or not they would be otherwise required to make the development acceptable.
4. Following comments made by Oxfordshire County Council (OCC) in June 2021, additional information relating to transport matters was supplied in July 2021 and in June 2022.⁶ Further information adjusting proposals to off-site highway works

¹ The most recently submitted detailed drawings IPD-16-386-132 revision C and IPD-16-386-133 revision C may be found attached to an e-mail dated 7 September 2022 in folder 12, Inquiry Documents, within folder 0, Inspector File of the Inspectorate's electronic file. They are also attached to the signed s106 agreement as part of Appendix 3, which may be found in folder 07, Planning Obligation within folder 0 Inspector File of the Inspectorate's electronic file.

² CD 1.12

³ CDs 1.13 and 1.14

⁴ CDs 1.3, 1.4, 1.5 and 1.7-1.84

⁵ R v Rochdale MBC ex parte Tew and Others [1999] 3 PLR 74 and R v Rochdale MBC ex parte Milne [2000] EHCW 650 (Admin)

⁶ CDs 2.1-2.7, 2.15 and 16.2.1. Appendices A, B and C of CD 2.15 duplicate CDs 2.1-2.7 as does Appendix K of CD 16.2.1

on Ilges Lane were submitted to the County Council on 5 August 2022⁷. In July 2021 the appellant submitted an updated Biodiversity Offsetting Assessment in response to DEFRA's updated Biodiversity Metric v2.0.⁸ In September 2021, the appellant made a response to comments received from the District Council's Landscape Officer and from the Chilterns Conservation Board.⁹ The appellant took the view that none of these additional submissions made any material difference to the submitted Environmental Statement but was advised, and accepted the advice, to consult on the additional information as widely as the Council had consulted on the originally submitted Environmental Statement. The additional consultation was carried out in July 2022¹⁰. There were five substantive responses¹¹.

5. During the Council's consideration of the application, the details of the two vehicular accesses and one pedestrian access proposed, together with consequential adjustments to facilities for pedestrians to cross Reading Road were amended. These revised details were consulted upon as part of the appellant's consultation on additional information supplementing the Environmental Statement, described above. These details of access continued to be amended during the Inquiry as details of the s106 agreement were negotiated. The final amendments were not the subject of public consultation but the Parish Council made clear its objection to some aspects of the details and I report on these below, so I do not consider that the failure to consult on the amendments has prejudiced consideration of the objections.
6. From first submission, the appellant made clear an intention to secure elements of the proposal by means of a s106 planning obligation. An obligation was negotiated during the course of the appeal and a draft was discussed during the Inquiry but a signed and dated obligation was not received until after the conclusion of the oral Inquiry sessions. The Inquiry was held open and closed in writing after the receipt of the completed agreement.
7. When the Council first registered the application, it omitted to consult with Natural England, a statutory consultee¹². The omission was brought to notice before the Inquiry took place and the omission rectified. Natural England's comments, and the comments of other statutory consultees and others who commented on the Environmental Statement are not distinguished from comments made on the application as a whole¹³. The Environmental Statement, comments made upon it, the additional information and comments made upon it, form the environmental information which is required to be taken into account in determining this appeal. This has been done in writing this report. I am satisfied

⁷ CD 16.2, paragraph 2.11. The drawings referred to may be found in an attachment to an e-mail dated 7 September 2022 in folder 12, Inquiry Documents, of the Inspectorate's file.

⁸ CD 2.10

⁹ CD 2.17, duplicated at CD 8.6

¹⁰ CD 5.2

¹¹ These may be found as an attachment to an e-mail from the appellant, dated 26 August 2022 filed as [App ES Consultation - APP_Q3115_W_22_3296251.msg](#) in folder 10 EIA of the Inspectorate file

¹² Cholsey Parish Council Proof of Evidence (CD 13.1), paragraph 2.2

¹³ Natural England's comments are filed apart from other comments received in the routine way and may be found as [LPA - Natural England response referred to by Ms Guiver](#) in folder 12 Inquiry documents of the Inspectorate file.

- that the legal requirements for Environmental Impact Assessment have been met¹⁴.
8. Although an Environmental Impact Assessment has been required, no potential adverse effect on a European Site has been identified and so no Habitats Regulations Assessment is required.
 9. The Council refused the application for six reasons¹⁵. These can be briefly summarised as;
 - i. Outside the settlement boundary and not an allocated site so contrary to development strategy
 - ii. Intrusive and out of character with the rural landscape
 - iii. Inadequate information to assess impact on highway capacity
 - iv. Inadequate information to demonstrate safe vehicular and pedestrian access and effect on listed milestone
 - v. No planning obligation to secure affordable housing
 - vi. Effects on secondary school provision
 10. Various Statements of Common Ground (SOCG) were submitted, more or less as the Inquiry opened¹⁶. Other than in relation to highways matters¹⁷ and affordable housing, they resolve very few issues which were in contention and are more useful for setting out the points of dispute between the parties.
 11. A case management conference was held on 5 July 2022, in accordance with the recommendations of the Rosewell report¹⁸. Based on the Council's reasons for refusal, its committee report, the appellant's statement of case and comments made at the case management conference, main issues in this appeal were then identified as follows;

Whether the proposal represents sustainable development in terms of its effects on;

Economic matters;	Best and Most Versatile agricultural land Mineral reserves The provision of employment *Transport infrastructure (including highway safety)
Social matters;	The strategy for the development of land A five-year supply of housing land * The need for and supply of affordable housing The need for and supply of specialist housing for older people Social infrastructure in terms of secondary schooling
Environmental matters;	Landscape character

¹⁴ A pro-forma detailing how this conclusion has been reached is included in the EIA folder of the Inspectorate's file

¹⁵ CD 3.2

¹⁶ CDs 16.2 – 16.16.5 and 16.8

¹⁷ CD 16.2

¹⁸ CDs 18.1-18.3

*Heritage assets
Biodiversity

By the time the Inquiry came to be held some of these matters, (marked *) had come to be agreed between the two main parties but they nevertheless remained in contention with third parties. Additional issues concerning green infrastructure and open space provision arose otherwise unpresaged out of discussions on landscape character.

12. By letter dated 25 August 2022, in pursuit of powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, the Secretary of State directed that he will determine this appeal instead of an Inspector. The reason given for this direction is that the appeal involves proposals for residential development of over 150 units or on a site of over 5 hectares, 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.
13. The Inquiry followed normal procedures of evidence, cross examination and re-examination except for a session on landscaping, which was held as a round table discussion on an agenda suggested by the two main parties. The Inquiry sat on 31 August, 1, 2, 6-9 and 13 September 2022 but was then held open until 19 October 2022 for a signed planning obligation to be submitted and for information to be submitted about the making of a reviewed Neighbourhood Plan. An accompanied site visit took place on 8 September 2022. An unaccompanied site visit was made on 30 August 2022.

The Site and Surroundings

14. The site and its surroundings are described in numerous places in the evidence¹⁹. Photographs are provided²⁰ although their accuracy is challenged by the Council²¹. The site is located adjacent to the village of Cholsey, in the Thames Valley, about 4km south of the centre of Wallingford and about 8km east of Didcot. The site has a field access at its north-east corner, onto a byway to its north and thence onto Reading Road which comprises part of the A329 running south from Wallingford towards Reading.
15. The site is approximately 29.26 ha in extent²². Its shape is irregular, approximating to a trapezoid with a square removed from one corner. Its longest boundary (the base of the trapezoid) is its north side running along Ilges Lane (and its eastward extension as a by-way) to Reading Road. This boundary has a belt of trees for about two-thirds of its length. The Reading Road forms the eastern boundary of the site, with a tree belt along its full length. The tree belts total 15,200 sqm in extent²³ and are protected by Tree Preservation Orders. The site's southern boundary is formed partly by Papist Way, divided from the site by a hedgerow, and partly by an area of housing which backs onto the site and which forms the square cut from the trapezoid. The western boundary of the site also backs onto housing with little or no screening.

¹⁹ The Environmental Statement (CD 1.7), paragraphs 3.3.1 - 3.5.6 and 9.4.1 – 9.4.11, 9.4.13 – 9.4.14, 9.4.19, 9.4.25 – 9.4.28, 9.4.31 – 9.4.53, 9.4.55 – 9.4.56, 9.4.58, 9.4.60, 9.4.62 – 9.4.67, 9.5.21 - 9.5.22 and 9.9.3 to 9.9.7; the Environmental Statement non-technical summary (CD 1.8 (and its updated version CD 5.1)) paragraphs 2.1.1 – 2.2.7; the Screening Request (CD 1.12) page 2; the EIA Analysis and Screening Proforma (CD 1.15), box e; the Scoping Report (CD 1.16) paragraphs 2.1.1 – 2.1.6; the Circular Economy Statement (CD 1.19) paragraphs 2.1.1 – 2.1.3; the Landscape Capacity Assessment for Sites on the Edge of the Larger Villages of South Oxfordshire (CD 1.35) page 216 (also found at CD 11.8, page 32); the Green Infrastructure and Recreation Strategy (CD 1.44) pages 7 and 10; the Geophysical Survey report (CD 1.47) paragraph 2.3; the Archaeological Evaluation (CD 1.48), paragraph 2.1; the Soils and Agricultural Land Classification (CD 1.52), paragraphs 1.2.1 to 1.2.3; the Energy Strategy (CD 1.62), paragraph 1.1.2; the Geo-Environmental Desk Study (CD 1.64) paragraphs 1.2, 2.5 and 2.7; the Updated Preliminary Ecological Appraisal (CD 1.66) paragraph 1.2.1; the Bat Survey Report (CD 1.67) paragraph 1.2.1; the Biodiversity Offsetting Report (CD 1.68) and its Update (CD 2.10), paragraph 1.2.1; the Design and Access Statement (CD 1.88), pages 2-25; the Planning Statement (CD 1.90), paragraphs 3.1.1, 3.1.2 and 3.2.1; the Transport Assessment (CD 1.91) paragraphs 3.1 – 3.57; the Framework Travel Plan (CD 1.92), paragraphs 5.1 to 5.34; the Safer Routes Study (CD 2.5), paragraphs 1.2 and 1.3; the Crime Prevention Statement (CD 2.8), paragraphs 2.1.1 to 2.1.3; the Council's officer report (CD 3.1) paragraph 1.1; the appellant's Statement of Case (CD 10.3), paragraphs 2.1.1 – 2.1.3; the Council's Statement of Case (CD 12.1) paragraph 2.1; Mr Radmall's evidence (CD 12.7) paragraphs 2.1 – 2.15; Beryl Guiver's evidence (CD 13.1) (and the Parish Council's Statement of Case (CD 13.3)) paragraphs 3.26 and 4.1; the Landscape Statement of Common Ground (CD 16.3) paragraphs 1.2.1 and 1.2.3; and Katharine Ellinsfield's evidence (CD 19.2) paragraphs 3.1 – 3.18.

²⁰ CD1.39

²¹ In Mr Spence's evidence. This can be found attached to an e-mail dated 7 September in folder 12 Inquiry Documents of the Inspectorate file.

²² CD 1.7 paragraph 1.1.4; CD 1.86, paragraph 1.2.2. Some other documents give a different figure.

²³ Table 3 of Arboricultural Impact Assessment (CD 1.86)

16. The western part of the site is relatively flat and elevated slightly above the adjacent housing. The ground then slopes down to the east²⁴ by about 7.5m to its lowest point at its north-east corner. The southern area of the site had formerly been used as a quarry during the nineteenth century²⁵. A topographical map on page 3 of the submitted Design and Access Statement conveys well the feel of the site²⁶.
17. The site comprises Best and Most Versatile agricultural land²⁷ and is used for arable farming. It is used by wildlife²⁸ but fringe areas are unremarkable for their ecological value²⁹. The site hosts low bat activity and no roosts and is of low value to reptiles and nesting birds³⁰. It is surrounded on three sides and part of the fourth by residential development. What might be described as the traditional village of Cholsey (though including some very recent housing development) borders its south, west and about one third of its northern boundary. To its east, the recent development of Cholsey Meadows, largely converted, with additional infill, from the former Fairmile Hospital, stands beyond the landscaped buffer of its grounds. More of its grounds (a registered Historic Park and Garden) extend as far as the River Thames. Only to the north is the appeal site adjoined by other arable farmland.
18. The traditional part of Cholsey is a nucleated village with a cluster of shops and services at its historic centre now geometrically (because of the development of modern housing to east and south) somewhat off-centre. A primary school, church and community/sports centre are just to the west of the commercial centre³¹. The village benefits from a railway station at its south-western extremity, about twenty minutes' walk from the appeal site. There is a generally half-hourly service of trains between London Paddington and Didcot. A bus service to Wallingford and beyond to Benson, generally running hourly, Monday-Saturday but not evenings, circles the village in a one-way loop passing the site³².
19. The entire site falls within the Environment Agency (EA) Very Low Risk (former Flood Zone 1) category; very low probability, land with a less than 0.1% (1 in

²⁴ Contrary to what is stated in paragraph 1.1 of the Council's officer report (CD 3.1)

²⁵ Archaeological Evaluation (CD 1.48), paragraphs 2.1 and 2.3; Geo-Environmental Desk Study (CD 1.64) table 2 and paragraphs 4.1 and 7.10

²⁶ The Design and Access Statement (CD 1.88) can also be found within the Appellant's Initial Documents folder of the Inspectorate's file

²⁷ Although provisional ALC mapping suggests Grade 2, the appellant's unchallenged Soils and Agricultural Land Classification (CD 1.52) established that the site is predominately ALC subgrade 3a with a small area of Grade 2 to the north-east of the site

²⁸ Public representations include photographs of deer on site (eg from Mr Kees Luteijn), also seen on my site visit.

²⁹ Environmental Statement (CD 1.7), paragraphs 16.6.11 to 16.6.16

³⁰ Environmental Statement (CD 1.7), paragraphs 16.6.25 to 16.6.28

³¹ Table 3.1 of the transport assessment (CD 1.91) repeated at table 5.1 of the Framework Travel Plan (CD 1.92) summarises local facilities within walking distance of the site but the details of bus services in paragraph 3.28 of the Transport Assessment and table 5.2 of the Framework Travel Plan are out of date; there is no Sunday service at present.

³² The summaries of bus services in the Transport Assessment (CD 1.91) and in the Framework Travel Plan (CD 1.92), reporting a Sunday service, are out of date

- 1000) probability of fluvial flooding in any one year, as depicted on the EA's flood mapping information on its internet site³³.
20. There is a statutorily listed milestone within the site. Parts of the Cholsey Meadows development across Reading Road from the site (the former Fairmile Hospital) are listed buildings and its grounds comprise a registered historic park and garden but there is no suggestion from any party that the development proposed would have any effect on the significance of these, or any other heritage asset within the neighbourhood other than the milestone within the site itself³⁴.
21. About 700m from the site to the north-east is Cholsey Marsh, a Local Wildlife Site (LWS) and a Local Nature Reserve (LNR) and the Pond to the North of Cholsey Marsh LWS. Land immediately to the south of the site, including the residential development fronting Papist Way, forms part of the designated North Wessex Downs Area of Outstanding Natural Beauty (AONB). This rises in hills to the south of Cholsey on the west bank of the River Thames. About 700m to the east of the site, on the far side of the River Thames, is the designated area of the Chilterns AONB which rises in hills to the east of Cholsey. Other statutory or non-statutory ecological or environmental designations within the hinterland of the site are not significant to the outcome of this appeal³⁵.

Planning Policy

22. The development plan in force in the area comprises the Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy adopted by Oxfordshire County Council in September 2017, South Oxfordshire Local Plan 2011-2035,³⁶ (SOLP) adopted on 10 December 2020, and the Cholsey Neighbourhood Plan,³⁷ (CNP) made on 11 April 2019. Consultation on a review of the Neighbourhood Plan concluded whilst the Inquiry was sitting and a reviewed Cholsey Neighbourhood Plan was made on 13 October 2022. The parties volunteered their comments on the significance of the reviewed Cholsey Neighbourhood Plan once made.
23. *Mutatis mutandis* (having changed what has to be changed) by the passage of time, the only substantial change in the policies of the reviewed Neighbourhood Plan is to take on board the requirements of National Planning Policy Framework (NPPF) paragraph 153 requiring a proactive approach to mitigating and adapting to climate change. Amongst other matters, there is however a new section of four paragraphs (110-113) and an addition to Appendix 1 providing evidence on Housing for Older and Disabled people. a change to paragraph 165, endorsing the Chilterns Management Board's Position Statement on Development affecting the Chilterns AONB and a new paragraph 171 recommending to developers the Parish Council's Treescape Opportunity Report and its Climate Emergency Action Plan which are relevant to issues in this appeal.

³³ Environmental Statement (CD 1.7) paragraph 12.4.19 and Appendix 12.1 (Flood Risk assessment (CD1.53)), paragraphs 1.4 and 2.3 onwards

³⁴ CD1.45 and CD1.84

³⁵ CD1.37 and CD 1.66, section 3

³⁶ CD 4.1

³⁷ CD 4.4

24. The examiner found that although the reviewed plan included material modifications they did not change the nature of the plan, and so references in this report to the Neighbourhood Plan continue to be to the version used by participants in the Inquiry (ie the now superseded version made in April 2019) with specific notation of any variance with the now made reviewed plan.
25. Paragraph 5.3.5 of the appellant's Planning Statement³⁸ and paragraph 2.2.9 of the Environmental Statement³⁹ list the objectives of SOLP which the proposal is considered to relate to, including but not limited to;
- OBJ 1.1 – Notes that to support the settlement hierarchy, the vitality of villages will be supported.
 - OBJ 1.3 - Meet identified housing needs by delivering high-quality, sustainable, attractive places for people to live and work.
 - OBJ 2.1 – Deliver a wide range of housing options to cater for community needs (including self-build and older persons' accommodation).
 - OBJ 2.2 – Support the regeneration of housing and facilities to strengthen communities and address deprivation issues.
 - OBJ 2.3 – Help meet the economic and housing needs of Oxfordshire as a whole.
 - OBJ 3.1 – Improve employment opportunities and land provision, providing high quality local jobs to retain workers.
 - OBJ 3.2 – Reduce commuting distances through supporting business growth in locations close to existing business areas and transport connections.
 - OBJ 3.3 – Ensure economic and housing growth are balanced, to support sustainable journeys to work.
 - OBJ 3.4 - Support the retail and service sectors as well as low and high-tech industries.
 - OBJ 3.7 – Encourage tourism by protecting our built and natural assets, such as the Thames, and providing services and facilities for visitors.
 - OBJ 4.1 – Ensure that essential infrastructure is delivered to support our existing residents and services as well as growth.
 - OBJ 4.2 - Make sustainable transport, walking and cycling an attractive and viable choice for people.
 - OBJ 5.1 - Deliver high quality, innovative, well designed and locally distinctive developments in sustainable locations with regard to the South Oxfordshire Design Guide.

³⁸ CD 1.90

³⁹ CD 1.7

- OBJ 5.2 – Support development that respects the scale and character of our towns and villages, enhancing the special character of our historic settlements and the surrounding countryside.
- OBJ 6.2 - Provide access to high quality leisure, recreation, cultural, community and health facilities.
- OBJ 6.3 – Ensure all communities have access to the services and facilities they value, supporting access to sport and recreation and the health and wellbeing of everyone.
- OBJ 7.1 – Protect and enhance the natural environment, including biodiversity, the landscape, green infrastructure and our waterways, placing particular importance on the value of the Oxford Green Belt, our two Areas of Outstanding Natural Beauty and the River Thames.
- OBJ 7.2 – Conserve and enhance our rich and varied historic assets and their settings, celebrating these as some of our strongest attributes.
- OBJ 8.1 – Minimise carbon emissions and other pollution such as water, air, noise and light, and increase our resilience to the likely impact of climate change, especially flooding. Lower energy use and support an increase in renewable energy use. Support growth in locations that help reduce the need to travel.

Paragraphs 5.4.1, 5.4.5, 5.4.7, 5.4.10, 5.4.13, 5.4.16, 5.4.18 and 5.4.20 of the appellant's planning statement⁴⁰ and paragraph 2.2.21 of the Environmental Statement recognise relevant objectives of the Cholsey Neighbourhood Plan;

- Objective HO1 – To provide sufficient market and affordable housing to meet local Cholsey needs as identified in the emerging South Oxfordshire Local Plan 2033 (2035 in reviewed plan). To secure an appropriate range and mix of homes for specific groups in the community including for self-build, older people, those with special needs, younger or first time buyers.
- Objective HO2 - To ensure that opportunities for suitably sited new homes in the village are allowed, and that the countryside around the village is protected to avoid unsustainable and inappropriate development. To provide an attractive rural setting for Cholsey and to retain the separate identities of Wallingford and Cholsey.
- Objective HO6 - To ensure new housing sites provide a good (reviewed plan; "decent") quality environment for existing and new residents, and appropriate infrastructure and services for the increased population.
- Objective EO1 - To ensure that new development in Cholsey is mindful of its sensitive setting in and adjacent to both the Chilterns and North Wessex Downs AONBs. New housing should be at an appropriate density and of a good design with green infrastructure at its heart, acknowledging and enhancing the rural character of Cholsey, and should accord with policies for the AONBs.
- Objective EO2 - - To prioritise the protection and enhancement of:

⁴⁰ CD 1.90

- o the River Thames including the Thames Path National Trail
 - o the Agatha Christie Trail
 - o key views
 - o AONBs
 - o biodiversity
 - o existing green spaces.
- Objective EO3 - To ensure that rural areas are protected to avoid unsustainable development, to provide an attractive rural setting for Cholsey and to retain the separate identities of Wallingford and Cholsey.
 - Objective E04 - To enable residents and visitors to enjoy Cholsey's special riverside location and capacity for water-based recreation.
 - Objective E05 - To ensure that our heritage and historic environment is retained within an appropriate environment for future generations to appreciate and value.
 - Objective IO1 - To provide a range of sports, leisure and social facilities to meet the needs of the whole Cholsey community.
 - Objective IO5 - To require that new housing sites contribute to improving provision for recreation for teenagers (reviewed plan omits last two words).
 - Objective TO1 - To promote walking, cycling and public transport as the first-choice travel options for Cholsey residents and ensure that new development connects to and where possible improves the walking and cycling network.
 - Objective TO3 - To support the development of facilities that encourage the use of public transport including the improvement of the railway station through the provision of access for the disabled and secure and adequate cycle parking.

26. Paragraphs 5.1 and 5.2 of the Council's officer report⁴¹ list development plan policies of relevance to this proposal, as do paragraph 7.2.1 of the Appellant's Statement of Case⁴² and paragraphs 2.2.10 to 2.2.17 of, and several of the Appendices to, the appellant's Environmental Statement⁴³. Paragraphs 5.3.6 to 5.3.57 and 5.4.4, 5.4.6, 5.4.8, 5.4.9, 5.4.11, 5.4.12, 5.4.14, 5.4.15, 5.4.17 and 5.4.19 of the appellant's Planning Statement⁴⁴ evaluate the proposal against the policies it considers relevant. There is a measure of agreement between the

⁴¹ CD 3.1

⁴² The appellant's Statement of Case may be found in folder 2 (Statement and Appendices) of the Appellant's Initial Documents folder (Folder 01) in the Inspectorate file

⁴³ CD 1.7 and Appendices, particularly Appendices 7.1 (CD 1.23), 9.1 (CD 1.32), 9.11 (CD 1.44) page 4; 10.1 (CD 1.45) paragraph 2.1.13; 10.5 (CD 1.49), paragraph 1.1.16; 11.1 (CD 1.50), paragraphs 11.3.2 and 11.3.4; 12.2 (CD 1.54), paragraph 1.2.4; 13.1 (CD 1.57), 14.1 (CD 1.60), pages 6 – 9; and 15.1 (CD 1.63), paragraphs 15.1.9 and 15.1.10

⁴⁴ CD1.90

Council and the appellant on the development plan policies applicable to this appeal but also differences of emphasis not only between the appellant and the Council but also between different Council documents and between various of the appellant's documents. Policies referenced in the reasons for refusal are marked with an asterisk *. Those underlined are considered by the Council to be the most important in the determination of the appeal⁴⁵;

SOLP policies

- * STRAT1 - The Overall Strategy
- STRAT2 - Housing and Employment Requirements
- (Appellant ES⁴⁶ only) STRAT4 – Strategic development
- STRAT5 - Residential densities
- H1 - Delivering New Homes
- H4 - Housing in the Larger Villages
- * H9 - Affordable Housing
- H11 - Housing Mix
- H12 - Self build and Custom housing
- H13 - Specialist housing for older people
- (Council only) H14 - Provision for Gypsies, Travellers and Travelling Showpeople
- (Appellant ES⁴⁷ only) - EMP1: The Amount and Distribution of New B-class Employment Land
- EMP2 - Range, size and mix of employment
- (Appellant only) EMP10 Development in Rural Areas
- * INF1 - Infrastructure Provision
- INF4⁴⁸ - Water Resources
- (Appellant ES⁴⁹ only) TRANS1b – Supporting Strategic Transport Investment

⁴⁵ But the Council was not consistent in its identification of the policies most important in the consideration of the appeal. The Council's Statement of Case (CD 12.1), paragraph 4.9 and Tracy Smith's Proof of Evidence paragraph 2.6 (CD 12.5) differ in that the latter instances Cholsey Neighbourhood Plan policies CNP H2, CNP E1 and CNP I8 and SOLP policies H4, H13 and EMP13, which the former does not, whereas the former includes SOLP policies H9, INF1, TRANS5, ENV7 and CF5 and Cholsey Neighbourhood Plan policy CNP H1 which the latter does not include.

⁴⁶ ES paragraph 7.23 (CD 1.7) and Appendices 7.1 (CD 1.23), 14.1 (CD 1.60), 14.3 (CD 1.62) and 15.1 (CD 1.63)

⁴⁷ ES Appendix 13.1 (CD 1.57)

⁴⁸ The appellant recognises the relevance of this policy in ES Appendix 12.2 (CD 1.54)

⁴⁹ CD 1.7, paragraph 6.2.5

- * TRANS2⁵⁰ - Promoting sustainable transport and accessibility
- * TRANS4 - Transport Assessments, Transport Statements and Travel Plans
- * TRANS5 - Consideration of Development Proposals
- * ENV1 - Environment & Countryside
- ENV2⁵¹ - Biodiversity - Designated Sites, priority habitats and species
- ENV3 – Biodiversity
- (Appellant ES⁵² only) ENV4 - Watercourses
- ENV5 - Green Infrastructure in new developments
- (Appellant only) ENV6 Historic Environment
- * ENV7 - Listed Buildings
- (Appellant ES only) ENV8 – Conservation Areas
- (Appellant only) ENV9 Archaeology and Scheduled Monuments
- (Appellant only) ENV10 Historic Battlefields, Registered Parks and gardens and Historic Landscapes
- (Appellant ES⁵³ only) ENV11 Pollution impact on new development
- (Appellant only) ENV12 Pollution impact from new development
- (Appellant ES⁵⁴ only) – TC1 Retail and Services growth
- TC2⁵⁵ - Town Centre Hierarchy
- (Appellant ES⁵⁶ only) - TC3: Comparison Goods Floorspace Requirements
- EP1 - Air Quality
- (Council only) EP3 - Waste collection and recycling
- EP4 - Flood Risk
- (Appellant only⁵⁷) EP5 – Minerals Safeguarding Areas
- DES1 - Delivering High Quality Development

⁵⁰ The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD 1.57)

⁵¹ For the appellant, only in the statement of case and in paragraph 16.2.5 of the environmental statement (CD 1.7)

⁵² Appendix 12.2 (CD 1.54), paragraph 1.2.4

⁵³ The appellant recognises the relevance of this policy in ES paragraph 7.2.3 (CD 1.7) and Appendices 7.1 (CD 1.23) and 15.1 (CD 1.63)

⁵⁴ The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD 1.57)

⁵⁵ The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD 1.57)

⁵⁶ The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD 1.57)

⁵⁷ In Mr Stoney's Proof of evidence (CD 19.1)

- DES2 - Enhancing Local Character
- DES3 - Design & Access Statements
- DES4 - Masterplans for Allocated sites and Major Development
- DES5 - Outdoor Amenity Space
- DES6 - Residential Amenity
- DES7⁵⁸ - Efficient use of resources
- DES8 - Promoting Sensible Design
- (Appellant ES⁵⁹ only) DES9 – Renewable Energy
- DES10⁶⁰ - Carbon Reduction
- (Appellant ES⁶¹ only) - CF1: Safeguarding Community Facilities
- CF2 - Provision of Community Facilities and Services
- (Appellant ES⁶² only) - CF3: New Open Space, Sport and Recreation Facilities
- *⁶³ CF5 - Open space, sport and recreation facilities in new residential development

CNP policies

- * CNP STRAT 1 - Overall Strategy⁶⁴ (now CNP1. “a reworking of the strategy in the made plan” which adds the aim of reducing greenhouse gases to previous elements of the strategy)
- CNP H1a and b⁶⁵ Sites and Minimum density (The reviewed plan substitutes a reference to optimising the use of land for a reference to a minimum density)
- CNP H2⁶⁶ - Built-up area boundary
- CNP H3⁶⁷ - Custom and self-build homes

⁵⁸ The appellant recognises the relevance of this policy in ES Appendices 11.1 (CD 1.50), 14.1 (CD 1.60), 14.3 (CD 1.62) and 15.1 (CD 1.63) and in Mr Stoney’s Proof of Evidence (CD 19.1)

⁵⁹ The appellant recognises the relevance of this policy in ES Appendices 14.1 (CD 1.60) and 14.3 (CD 1.62)

⁶⁰ The appellant recognises the relevance of this policy in ES Appendices 14.1 (CD 1.60) and 14.3 (CD 1.62)

⁶¹ The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD1.57)

⁶² The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD 1.57)

⁶³ Paragraph 1.9 of the Council’s Statement of Case (CD 12.1) asserts that this policy should have been referred to in the reasons for refusal.

⁶⁴ The appellant points out that in the Cholsey Neighbourhood Plan made in 2019 this is an Objective, not a Policy. In the made Reviewed Cholsey Neighbourhood Plan it is a Policy.

⁶⁵ See also footnote 35 above for the Council’s recognition of the relevance of this policy.

⁶⁶ The appellant recognises the relevance of this policy in ES Appendix 13.1 (CD 1.57)

⁶⁷ The appellant recognises the relevance of this policy in Mr Stoney’s proof (CD 19.1)

- CNP H4 - Affordable Housing (The reviewed plan adds a dwelling mix requirement to the policy)
- CNP H5 - Requirements for new housing (The reviewed plan adds requirements for a 10% net gain in biodiversity and for electric vehicle charge points)
- CNP H6⁶⁸ - Parking (The reviewed plan omits minimum requirements)
- CNP E1 - Landscape and countryside
- (Appellant ES⁶⁹ only) – CNP E3 – Cholsey Conservation Area
- (Appellant only) CNP E4 – Heritage (This is redrafted in the reviewed plan in simpler English)
- CNP I1 - Contributions towards facilities
- (Appellant ES⁷⁰ only) CNP I2 - support GP surgery in the village
- CNP I3 – Drainage
- (Appellant ES⁷¹ only) - CNPI6 - recreation ground facilities
- (Appellant ES⁷² only) - CNP I7 - enable working from home
- CNP I8 - Business uses
- (Appellant ES⁷³ only) CNP I9 - allotment provision
- CNP T1 - Walking and Cycling
- (Appellant ES⁷⁴ only) - CNP ED1 - expansion of Cholsey Primary school (Omitted from reviewed plan)

27. The only identified relevant policy of the Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy is policy M8 – Safeguarding Mineral Resources⁷⁵.

Planning History

28. As the Council's officer report⁷⁶ notes, a proposed residential development of land known as Village Field was refused planning permission on 5 March 1965 (reference P65/R3080). A proposed residential development of the land was refused permission on 4 November 1971 (reference P71/R4592). Neither of these earlier decisions was otherwise referenced as part of the appeal documentation or during the Inquiry.

⁶⁸ Recognition by the appellant is in paragraph 7.2.2 of the Statement of Case only

⁶⁹ ES Appendices 9.1 (CD 1.32), 10.1 (CD 1.45) and 10.5 (CD 1.49)

⁷⁰ ES Appendix 13.1 (CD 1.57)

⁷¹ ES Appendix 13.1 (CD 1.57)

⁷² ES Appendix 13.1 (CD 1.57)

⁷³ ES Appendix 13.1 (CD 1.57)

⁷⁴ ES Appendix 13.1 (CD 1.57)

⁷⁵ Summarised at paragraph 3.2 and included in full at Appendix 1 of ES Appendix 2.5 (Mineral Resource Assessment (CD 1.18))

⁷⁶ CD 3.1

29. A Listed Building Application (reference P21/S1451/LB) for repositioning of the listed milestone on site 1.27m back from its existing position was refused on 28 May 2021. The reason given was that the milestone may only need to be relocated if and when there is a legitimate planning permission in place for the mixed-use development to the west of the milestone but until such time there is no need to move the milestone. As such, there is insufficient justification to relocate the milestone at present and without adequate justification the harm to the historic asset is not outweighed by any public benefit. The proposed works would not preserve the special interest of the listed structure contrary to Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990, Policy ENV7 of the South Oxfordshire Local Plan 2035 and Policy E4 of the Cholsey Neighbourhood Plan and advice contained in the NPPF. During the current Inquiry, the Council made its view clear that, if permission were given for the current proposal, the provisions for the restoration of the milestone contained within the s106 agreement would represent a public benefit which would outweigh the harm caused by its relocation⁷⁷.
30. Of greater significance is the fact that, at an early stage of the preparation of the Cholsey Neighbourhood Plan, the site was put forward as allocation CHOL2.⁷⁸ Its removal from subsequent iterations of the Cholsey Neighbourhood Plan is explained in the Chairman's foreword to the Winter 2018 v2.02 of the Plan;⁷⁹

"In the last consultation we suggested around half of the land (15ha) between Fairmile and Celsea Place known as CHOL2 should be used for 250 homes and a shop and community buildings including a pre-school.

"Despite an initial openness to developing the site in line with community views the landowners and developers have now said they are only interested in building out the whole 28ha of CHOL2 with around 350 homes, 130 older peoples' homes and a 64 bed nursing home together with a neighbourhood centre with shops and a community building (Approximately 650 new homes). We do not believe this fits with the communities' wishes for this site or the village, it will also put severe pressure on services including the primary school and medical facilities.

"The steering group has reconsidered our approach and compared this option with other options in Cholsey. We have decided that a package of smaller sites will better fit with your aspirations as communicated to us through earlier plan consultations."

The appellant explains it differently⁸⁰;

"The site was identified in Version 1 of the Draft Plan as 'being suitable to provide around 250 homes' but was omitted in Version 2 in favour of an

⁷⁷ But there are no provisions for the restoration of the listed milestone contained within the signed s106 agreement,

⁷⁸ See pages 31 and 79 of Cholsey Neighbourhood Plan summer 2017 v1.68 attached as Appendix 3 to the Appellant's Statement of Case. This may be found in folder 2 (Statement and Appendices) of the Appellant's Initial Documents folder (Folder 01) in the Inspectorate file

⁷⁹ CD 4.5

⁸⁰ In paragraphs 2.2.24 and 13.5.31 of the Environmental Statement (CD 1.7)

alternative site CHOL1 that was allowed on Appeal within the plan-making timescale.”

The Proposals

31. There are numerous places in the documentation where a description of the proposed development is provided more detailed than that of the application form.⁸¹ It is intended to be a mixed-use development comprising both market and affordable private dwellings, supported living accommodation, employment space and community facilities. The details of these elements are as follows:

- Up to 350 residential dwellings⁸²;
- Plots for custom and self-build housing;
- an Elderly Care Village⁸³ of up to 80⁸⁴ care and assisted living units (C2 compliant) providing “Extra Care”⁸⁵ and restricted to occupation by persons over a defined age⁸⁶;

⁸¹ In paragraphs 3.1.1 to 3.1.4 of the appellant’s Statement of Case which may be found in the Inspectorate file; in paragraphs 4.2.1 to 4.4.2 and 5.3.14 to 5.3.26 of the Environmental Statement (CD 1.7); in paragraphs 2.3.1 to 2.3.5 of the ES Non-Technical Summary (CD 1.8); on pages 2 and 5 of the Screening Request (CD 1.12); in paragraphs 2.2.1 and 2.2.2 of the Scoping Report (CD 1.16); in paragraphs 2.2.1 to 2.2.2 of the Circular Economy Statement (CD 1.19, duplicated at CD 1.87); in paragraph 3.1 of the Flood Risk Assessment (CD 1.53); in section 6.2 of the Design and Access Statement (CD 1.88); in paragraphs 4.1 to 4.15 of the Framework Travel Plan (CDs 1.19 and 1.87); in paragraphs 4.1 to 4.20 of the Transport Assessment (CD 1.91); in paragraphs 1.2 – 1.4 of the Council officer’s report (CD 3.1); in paragraphs 2.1 to 2.5 of Mr Stoney’s evidence (CD 19.1); in paragraphs 2.2 and 4.1 to 4.7 of Katherine Ellinsfield’s Proof of Evidence (CD 19.2); in paragraph 2.2 of the Highways and Transport Statement of Common Ground (CD 16.2)

⁸² Notwithstanding the outline nature of the application, a detailed breakdown of dwelling mix is provided at paragraph 2.2.2 of the Circular Economy Statement (CD 1.19, duplicated at CD 1.87). Paragraphs 13.8.2 and 13.11.4 of the Environmental Statement (CD 1.7) canvass the imposition of a condition to secure a housing mix compliant with development plan policy.

⁸³ Planning Statement (CD 1.90), paragraph 2.5.2

⁸⁴ During the presentation of his evidence, Mr Stoney canvassed the possibility of increasing this number to 120 whilst reducing the employment floorspace component from 3,000 sq m to 500 sq m. In the signed s106 agreement, the definitions of Extra Care Housing and of Extra Care Housing Land refer to up to 80 units.

⁸⁵ Planning Statement (CD 1.90), paragraph 2.5.2. In paragraph 71 of her closing submissions, Nina Pindham, for the appellant emphasised that the Parish Council “is mistaken to consider the scheme would deliver sheltered housing. The two are different types of accommodation, as defined in CD 16.4 Statement of Common Ground on Older Persons’ Housing at paragraph 2.1. The terms of the s.106 agreement make clear, as the Appellant has confirmed throughout the inquiry, that extra care accommodation will be provided. Care will be available 24/7 and residents will be required to register for a minimum care package.” The definition of “Qualifying Person” in the second schedule of the s106 agreement aligns with Nina Pindham’s comments.

⁸⁶ Age 55 according to paragraph 3.1.2 of appellant’s Statement of Case. Age 65 according to paragraph 2.2 of Mr Stoney’s evidence (CD 19.1) and paragraph 2.3 of Statement of Common Ground on Older Person’s Housing Need and Supply (CD 16.4) and in definition of “Qualifying Person” in the second schedule of the s106 agreement.

- Up to 3,000 sqm⁸⁷ of employment floorspace⁸⁸;
 - Up to 250sqm convenience⁸⁹ and 200sqm comparison retail;
 - 500 sqm day nursery;
 - A building suitable for community group activities⁹⁰; and
 - On-site public open space and green infrastructure.
32. Although the application is made in outline with all matters except for details of two vehicular and one pedestrian access reserved for later consideration, the submitted parameter plans reflect a preferred approach to development described in the Design and Access Statement.⁹¹ The majority of residential development would be located towards the central and western parts of the site, with a medium density adjoining the existing dwellings in the settlement. The highest residential density and the mixed-use employment, retail and community uses would be in the centre of the site. The lowest residential density and the care village would be towards the north and eastern portions of the site. At this stage the exact height of the dwellings is unknown, however they will not exceed the maximum height of 2– 3 storeys (9.6m – 12.2m) as set out on the Parameters Plans.
33. There would be a significant area of open space abutting the eastern boundary,⁹² corresponding more or less with the part of the site adversely affected by traffic noise from Reading Road⁹³. Two other areas of open space would be provided within the housing areas. The total open space will include approximately 8.72ha of Green Infrastructure, including sustainable drainage systems features

⁸⁷ During the presentation of his evidence, Mr Stoney canvassed the possibility of decreasing the employment floorspace component from 3,000 sqm to 500 sqm whilst increasing the number of extra care units from 80 to 120. Condition 48 of the suggested conditions submitted by the parties (document 16.6) would have limited the employment floor space to 500 sq m in accordance with Local Plan policy EMP2 but, during the round table discussion on conditions it was agreed that it should remain as 3,000 sq m in accordance with paragraph 1.1.1 of the submitted Planning Statement (CD 1.90)

⁸⁸ Six office units, according to the Circular Economy Statement (CDs 1.19 and 1.87), arranged in single and two-storey “barns” according to the Planning Statement (CD 1.90)

⁸⁹ Paragraph 2.2.2 of the Circular Economy Statement (CDs 1.19 and 1.87) and paragraph 3.1 of the Flood Risk Assessment (CD 1.53) say 200 sqm convenience and 50sqm non-retail but other documents refer to 250 sqm convenience floorspace. In a mixed-use block according to paragraph 1.1.1 of the Planning Statement (CD 1.90)

⁹⁰ 400 sqm in extent according to the Circular Economy Statement (CDs 1.19 and 1.87), the Transport Assessment (CD 1.91) paragraph 4.2 and the Environmental Statement (CD 1.7), paragraph 13.6.31

⁹¹ Paragraphs 5.5, 5.6, 6.1 – 6.6 and 7.1 – 7.4 of CD 1.88

⁹² The Environmental Statement (CD 1.7), paragraph 10.6.2 claims this feature is a response to both landscaping and heritage considerations, in deference to the open space of the Registered Park and Garden fronting the opposite site of Reading Road. The same point is made on page 28 of the Green Infrastructure and Recreation Strategy (CD 1.44) and in paragraph 6.1.4 of the Heritage Statement (CD 1.45)

⁹³ Compare figures 7.2 to 7.9 of the Environmental Statement (CDs 1.71 to 1.79) with Parameter Plan Landscape and Open Space (CD 1.4)

designed for biodiversity gain⁹⁴. The green infrastructure would comprise 5.80ha of Public Open Space (POS), 2.00ha of retained woodland, 0.50ha of proposed new woodland and 0.42ha of proposed structural landscape belts within the developable area⁹⁵. There would be a Local Area of Play (LAP), a Local Equipped Area of Play (LEAP) and a kick-about area with shelter and trim trail, suitable for use as an informal sports pitch⁹⁶. There would also be an ecology enhancement area, including woodland edge enhancement, species-rich meadow grassland margins and a wildlife pond.⁹⁷ A management and maintenance strategy and a Landscape Biodiversity Management Plan (which would also make provision for a number of bat boxes and bird boxes) are envisaged to ensure that the benefits remain available.⁹⁸

34. Approximately 2,977 sqm of the eastern tree belt (representing about 20% of both tree belts)⁹⁹ would be removed to allow the construction onto Reading Road of the two proposed accesses and their associated visibility splays.¹⁰⁰ The remainder of the northern and eastern tree belts would be retained and an additional woodland belt and belt of hedgerow and trees would be planted within the site¹⁰¹.
35. The road network would provide a bus route through the site. Pedestrian / cycle routes would be provided through the open space that connect to the footpath running along the site's northern boundary, to Cholsey Meadows (former Fairmile Hospital) via a new crossing of Reading Road and to Papist Way in the south.

⁹⁴ Environmental Statement (CD 1.7), paragraphs 4.2.9 and 16.9.24 and Flood Risk Assessment (CD 1.53), paragraph 1.7

⁹⁵ Environmental Statement (CD 1.7) paragraphs 4.2.7 and 13.6.25 and Inquiry Document ID6. The signed s106 agreement provides for a minimum area of 6.19 hectares of open space defined as allotments (defined separately as 0.33 ha), Parks and Gardens Amenity Space (defined separately as 1.53 ha), Play area (defined separately as 1600 sqm) and SuDS (extent undefined). Paragraphs 16.9.14 to 16.9.16 of the ES, page 16 of the Screening Request (CD 1.12), paragraph 3.4.14 of the Scoping report (CD 1.16) and paragraph 4.2.2 of the Updated Preliminary Ecological Appraisal (CD 1.66) claim the green infrastructure assists in mitigating the impact of the development on Local Wildlife Sites, biodiversity and ecology.

⁹⁶ Planning Statement (CD 1.90), paragraph 5.4.13; Environmental Statement (CD 1.7) paragraphs 4.2.8 and 13.6.25; Non-technical Summary (CD 1.8), paragraph 4.9.4 Green Infrastructure and Recreation Strategy (CD 1.44), pages 24 and 25

⁹⁷ Environmental Statement (CD 1.7), paragraph 16.9.23; Non-technical Summary (CD 1.8), paragraph 4.12.4; Screening Request (CD 1.12), page 13; Green Infrastructure and Recreation Strategy (CD 1.44), pages 18 - 21; Updated Preliminary Ecological Appraisal (CD 1.66), paragraphs 5.2.1 to 5.2.3; Biodiversity Offsetting Report (CD 1.68), paragraphs 4.1.2 and 4.1.3 and its Update (CD 2.10), paragraphs 4.1.2, 4.1.3 and 4.1.4

⁹⁸ Environmental Statement (CD 1.7), paragraphs 13.8.2, 13.11.4, 16.9.23, 16.9.32 and 16.9.37; Non-technical summary (CD 1.8), paragraph 4.12.5; Screening Request (CD 1.12), page 16; Updated Preliminary Ecological Appraisal (CD 1.66), paragraph 5.3.1; Bat Survey Report (CD 1.67), paragraph 5.1.1; Biodiversity Offsetting Report (CD 1.68), paragraphs 5.1.3 and 5.1.4 (not referenced in its Update (CD 2.10))

⁹⁹ Table 3 of Arboricultural Impact Assessment (CD 1.86)

¹⁰⁰ Paragraph 5.1.5 of submitted Arboricultural Impact Assessment (CD 1.86)

¹⁰¹ Updated Preliminary Ecological Appraisal (CD 1.66), paragraph 4.3.2). Paragraph 9.6.3 of the Environmental Statement claims these to have been designed as features integral to the proposal which would mitigate its impact on the landscape.

Additional pedestrian and cycle connections to Agatha Christie Way are proposed, subject to agreement with adjoining landowners¹⁰².

36. A number of details are indicated in the supporting material. These would have to be secured by condition or planning obligation if thought to be necessary for the development to be acceptable. They include a Design Code for five street types, boundary treatments, built form and materials, car and cycle parking and four key character areas,¹⁰³ a Tree Protection Plan and recommendations for the protection of the trees and hedgerows that are to be retained.¹⁰⁴ An Affordable Housing Statement makes proposals for the provision of 40% of all dwellings as Affordable Housing within both the C3 and C2 Use Classes.¹⁰⁵ Notwithstanding that this is an outline application, a Circular Economy Statement claims that the detailed design of the site has included careful consideration of eight principles of waste minimisation and avoidance¹⁰⁶. It goes on to describe how waste could be managed during construction¹⁰⁷ and during subsequent occupation.¹⁰⁸ A Framework Travel plan contains suggestions for the appointment of a travel plan coordinator, the setting of objectives and targets and for measures which could be implemented.¹⁰⁹
37. There would be off-site mitigation of traffic impacts on the local highway network (increasing the traffic capacity of roundabouts on the A4130 Wallingford by-pass and A4074 Port Way Road),¹¹⁰ and improving conditions for pedestrians along Ilges Lane.¹¹¹ To mitigate the impact on the two nearby Local Wildlife Sites, the development is committed to supplying a travel pack to all new residents, which will reference a list of recreational walking routes. The pack will also include advice relevant for visitors to the LWSs and dog walkers to include keeping dogs on a lead, littering, and removing dog waste. The reasons why such steps are necessary will be set out to ensure greater compliance¹¹². There would also be a financial contribution to the Buckinghamshire, Berkshire and Oxfordshire Wildlife

¹⁰² Paragraphs 6.6.1 to 6.6.5 of the Environmental Statement (CD 1.7) and paragraphs 4.2.3 and 4.2.4 of the Non-technical summary (CD 1.8)

¹⁰³ Section 8 of the Design and Access Statement (CD 1.88)

¹⁰⁴ Arboricultural Impact Assessment paragraphs 5.1.6 and 5.1.7, Appendices 6, 7 and drawing ST15372-009 revision B. These are also recommended as mitigation measures in the Landscape and Visual Impact Analysis included within the Environmental Statement (CD 1.7, paragraphs 9.6.2 and 9.6.3).

¹⁰⁵ Paragraphs 5.4 and 5.5 of CD 1.85. Paragraph 13.8.2 of the Environmental Statement (CD 1.7) canvasses the imposition of a condition to secure affordable and accessible homes in line with development plan policy

¹⁰⁶ Circular Economy Statement (CDs 1.19 and 1.87), paragraphs 5.2.3 and 5.2.4

¹⁰⁷ Paragraphs 6.1.1 to 6.1.4, 6.2.2, 7.1.1 to 7.4.5, 9.1.8, 9.1.9, 9.1.14, 9.1.15 and 10.1.1 to 10.1.12 of the Circular Economy Statement (CDs 1.19 and 1.87)

¹⁰⁸ Paragraphs 5.2.5, 8.1.3, 9.1.1 to 9.1.7 and 9.1.10 to 9.1.12, 9.1.16 and 9.1.17 of the Circular Economy Statement (CDs 1.19 and 1.87)

¹⁰⁹ CD 1.92, sections 6, 7 and 8

¹¹⁰ Environmental Statement (CD 1.7), page 6-17, paragraph 6.6.8 to page 6-19, paragraph 6.6.2 (paragraph numbering is discontinuous); Screening Request (CD 1.12), pages 7-8; Scoping Report (CD 1.16), paragraphs 4.4.1 to 4.5.2; Transport Assessment (CD 1.91) section 8 (pages 57 – 63), Highways and Transport SOCG paragraph 2.2 (CD 16.2).

¹¹¹ Paragraph 2.11 of the Highways and Transport SOCG (CD 16.2)

¹¹² Environmental Statement (CD 1.7), paragraph 16.9.13; Non-technical Summary (CD 1.8) paragraph 4.12.3; and Updated Preliminary Ecological Appraisal (CD 1.66), paragraph 4.2.2

- Trust (BBOWT) for effective site management to discourage dogs from sensitive areas of the LWSs.¹¹³
38. Although the Environmental Statement envisaged financial contributions towards provision of primary and secondary school place where capacity is lacking, in line with an up-to-date assessment of need by Oxfordshire County Council¹¹⁴, in fact both the need for these contributions and their quantity were contested during the Inquiry. The s106 agreement provides for an index-linked Secondary Education Contribution of £1,402,950, an index-linked Special Educational Needs contribution of £263,888 and a Secondary School Transport Contribution of £385,700.¹¹⁵
39. Mitigation measures to counter noise and vibration during construction are recommended, to be incorporated into a Construction Environmental Management Plan (CEMP).¹¹⁶ Mitigation measures including the installation of 1.8m fencing and the selection specification of glazing, ventilation and building fabric to achieve acceptable sound levels both internally and externally within the completed development are recommended for certain areas of the development.¹¹⁷ An energy consumption strategy is envisaged to ensure homes can offer low cost energy while addressing the climate change agenda.¹¹⁸ Embedded mitigation to minimise CO₂ equivalent emissions to achieve compliance with local policy and the Future Home Standard presumes that the proposed development will incorporate improvements in fabric efficiency above Building Regulations, wastewater heat recovery technology, deployment of solar PV, and the installation of heat pumps to achieve an 80% reduction in carbon dioxide (CO₂) emissions over the 2013 Building Regulations requirements.¹¹⁹ It is envisaged that Electric Vehicle (EV) charging would be deployed across the site; one 7kw charging point for every dwelling and 12 EV charging points to meet the needs of users of the commercial properties.¹²⁰
40. Mitigation measures recommended by IAQM guidance to counter adverse effects from construction on Air Quality are endorsed.¹²¹ The application of mitigation

¹¹³ Environmental Statement (CD 1.7), paragraph 16.9.17. Provision is made within the s106 agreement.

¹¹⁴ Environmental Statement (CD 1.7), Paragraph 13.8.2

¹¹⁵ With provisions for variation in the event of the number of dwellings completed exceeding the number envisaged in the outline application.

¹¹⁶ Environmental Statement (CD 1.7), paragraphs 7.5.14, 7.5.18, 7.6.1 to 7.6.7, 13.8.2 and 13.11.4; Non-technical summary (CD 1.8), paragraphs 4.3.2 and 4.8.3. The CEMP is also intended to avoid and minimise the effect of the proposed development on ground and surface waters (ES paragraphs 12.6.5 and 12.6.6), CO₂ emissions (ES paragraph 14.10.2) and land contamination (ES paragraphs 15.5.2 and subsequent paragraph numbered 15.5.1)

¹¹⁷ Environmental Statement (CD 1.7), paragraphs 7.6.8 to 7.6.20; Non-technical summary (CD 1.8), paragraph 4.3.5

¹¹⁸ Environmental Statement (CD 1.7), paragraphs 13.8.2 and 13.11.4; The submitted Energy Strategy (CD1.62) canvasses options rather than proposing a definitive scheme.

¹¹⁹ Environmental Statement (CD 1.7), paragraphs 14.6.2, 14.7.2 – 14.7.5; Non-technical summary (CD 1.8) paragraphs 4.10.2 and 4.10.3; and Energy Strategy (CD 1.62), paragraph 2.4.17

¹²⁰ ES Appendices 14.2 (CD 1.61), paragraph 1.3.19 and 14.3 (CD 1.62), paragraph 5.1.1

¹²¹ Environmental Statement (CD 1.7), paragraph 8.5.4 and Appendix 8.4; Non-technical summary (CD 1.8), paragraph 4.4.2

measures set out in South Oxfordshire District Council (SODC) guidance is required to counter the effect of the completed development on Air Quality.¹²²

41. Section 9.6 of the Landscape and Visual Impact Assessment (contained within the Environmental Statement¹²³) identifies features (which it describes as integral to the design of the proposal) which would need to be secured as mitigations of its landscape effects. It also makes observations about the design of lighting to protect bats¹²⁴. Also integral to the proposal is reinstatement of the listed milestone which would have to be moved back to accommodate the alignment of one of the entrances to the development.¹²⁵ A programme of archaeological mitigation leading to preservation by record is envisaged as a condition of any planning permission,¹²⁶ as is a scheme of intrusive site investigation to determine the extent of risk of ground gases emanating from the infilled former quarry on site and to inform the choice of foundation design.¹²⁷ It is assumed that the standard good practice measures for soil management will be implemented in accordance with a Soil Management Plan during the construction of the proposed development.¹²⁸ Precautionary working measures are recommended to prevent incidental harm to any reptiles on site.¹²⁹ To protect nesting birds, site clearance works would be undertaken outside the active nesting season.¹³⁰
42. A drainage strategy is envisaged, including a fully managed maintenance strategy, which would replicate the existing greenfield runoff rate from the site and direct storm water flows towards infiltration by Sustainable Drainage System techniques.¹³¹ Foul water would drain to the lowest point of the site at its north-

¹²² Environmental Statement (CD 1.7), paragraph 8.5.13; Non-technical Summary (CD 1.8), paragraph 4.4.6

¹²³ CD 1.7, paragraphs 9.6.2 and 9.6.3

¹²⁴ CD 1.7, paragraphs 9.7.39 and 16.9.30. So too do the Non-technical summary (CD 1.8), paragraph 4.12.5; Screening Request (CD 1.12), page 13; the Updated Preliminary Ecological Appraisal (CD 1.66), paragraph 4.4.5 and the Bat Survey Report (CD 1.67), paragraph 5.1.1

¹²⁵ Environmental Statement (CD 1.7), paragraph 10.6.12; Non-technical summary (CD 1.8) paragraph 4.6.4; Heritage statement (CD 1.45), paragraph 6.1.4

¹²⁶ Environmental Statement (CD 1.7), paragraphs 10.6.18 and 10.6.20

¹²⁷ Scoping Report (CD 1.16), paragraphs 3.4.19 and 3.4.20; Geo-Environmental Desk Study (CD 1.64), paragraphs 6.24, 7.1, 7.8, 7.10 and 8.5

¹²⁸ Environmental Statement (CD 1.7), paragraphs 11.5.1 to 11.5.3; Non-technical summary (CD 1.8), paragraph 4.7.4; Scoping Report (CD 1.16), paragraph 9.5.2

¹²⁹ Environmental Statement (CD 1.7), paragraph 16.9.35; Non-technical summary (CD 1.8), paragraph 4.12.6; Screening Request (CD 1.12) page 14; and Updated Preliminary Ecological Appraisal (CD 1.66), paragraphs 4.4.6 to 4.4.7

¹³⁰ Environmental Statement (CD 1.7), paragraph 16.9.38; Non-technical summary (CD 1.8), paragraph 4.12.7; Screening Request (CD 1.12), page 13; and Updated Preliminary Ecological Appraisal (CD 1.66), paragraph 4.4.8

¹³¹ Environmental Statement (CD 1.7), paragraphs 12.4.21 and 12.6.7 to 12.6.11; Non-technical summary (CD 1.8), paragraph 4.8.2 Green Infrastructure and Recreation Strategy (CD 1.44), page 23 and Flood Risk Assessment (CD 1.53), paragraphs 1.7, 5.1 to 5.9 and 7.4 to 7.5. An IPaD Technical Note dated 7 July 2021 (CD 2.11) makes it clear that development will not connect the storm water to any watercourse or gravity sewer off site; the storm water proposal is for the site to be entirely independent and for no flows generated by the site to leave the site. In this way the site will act in the same way as existing situation.

east corner from which it would be pumped to one of two locations, as advised by Thames Water¹³².

The Case for the appellant¹³³

Best and Most Versatile Agricultural Land

43. The appellant explains that the site is a single field, detached by seven miles from the main farm holding. This causes practical issues, such as transporting farm machinery and is a distraction from the main business focus. The crop is economically marginal but the field is open to public trespass and anti-social behaviour and therefore diversification has had to be ruled out. The field represents a high financial risk to the undertaking.¹³⁴
44. Any development around Cholsey involves the use of Best and Most Versatile (BMV) agricultural land. The site is mostly of a lower grade than indicated on public mapping. There is potential for other sites to be of a higher agricultural quality than identified at the Site.¹³⁵ As a highly constrained authority, the Council accepts that some BMV land will have to be developed in order to meet the District's housing needs.¹³⁶

Housing Need

45. The appellant makes reference to national policy on housing supply, noting particularly that the policy objective of significantly boosting the supply of homes and the need to ensure that a sufficient amount and variety of land can come forward has been included in all iterations of the NPPF. The requirement to be able to demonstrate a five-year land supply has also been a constant feature of government policy.¹³⁷
46. Policy STRAT2 of the Local Plan sets out a housing requirement for the district of 900 homes per annum from 2011/12 to 2025/6, rising to 1,120 homes per annum from 2026/7 to 2031/2, then reducing to 1,110 homes per annum from 2032/3 to 2034/5.¹³⁸ The Council's Housing Land Supply Statement for South Oxfordshire July 2022 notes that these rates total 4,720 dwellings for the current five-year period which, allowing for earlier shortfalls in delivery of 874 dwellings and the 5% buffer required by the Housing Delivery Test, results in a five-year requirement of 5,874 dwellings.¹³⁹ The Council claims an identified supply of

¹³² Green Infrastructure and Recreation Strategy (CD 1.44), page 23 and Flood Risk Assessment (CD 1.53), paragraphs 5.10 and 5.11

¹³³ This section of the report represents the Inspector's understanding of the appellant's case. It should not be taken as representing the Inspector's own view of the merits of the case.

¹³⁴ Letter from Joe Blackstone, Head of Agriculture, J D Leavesley Estates, attached as Appendix 2 to Mr Stoney's evidence (CD 19.1)

¹³⁵ Soil and Agricultural Land Classification (ES Appendix 11.3 (CD 1.52)), paragraphs 5.1.4 and following paragraph (incorrectly numbered 5.1.1). NPPF footnote 58 advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

¹³⁶ Tracy Smith in cross-examination, noted in Nina Pindham's closing remarks

¹³⁷ Roland Bolton's Housing Land Supply Proof (CD 19.4), paragraphs 3.1 to 3.9, particularly 3.6

¹³⁸ Roland Bolton's Housing Land Supply proof (CD 19.4), paragraph 2.2

¹³⁹ Roland Bolton's Housing Land Supply proof (CD 19.4), paragraphs 4.4 to 4.7

6,551 dwellings, representing a supply of 5.58 years, or a surplus of 677 dwellings for the current five-year period.¹⁴⁰

47. But the Council has made similar claims in recent appeals, which have not been endorsed by Inspectors¹⁴¹. A comparison of Council five-year plan supply projections with actual completion rates over the fourteen years in which it has issued forecasts shows a track record varying between 67% and 148% reliability, over-estimating completions in most years¹⁴².
48. The Council's claimed 5.58 years supply of deliverable housing sites is unreliable and overestimated¹⁴³ because of
- The effects of Biodiversity net gain
 - Inaccurate calculation of build-out rates
 - Inaccurate calculation of windfalls
 - Overoptimistic expectations of deliverability
49. Although the forthcoming mandatory requirement to achieve a net gain in biodiversity of 10% will not come as a surprise, the evidence is that developers working on strategic sites are having issues in trying to accommodate it. Natural England's assurances on the cost implications do not stand up to scrutiny. The presumption that additional costs will be absorbed by landowners is not a certainty. Uncertainties will affect both the viability of development (ie, whether it is started at all) and the speed of its delivery.¹⁴⁴
50. The Council's evidence is that the average build-out rate for sites of 100 to 499 dwellings is 45 dwellings per annum¹⁴⁵, which aligns with industry-wide figures for a single developer¹⁴⁶. Yet, for large sites, it applies a build-out rate of 132 per annum. Unless it is known that there would be more than one outlet per site, the build-out rate of 45 dwellings per annum should apply, a correction to six sites in the Council's identified supply which would reduce the calculation of the Council's five-year supply by 884 dwellings.¹⁴⁷

¹⁴⁰ During the Inquiry, the Council accepted that one of its identified sites (Chiltern Edge top Field) is not deliverable and so, its identified supply is reduced to 6507 dwellings and its surplus is reduced to 633 dwellings

¹⁴¹ Roland Bolton's Housing Land Supply proof (CD 19.4), paragraphs 2.4 to 2.6 and 5.4 to 5.7 quoting the appeal decision at Little Sparrows, Sonning Common (APP/Q3115/W/20/3265861) (CD 6.4), paragraph 25, finding a 4.21 year supply and the appeal decision for Land at Lady Grove, Didcot (APP/Q3115/W/21/3272377) (CD 6.3), paragraph 17 finding a 4.8 year supply at most

¹⁴² Roland Bolton's Housing Land Supply proof (CD 19.4), paragraphs 5.2, 5.3 and Table 1

¹⁴³ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraph 6.2

¹⁴⁴ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.10 to 6.15 and in cross-examination with reference to CD 12.4 Biodiversity Net Gain final report by Vivid economics

¹⁴⁵ Housing Land Supply Statement for South Oxfordshire District Council July 2022 (CD 9.26), page 196

¹⁴⁶ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraph 6.194

¹⁴⁷ Paragraph 30 of Nina Pindham's closing remarks, summarising Mr Bolton's evidence and cross-examination. This figure is included within the overall figure for overoptimistic expectations of deliverability, reported below.

51. It is agreed that all small sites constitute windfall sites.¹⁴⁸ Those which are known about (ie those with planning permission) are included in the first three years of the Council's identified supply (although in fact, some delivery will actually roll over into years 4 or 5)¹⁴⁹. Those which are not known about are estimated for years 4 and 5. In its 2021 Housing Land Supply statement the Council state that a windfall contribution of 200 dwellings to the five-year supply would be appropriate (CD 9.25 paragraph 4.21). On the same evidence (completions 2011-2021) the updated statement now suggests a windfall figure of 308 dwellings (CD 9.26) although both are based on the same 'compelling' evidence.¹⁵⁰
52. In fact, the evidence shows that the average rate of small site completions over five years has been 158 dwellings per annum, or 790 dwellings over the five-year period. For the forthcoming five-year period, the Council's 2022 statement specifically identifies 675 dwellings from small sites with planning permission. Deducting the dwelling numbers of the specifically identified sites from the five-year average leaves a figure of 115 dwellings which should be used as the windfall allowance instead of the Council's 308 dwellings.¹⁵¹ Therefore the calculation of the Council's five-year supply should be reduced by 193 dwellings.¹⁵²
53. The debate between the two main parties on the size of the Council's five-year housing land supply rests primarily on the application of judgment on what should be considered "deliverable".¹⁵³ The appellant refers to the requirement (in the definition of deliverable in the Glossary to the NPPF) that a site falling within part (b) of the definition should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.¹⁵⁴ The Council relies on an outdated test of what is deliverable.¹⁵⁵
54. The Council is at times relying upon responses of promoters and developers to determine progress on sites, contrary to opinions expressed by Inspectors in earlier appeal decisions.¹⁵⁶ The Council should not accept uncritically forecasts of

¹⁴⁸ Nina Pindham's closing submissions paragraph 31, referencing Tom Rice's cross-examination

¹⁴⁹ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraph 7.7

¹⁵⁰ Roland Bolton's Housing Land Supply proof of evidence (CD 19.4), paragraph 7.2. In fact, paragraph 4.36 of the Council's Housing Land Supply Statement for South Oxfordshire District Council (July 2022) (CD 9.26) states a figure of 340 for windfall sites during the five-year period, not 308

¹⁵¹ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 7.1 to 7.26, particularly paragraphs 7.24 and 7.25 and table 5

¹⁵² Nina Pindham's closing submissions paragraph 32 says 213 but Mr Bolton's proof (CD 19.4), paragraph 7.26 says 193

¹⁵³ Nina Pindham's opening remarks, paragraph 9

¹⁵⁴ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 2.7 and 3.12 to 3.16

¹⁵⁵ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.3 to 6.5

¹⁵⁶ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 3.16 to 3.22, referencing appeal decisions APP/R3325/A/12/2170082 (CD 6.5), paragraph 18, APP/X3025/A/10/2140962 (CD 6.6) paragraphs 171 to 184, W1145/W/19/3238460 (CD 6.7), paragraphs 56 and 57, APP/Q3115/W/20/3265861 (CD 6.4), paragraph 21, APP/J2210/W/18/3216104 (CD 6.8), paragraph 23, APP/R3650/W/19/3227970 (CD 6.9) paragraphs 10 to 27

lead in times and build out rates from promoters and developers. An e-mail or a completed pro-forma is not clear evidence; clear evidence must be something cogent, as opposed to mere assertions.

55. An objection from a statutory consultee means that the evidence does not meet the requisite tests. It cannot be said that there is any, let alone a realistic prospect of a site being delivered within five years in the face of an objection from a statutory consultee.¹⁵⁷ A decision maker must look at whether the Council has produced any evidence on how that objection would be overcome. A realistic assessment of not just planning but also technical, legal and commercial/financial factors concerning delivery should be considered. It is not sufficient to rely on average lead in times of cases which have involved objections because those average times only relate to sites where the objections were resolved, not to those where they were insurmountable.¹⁵⁸
56. On this basis, the appellant considers that thirteen sites should have their contributions to the Council's calculation of deliverable housing supply reduced or deleted.¹⁵⁹ In detail, the thirteen sites and the reasons for their deletion or reduction are as follows;
- i. *Chiltern Edge Top Field*. Objection from Sport England to the loss of a playing field with no mitigation identified. Delete site; 44 dwellings.¹⁶⁰
 - ii. *Wyevale Garden Centre*. Two outstanding requests for information. Two outstanding objections. Reserved matters consent expected within generic lead-in times would lead to first completions in July 2024. But Council has accepted developer's assertion of completions a year earlier. Delete 40 dwellings.¹⁶¹
 - iii. *Wheatley Campus*. Little progress since Lady Grove appeal decision.¹⁶² The Council assumes that the site can be cleared between September 2024 and April 2025 and completions delivered some 6 months later for a complex site with a mix of building including high rise. Presumed build-out rate of 132 dwellings per annum contradicted by promoter's advice of 96 dwellings per annum. Remove 174 dwellings.¹⁶³

¹⁵⁷ Nina Pindham's closing submissions, paragraph 28

¹⁵⁸ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraph 3.23 and in cross-examination. See also, Nina Pindham's closing submissions paragraphs 23 to 27

¹⁵⁹ Originally, 15 sites were in dispute but Mr Bolton, for the appellant, conceded that two, and part of a third, were in fact deliverable. The Council concedes that one of the thirteen is not deliverable, so twelve remained in dispute at the end of the Inquiry.

¹⁶⁰ The Council accepts that this site should be removed from its list of identifiable deliverable sites.

¹⁶¹ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.226 to 6.233 concludes by suggesting removal of 20 dwellings but his tables 3 and 4 and Appendix 1 and Nina Pindham's closing submissions refer to removal of 40 dwellings

¹⁶² In which the site was discounted from the Council's list of identifiable deliverable sites

¹⁶³ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.133 to 6.153 concludes by suggesting removal of 198 dwellings, 24 more than the Council has included. Nina Pindham's closing submission refers to 174 dwellings as do Mr Bolton's tables 3, 4 and Appendix 1.

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- iv. *West of Wallingford site B.* Build out rate achieved was 18 per annum for first two years and it is a single outlet site yet Council presumes delivery rate of 132 pa, implying a multiple outlet site. Remove 236 dwellings.¹⁶⁴
 - v. *Didcot Gateway.* Although progress has been made since the Lady Grove appeal decision which discounted the site's inclusion within the supply of identified deliverable sites, a new outline application has no consent but has outstanding objections on highway access as well as on scale and bulk of development. There is a limitation on development until foul sewer capacity is increased. A reasonable trajectory between outline application and first completion on a site of this size is 3.5 years, so first completions should not be expected until 2027. Remove 111 dwellings.¹⁶⁵
 - vi. *Didcot North-East.* This is actually a conglomeration of seventeen individual sites or phases all at differing stages of progress. The Council's information about the site's total delivery is contradictory and inconsistent. It is not even clear which sites or phases are included in each year of the trajectory. The average rates of delivery proposed by the Council are much higher than both national or local comparisons would suggest and about double that actually achieved in the last year. Only the dwellings that have reserved matters should be included in a five-year housing land supply. Remove 658 dwellings.¹⁶⁶
 - vii. *Ladygrove East.* A previous inspector's conclusion discounting the Council's supply figure by 80 dwellings was based on a planning application for 250 dwellings which is no longer being pursued. On this site there is still not even an outline consent. Looking at the average time to first completion for sites of this size, 6.4 years, with an outline application submitted March 2019 first completion should be expected by July 2025. There is nothing to indicate a different approach should be taken here. Further, the developer still has to agree the design of the Didcot North Perimeter Road, gain consent for it, and pay for it without it unacceptably impacting viability (as the s.106 agreement is not yet agreed). Remove 237 dwellings.¹⁶⁷
 - viii. *Land at Lady Grove.* Average lead in times would suggest completions in 2.4 years. When seeking planning permission on appeal, the appellant made a very public commitment to a quick delivery but the developer has

¹⁶⁴ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.215 concludes by suggesting removal of 234 dwellings. Nina Pindham's closing submission refers to 236 dwellings as do Mr Bolton's tables 3, 4 and Appendix 1.

¹⁶⁵ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.56 to 6.75 and Nina Pindham's closing submissions paragraphs 43 and 44, referencing pages 70 and 195 of the Council's July 2022 Housing Land Supply Statement (CD 9.26).

¹⁶⁶ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.76 to 6.100 conclude by suggesting removal of 698 dwellings. Nina Pindham's closing submission refers to 658 dwellings. The difference is explained by the fact that Mr Bolton accepted the deliverability of 40 units on a site known as Croudace Phase B. However, paragraph 16 of Appendix 1 to Emmaline Lambert's closing submissions claims that Mr Bolton accepted that he had discounted two parcels twice so there was double counting of 152 units, which would reduce the appellant's discounted dwellings for this site to 546.

¹⁶⁷ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.114 to 6.128 and paragraph 49 of Nina Pindham's closing submissions

not responded to the Council's pro-forma and, the submission of one (condition 6) of a number of pre commencement conditions is by itself not clear evidence that a site will deliver in the next five years. Remove 81 dwellings.¹⁶⁸

- ix. *Newnham Manor*. Little has changed since two previous inspectors either deleted the site entirely from the list of identifiable deliverable sites or reduced its contribution by 80%. There is no consent. It is not an allocation. It is not on the Council's brownfield register. It is therefore not within the definition of deliverable sites. Remove 100 dwellings.¹⁶⁹
- x. *Land west of Fairmile*. A detailed application made in July 2019 has an outstanding highways objection. No clear evidence of deliverability. Remove 60 dwellings.¹⁷⁰
- xi. *South of Wallingford, site E*. Like *Didcot North-East*, this is actually a conglomeration of several individual sites or phases all at differing stages of progress. The site has already surpassed the average lead-in time of 6.4 years from outline submission to first completions, so start date is too ambitious and should be put back a year. Developer has contradicted Council's assumed build out rate of 132 pa, suggesting 86, still double the average rate for a single sales outlet. Remove 137 dwellings.¹⁷¹
- xii. *The Orchard*. The Brightwell-cum-Sotwell Neighbourhood Plan Policy BCS2 envisages 20 dwellings on this site. The site has two proposals. One is for 13 units with outline permission and an application to discharge some reserved matters. The other is a detailed application for 20 units but requiring a s106 agreement, not yet drafted. Both are subject to objections. No clear evidence that objections can be overcome. Remove 20 dwellings.¹⁷²
- xiii. *Bayswater Brook*. This is an allocated site, but there is no application. The promoters have indicated that they wish to promote a larger site both in terms of area and also in terms of a more than 30% increase in the number of dwellings. There are a lot of issues. Three scoping requests led to a scoping opinion that the scoping report was unsatisfactory in relation to seven issues. The Local Plan indicates a number of constraints: Oxford's historic setting, other heritage assets, nature conservation designations, hydrology, air pollution and nutrient deposition issues; archaeological impact on a known Roman settlement, and constrained road capacity to the east of Oxford. There is a planning performance agreement, but it is only in relation to the submission of an outline

¹⁶⁸ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.129 to 6.132 and paragraphs 50 and 51 of Nina Pindham's closing submissions.

¹⁶⁹ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.154 to 6.166

¹⁷⁰ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.167 to 6.177

¹⁷¹ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.187 to 6.198

¹⁷² Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.199 to 6.214

application, it does not cover anything beyond that; it only sets out an agreement for the three relevant councils to work together because of the complexity of the site.

Then, even once all that work is done – and it has only been scoped right now – EIA must be carried out, an outline application has to be drawn up on the basis of the results of the EIA, then there is the determination of that very significant major application, then the developer must discharge any necessary conditions, then the developer has to draw up a reserved matters application, then they must discharge any pre-commencement conditions pursuant to that consent, then they must carry out site preparation work, and only then may they go on to build out the site. Astonishingly, the Council is projecting completions within two years.

Mr Rice accepted that the Council has never seen a site of this size deliver completions so quickly. The quickest local time from submission of outline to first completion is 4.4 years. The local average is 6.4 years for a site of this size. The national average is 6.9. The same promoter achieved 6 years on a similar sized development in neighbouring Cherwell District. Given the multiple complexities with this site, even once an application has been submitted, to expect completions within 6.4 years is probably overly optimistic; but whatever the longer-term prospect there is no prospect of any completions on this site within the next five years, let alone within 24 months. Remove 375 dwellings.¹⁷³

57. As a result of this assessment, 2273 dwellings should be removed from the list of identifiable, deliverable major sites, together with 193 from windfalls. The Council's identified deliverable housing land supply would then represent 4085 dwellings, or 69.54% of the requirement. Even if sites were included where reserved matters applications have been made, the supply would still only be 4.15 years¹⁷⁴. It cannot demonstrate a five-year supply of housing land as required by paragraph 73 of the NPPF.¹⁷⁵ Whenever a five-year housing land supply cannot be demonstrated, paragraph 11(d) of the NPPF means that relevant policies are automatically rendered out of date and planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits¹⁷⁶. The provision of market housing should be given very substantial weight.¹⁷⁷

Affordable housing

58. For the Council, Tracy Smith rightly agreed that the country is still in the midst of a national housing crisis. She agreed that this is especially acute and pressing in South Oxfordshire. She also agreed that South Oxfordshire's residents, especially those on low wages, are bearing the brunt of this crisis more than

¹⁷³ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraphs 6.17 to 6.42 concludes that the supply should be reduced by 350 dwellings but his tables 3 and 4 and Appendix 1 (his Scott Schedule) refer to 375 dwellings. Paragraphs 59 to 61 of Nina Pindham's closing submissions refer to 375

¹⁷⁴ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraph 8.6

¹⁷⁵ Roland Bolton's Housing Land Supply Proof of evidence (CD 19.4), paragraph 8.7

¹⁷⁶ Nina Pindham's opening remarks, paragraph 11

¹⁷⁷ Nina Pindham's closing submissions, paragraph 64

- national average: South Oxfordshire is within the 20% most expensive Districts in the country, and that figure includes London. The affordability ratio is 13.07; the effect of this is that someone earning the average wage who doesn't have the benefit of the bank of mom and dad can only afford 0.7% of the houses sold in South Oxfordshire last year. This is both outrageous and unacceptable¹⁷⁸.
59. Tracy Smith also agreed that the picture is of real social harm being caused right now because market housing in the District is out of reach for those earning average incomes. The situation is so bad that Inspector Young¹⁷⁹ described the affordability crisis in South Oxfordshire as "eye-watering". He went on to say, "this has put the aspiration of owning a home out of reach for many and is the very embodiment of the national housing crisis."
60. Some 271 households in total on the affordable housing waiting list have expressed a preference for a home in Cholsey¹⁸⁰. This is data from 2022, so whatever the provision of affordable housing in the past (Ms Guiver, for the Parish Council, indicated in oral evidence that Cholsey has recently benefitted from 75 affordable units, though that was further unevicenced) there is no plan for future development able to meet this rising need.
61. That is important. Matters are getting progressively worse, not better. At the time of the Cholsey Neighbourhood Plan a local survey said the need in Cholsey for affordable housing was 48¹⁸¹. That has grown to at least 63 by 15 August 2022¹⁸². Looking at the wider trajectory of need in South Oxfordshire, in 2019 there were 2,421 households on the register waiting for an affordable home. In 2021 that grew to 2,685. Now in 2022 it has ballooned further to 2,844.¹⁸³
62. Ms Smith accepted that there is a need for a significant number of affordable homes in the District, that the need is growing year on year both in Cholsey and in the wider District, and to tackle this situation the Council has to accelerate the provision of affordable housing rapidly.¹⁸⁴ Ms Smith also fairly and rightly accepted that because affordable housing relates to some of the most vulnerable members of society, providing this rapid acceleration of the provision of affordable homes has to be a priority for the Council.¹⁸⁵
63. This is a greenfield site with no technical constraints, and the Appellant has accepted an early start condition. It will deliver quickly, on a meaningful scale. Considering the total absence of a forward plan for development able to deliver

¹⁷⁸ Nina Pindham's closing submissions, paragraph 62 and 65, referencing Tracy Smith's cross-examination and paragraphs 5.5 to 5.11 of Appendix 3 to Roland Bolton's Older Person's Housing Proof (CD 19.4A). The same points are made in paragraphs 6.1 to 6.3 and 9.4 to 9.6 of Roland Bolton's Older Person's Housing Proof itself (CD 19.5)

¹⁷⁹ In paragraph 13.97 of appeal report APP/Q3115/W/19/3230827 (CD 6.2)

¹⁸⁰ Ms Smith's Rebuttal evidence at CD 12.10 confirms that as of 15 August 2022, 271 households on the affordable housing register have expressed a preference for Cholsey, of which 63 record Cholsey as their first choice

¹⁸¹ Made Cholsey Neighbourhood Plan (CD 4.4), page 38, paragraph 128

¹⁸² Tracy Smith's rebuttal proof of evidence (CD 12.10), page 7, paragraph 2.11

¹⁸³ Tracy Smith's rebuttal proof of evidence (CD 12.10)

¹⁸⁴ In cross-examination

¹⁸⁵ In cross-examination

166 affordable homes in Cholsey this is indeed a significant benefit of the scheme.¹⁸⁶

Self-build housing

64. It is agreed that the benefit of the provision of self-build and custom homes should be given significant weight. Policy H12 supports the provision of self-built homes¹⁸⁷ and the Council is under a statutory duty to provide sufficient land for homes on the self-build registry.¹⁸⁸ Ms Smith accepted the Council is not currently meeting that need.¹⁸⁹ The Council is failing to meet that need by some margin: the self-build register had 102 entries but only 54 are recorded as having been delivered.¹⁹⁰

Specialist Older Person's Housing

65. Specialist Older Persons Housing (as distinct from sheltered housing or care homes) provides public benefits over and above its value as housing¹⁹¹;

- Improved quality of life by virtue of on-site support, better social networks, safer environment, repairs and maintenance, being independent for longer¹⁹²
- An average saving of some £550 to other services for each older person living in specialist housing
- Delay or prevention of a move into residential care providing cost savings to the public purse in the long term of, on average, £28,080¹⁹³
- Health and social care provision can be streamlined within specialist housing using visiting health professionals.
- Benefits local economies because older persons make greater use of local facilities
- Reducing fuel poverty
- Releasing larger homes for families to occupy.

¹⁸⁶ Nina Pindham's closing submissions, paragraph 69

¹⁸⁷ CD 4.1 page 109, policy H12(1): "Council will support proposals for self-build..."

¹⁸⁸ Section 2A(2) of the Self Build and Custom Housebuilding Act 2015

¹⁸⁹ In cross-examination

¹⁹⁰ Stephen Stoney's Proof of Evidence (CD 19.1), paragraph 8.8, data taken from Council's Annual Monitoring Report; see also Tracy Smith Proof of Evidence (CD 12.5), page 36 Table 16

¹⁹¹ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraph 4.2, referencing CD 9.1, Housing in Later Life; CapGemini (2009) Cost-benefit analysis of the Supported People programme and Fit for Living Network (2010) Position Statement, HACT.

¹⁹² Housing in Later Life Toolkit (CD 9.1) referenced in paragraph 77 of Nina Pindham's closing remarks

¹⁹³ Details of potential savings to the NHS of £121,264 per annum resulting from this appeal proposal are set out in paragraphs 9.17 to 9.22 of Roland Bolton's Older Person's Housing Proof (CD 19.5)

66. The benefits have been noted in other appeal decisions.¹⁹⁴ The benefit of freeing up family sized housing is recognised in a series of Council documents.¹⁹⁵ It was expressly noted as one of the six key benefits of specialist older persons housing by the Council in its Background Paper 4¹⁹⁶. The provision of specialist older persons housing also promotes a more efficient use of existing housing stock: the Demos report "Top of the Ladder" labelled older people "generation stuck", concluding that the government needs to have a 'whole chain' view of the housing market, because helping the private sector serve older people at the top of the ladder releases supply which in turn benefits those at every other step of the ladder¹⁹⁷. Other national research reports have noted the benefits¹⁹⁸.
67. Government advice is that the need to provide housing for older people is critical. It is the only housing need so described.¹⁹⁹
68. The relevant Local Plan policy is H13. This confirms that encouragement will be given to developments which include the delivery of specialist housing for older people in locations with good access to public transport and local facilities²⁰⁰. Local Plan policy H1 (3) (ii) provides that residential development on sites not allocated in the development plan will only be permitted where it is for specialist housing for older people in locations with good access to public transport and local facilities²⁰¹. Cholsey is a location with good access to public transport and local facilities.

¹⁹⁴ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 4.3 to 4.5, and 9.23 referencing appeal decisions APP/Q3115/W/20/3265861 (Little Sparrows, Sonning Common) (CD 6.4), paragraph 112; APP/B1930/W21/3279643 (Burston Nursery, St Albans) (CD 6.10), paragraph 70; APP/P3610/W/21/3276483 (Epsom General Hospital) (CD 6.11), paragraph 103.

¹⁹⁵ Listed in paragraphs 2.15 to 2.19 of Appendix 3 to Roland Bolton's Older Person's Housing Proof (CD 19.4A): CD 9.21, the Joint Housing Delivery Strategy for South Oxfordshire and Vale of White Horse 2018-2028, page 10, paragraphs 29 and 30, task reference 8; CD 9.22, the Housing Delivery Strategy for South Oxfordshire and Vale of White Horse Background Paper 1, paragraphs 6.24 and 6.27

¹⁹⁶ CD 9.23, page 5, paragraph 2.16

¹⁹⁷ CD 9.11

¹⁹⁸ Paragraphs 3.1 to 3.21 of Appendix 3 to Roland Bolton's Older Person's Housing Proof (CD 19.4A) reference the All Party Parliamentary Group on housing and care for older people report HAPPI 3 (CD 9.12), the Strategic Society Centre report Valuing Retirement Housing (CD 9.13), the Demos report Unlocking the Housing Market (CD 9.14), the Legal and General report Last Time Buyers (CD 9.15), Professor Les Mayhew's report Too Little, Too Late? (CD 9.16) and the Chain Reaction report (CD 9.17)

¹⁹⁹ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 3.1 to 3.36, referencing several passages in National Planning Practice Guidance, the Levelling Up White Paper (CD 9.3), the House of Commons publication "Housing and ageing population: a reading list", the Government Office for Science publication "Future of an Ageing Population", the White Paper Fixing Our Broken Housing Market, the Local Government Association's publication "Housing our Aging Population", the House of Lords Built Environment Committee 1st Report of Session 2021-22 HL Paper 132 Meeting Housing Demand and the government's response to it

²⁰⁰ Stephen Stoney's Proof (CD 19.1), paragraph 5.18

²⁰¹ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 5.1 to 5.5 and Stephen Stoney's Proof (CD 19.1) paragraphs 5.10 and 5.18-19

69. However, the development plan gives no indication with regard to the level of need of older persons housing nor is there any reference to the nature of need in terms of type or tenure²⁰². Previous appeal decisions have commented on this deficiency²⁰³. The plan's main evidence base simply rolled forward the existing rates of local and national provision to identify a range of net need of between 1,309 and 2,094 specialist units of older persons for South Oxfordshire. In fact, current provision in South Oxfordshire has subsequently reduced to 130 units per thousand people aged 75 and over.²⁰⁴ This figure is for all types of older person's housing and tenure, not just for Extra Care housing.²⁰⁵
70. Oxfordshire County Council and the Oxfordshire Clinical Commissioning Group have jointly published Oxfordshire's Market Position Statement 2019 -2022²⁰⁶. This uses a figure of 25 units per 1,000 people aged 75 and over to calculate the future need for Extra Care but explicitly excludes privately owned provision from its definition, so is a target for social care provision only.²⁰⁷ The Oxfordshire Market Position Statement Extra Care Housing Supplement 2019 -2022²⁰⁸ encourages the provision of extra care housing schemes independent of the County's commissioning plans but retains its target for social care provision only.²⁰⁹
71. An appeal decision in June 2021²¹⁰ endorsed a provision rate of 45 extra care units per 1,000 people aged 75 and over, split one third for social rented (15 per 1,000) and two thirds for sale (30 per 1,000), but noted that the Council accepted that it was underplaying the scale of potential need.²¹¹
72. The appellant's consultants have carried out their own research to determine a target. They note that the population aged 75 and over in South Oxfordshire is projected to rise by 53% from 2021 to 2041.²¹² They note an imbalance between socially rented and market provision of specialist older persons housing.²¹³ They note that in South Oxfordshire a higher proportion of market householders aged 75 or more occupy dwellings with three or more bedrooms than the average for England.²¹⁴ The same is true of market householders aged 55 or more²¹⁵. These are the drivers of need for older person's market housing in the district.²¹⁶

²⁰² Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraph 5.6

²⁰³ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraph 5.27 referencing appeal decision APP/Q3115/W/20/3265861, Little Sparrows Sonning Common (CD 6.4)

²⁰⁴ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 5.9 to 5.12

²⁰⁵ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraph 5.11

²⁰⁶ CD 9.19

²⁰⁷ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 5.13 to 5.22

²⁰⁸ CD 9.20

²⁰⁹ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 5.23 to 5.26

²¹⁰ APP/Q3115/W/20/3265861, Little Sparrows Sonning Common (CD 6.4), paragraph 38

²¹¹ Roland Bolton's Older Person's Housing Proof (CD 19.5), paragraphs 5.28

²¹² Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 6.4

²¹³ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 6.5 – 6.9

²¹⁴ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 6.10 – 6.12 and 9.7 to 9.10

²¹⁵ And so, as paragraph 99 of Nina Pindham's closing submissions points out; although the Covid pandemic has recently diminished the proportion of the population currently aged 75 or more, because the cohort of people aged 55 or more shows the same characteristics, the covid epidemic is not a useful input into any model of long term need.

²¹⁶ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 6.13.

73. It is recognised that the target rates in older research still have currency but their base data is over two decades old. The Housing in Later Life report²¹⁷ proposed an uplift to 30 units per 1,000 persons aged 75 and over for market sector extra care provision.²¹⁸ This is much lower than the figure of 69 units per 1,000 persons aged 75 or more developed by Professor Michael Ball in 2011.²¹⁹
74. The consultant's model is published in detail in the SPRU research report "The Older Persons Specialist Housing Needs Model".²²⁰ Unlike the recent appeal decision²²¹ relied upon by the Council, the resulting rate is evidence-based and tested against other indicators of need and found to be reasonable²²². It reviews a number of surveys undertaken to illustrate the likely demand for specialist housing for older persons. None are definitive but all suggest that the level of potential demand for specialist older person housing is in the range of 250 to 470 units per 1,000 persons aged 75 and over.
75. Three types of projection have been considered by the appellant's consultant.²²³ The rates which they suggested for market housing were moderated to equalise rates between tenures.²²⁴ Consideration was given to needs arising from people with poor health, indicating a substantial level of unmet need.²²⁵ Generic conclusions have been reached,²²⁶ including
- The rate of provision of all kinds of older person housing has not kept pace with population growth
 - The rate of provision of specialist accommodation is 8 times greater in the social rented sector than in the market sector
 - But the market sector is catching up in terms of new provision
 - Extra Care is the fastest growing type of specialist accommodation across both tenures
 - Market Extra Care is growing faster than Social Extra Care and is growing exponentially
 - Growth in provision is still not keeping pace with population growth, except for ownership and shared ownership units, particularly in extra care
 - If growth continues, the rate of provision for Enhanced Sheltered housing and for Extra Care housing in the market sector could catch up with provision in the social sector

²¹⁷ CD 9.1

²¹⁸ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 7.5 – 7.6

²¹⁹ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 7.7 referencing Housing markets and independence in old age: expanding the opportunities by Professor Michael Ball May 2011 (University of Reading)

²²⁰ CD 9.2

²²¹ APP/M2270/W/21/3289034 (CD 6.36)

²²² Nina Pindham's closing submissions, paragraphs 100 to 105

²²³ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 7.16. Nina Pindham's closing submissions, paragraph 85

²²⁴ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 7.17

²²⁵ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 7.18 and 7.19

²²⁶ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 7.20 and 7.21

- It will never match rates of provision in the USA, Australia or New Zealand
 - It could return to levels of provision experienced in the 1990s
 - The market-based housing options have both the most capacity for growth and the proven potential for growth
 - Extra Care has demonstrated the most potential for growth across all tenures.
76. The national rates for the provision of older persons housing derived from the projections were moderated for market units where the projected growth would lead to a supply of market units exceeding the social rented supply rate, even though there are a number of sources which suggest that higher projections are plausible.²²⁷ National rates are proposed for five different types of older persons housing; age exclusive²²⁸, sheltered housing, enhanced sheltered housing, extra care housing and provision for dementia.²²⁹ The proposed rate for owned extra care housing is 44 per 1,000 people aged 75 and over.²³⁰
77. The research then adjusts the national rate to reflect local circumstances relating to house prices, tenure, property size and occupancy rates to arrive at a local rate applicable to South Oxfordshire.²³¹ The result is then tested for plausibility by considering the number of dwellings sold for £350,000 or more by people aged 75 or over (considered to be the minimum level of equity needed to enter into extra care home ownership)²³². A final sense check is made by comparison with international comparators.²³³ Having followed this process, the proposed local rate for provision of owned extra care housing is 62 per 1,000 persons aged 75 or more (within an overall rate (for all types of older person's housing) of 354 units per 1,000 persons aged 75 or more).²³⁴ This translates to a need for 964 owned extra care units at the present time in South Oxfordshire, rising to 1,465 units by 2041.²³⁵
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²²⁷ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 7.24 and 7.25. This equalisation process is described in Nina Pindham's closing submissions, paragraph 88

²²⁸ This would include homes made adaptable under part M of the Building Regulations but, as Nina Pindham points out in paragraph 97 of her closing submissions, they do not provide care and so, the Council's point that their provision would reduce the need for extra care housing is irrelevant to the estimation of market need for extra care housing.

²²⁹ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 7.27

²³⁰ Nina Pindham's closing submissions paragraph 88

²³¹ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 7.28 to 7.33. Nina Pindham's closing submissions, paragraph 89 and 90. Nina Pindham's closing submissions paragraph 98 confirm that Mr Bolton did look at using overall poor health as a metric to adjust the need locally but, in contrast to its use in setting the national rate, because of the gross mismatch between those in market housing with poor mobility and health and the actual very low provision of market extra care in his view it couldn't be used as a metric to calculate need.

²³² Nina Pindham's closing submissions, paragraph 93

²³³ Nina Pindham's closing submissions, paragraph 94

²³⁴ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 7.34 to 7.37 and table 4 and Nina Pindham's closing submissions, paragraph 106

²³⁵ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 7.38 and table 5.

Paragraphs 7.40 to 7.47 point out that this figure is based on the 2018 subnational population projections forecast of a 2021 population rather than the 2021 census. Use of the census would reduce the current need figure by 41 units

78. A comparison is then made with existing supply and developments in the pipeline.²³⁶ This demonstrates that there is currently a shortfall in South Oxfordshire of at least 663 extra care housing units, rising to 1,164 by the year 2041.²³⁷
79. Applying the model to Cholsey suggests a locally based need for 61 units now.²³⁸ It is expected that about 60% of future residents of the facility (ie 48 residents) would originate from within about ten miles of the facility.²³⁹ Yet there is currently no extra care facility at all in Cholsey. And because there is no further development proposed in the area at all for the rest of the plan period, there is no prospect outside of the appeal scheme for extra care housing for residents of Cholsey who wish to stay in their community as they age and their care needs change.
80. The people of Cholsey clearly benefit from a very strong sense of community spirit but do not benefit from somewhere they can move to within their beloved community when they would like accommodation with support. This is a need expressly recognised by the people of Cholsey. Supported accommodation was the top scoring type of development people said they wanted when they were surveyed for the Cholsey Neighbourhood Plan.²⁴⁰ Within that type of development, what is proposed here – extra care – was itself the top scoring, with 69% of residents expressing a preference for accommodation with care support, i.e. an extra care facility.²⁴¹

Employment, retail and community uses

81. Local Plan Policy EMP2²⁴² supports the provision of employment space. It is accepted the scheme provides for more employment space than is provided for under this policy. As Mr Stoney confirmed²⁴³, the quantum proposed in the application was informed by the Bidwells Commercial Strategy report²⁴⁴ which sets out the scale of employment space needed to create a critical mass as a meaningful entity.²⁴⁵ It did not relate to the overall viability of the development.
82. However, it must be noted the maximum quantum of proposed employment space does not conflict with the development plan. Policy EMP1 sets out a minimum quantum of employment space, and the policy itself does not preclude the provision of employment land in larger villages. Indeed, the provision of further employment land in Cholsey is one of the specified aims of the Neighbourhood Plan. The objective²⁴⁶ underpinning Cholsey Neighbourhood Plan policy I8 is to support those who work from home – who formed a sizeable proportion of the economically active residents of Cholsey even before the

²³⁶ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraphs 8.1 to 8.20

²³⁷ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 8.20

²³⁸ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 7.39

²³⁹ Roland Bolton's Older Person's Housing Proof (CD 19.5) paragraph 10.13

²⁴⁰ Made Cholsey Neighbourhood Plan (CD 4.4) page 36, paragraph 113

²⁴¹ Nina Pindham's closing submission, paragraph 72

²⁴² CD 4.1 page 128

²⁴³ Stephen Stoney's Proof (CD 19.1), paragraph 6.7

²⁴⁴ CD 10.1

²⁴⁵ Stephen Stoney Evidence in Chief

²⁴⁶ CD 4.4, page 67, paragraph 251

pandemic accelerated more flexible working patterns.²⁴⁷ The Cholsey Neighbourhood Plan goes on to confirm “[w]e encourage and support sustainable economic growth in Cholsey”.²⁴⁸

83. Policy I8²⁴⁹ then duly supports the provision of business uses, even when outside the settlement boundary adjacent to the village, provided the scale of the village and its wider landscape setting are respected and the development satisfies other policies in the development plan.²⁵⁰ This scheme satisfies these criteria.
84. Local Plan Policy EMP10²⁵¹ provides support for local shops as well as the social benefits of community facilities such as the day nursery and community building²⁵². These services and facilities are also noted as desirable in the Cholsey Neighbourhood Plan: the local shops are to be “retained to maintain a thriving rural economy”,²⁵³ to which additional residents will contribute, and “new...community and leisure facilities, which are important to the social fabric of the Parish”²⁵⁴ are supported. Once again, this development will deliver exactly these complementary services and facilities desired by the local community.²⁵⁵
85. Mr Stoney confirmed the community building will be provided by the extra care facility, but the aim is for this space to be well used by the wider community in order to integrate residents of the extra care units into the community. This has win-win benefits for all concerned and will lead to a cohesive community with broad social ties, strongly aligned with the aim of creating sustainable communities²⁵⁶.

Development Strategy

86. No party at this appeal opposes the development of the site in principle²⁵⁷. The opposition is in relation to the scale of development, even though 29.8% of the site will be natural green infrastructure. Sustainable sites in sustainable locations must optimise and make the most efficient use of land²⁵⁸. There is no dispute that Cholsey is a sustainable location. The development is consistent with the overall strategy as set out in policy STRAT1, which is to support and enhance the roles of larger villages such as Cholsey as local service centres²⁵⁹. Some 70% of growth in the District is directed to the Science Vale, towns and larger villages²⁶⁰.

²⁴⁷ CD 4.4 page 67, paragraph 252 notes the 2011 census found 6% of Cholsey’s residents worked from home and 12% were self-employed

²⁴⁸ CD 4.4 page 67, paragraph 255

²⁴⁹ CD 4.4 page 68

²⁵⁰ CD 4.4, page 68, paragraph 257, policy I8

²⁵¹ CD 4.1 page 129

²⁵² Stephen Stoney’s Proof (CD 19.1), paragraph 5.21

²⁵³ CD 4.4 page 20, paragraph 50

²⁵⁴ CD 4.4 page 21, CNP STRAT1 fourth bullet point

²⁵⁵ Nina Pindham’s closing submissions, paragraph 10.

²⁵⁶ Nina Pindham’s closing submissions, paragraph 19

²⁵⁷ Beryl Guiver in cross-examination, Stephen Stoney’s Proof (CD19.1), paragraph 5.36 and Peter Radmall’s Proof of evidence (CD 12.7) page 48, paragraph 8.21 “particularly if it improves the somewhat abrupt character of the existing settlement edge”

²⁵⁸ NPPF paragraph 125(c) and Local Plan (CD 4.1) page 37, policy STRAT5

²⁵⁹ Stephen Stoney’s Proof of evidence paragraphs 5.3 to 5.5

²⁶⁰ Local Plan (CD 4.1) page 20, paragraph 3.8

87. Cholsey is clearly the largest and arguably most sustainable settlement, with areas of well-located developable unconstrained land in what is otherwise a relatively constrained district²⁶¹. It was agreed that, in principle, development such as the provision of a range of market and specialist housing, retail, employment and community uses does support the role of Cholsey as a local service centre²⁶². The answer could hardly have been any different given the Local Plan itself confirms that “growth supports the services and facilities that sustain large villages”²⁶³.
88. Policy STRAT1 also seeks to protect and enhance the countryside²⁶⁴. A degree of harm is inevitable when developing greenfield land, but here it will be more than offset by the extensive landscaping mitigation proposed and the improvement to the appearance of the settlement edge of Cholsey in this location, leading to better visual integration of the settlement into its setting²⁶⁵.
89. The only conflict with the development plan is because the site is not allocated. As Inspector Major characterised it in the Lady Grove appeal, this is a “narrow” conflict²⁶⁶. In his closing submissions, Mr Neville sought to argue that paragraph 32 of this decision distinguished it from the current appeal because Didcot Garden Town (DGT) masterplan encompassed the site. That is incorrect; later on in the decision at paragraph 35 Inspector Major confirms “I note that the Inspector who found the LP sound indicated that it would not be appropriate to indicate that housing would be permissible anywhere within the DGT area” and at paragraph 38 Inspector Major confirms “the Council’s planning evidence in the case before me concentrated on the conflict with the development plan” As there, so in this case, this conflict is of limited weight since one of the objectives of STRAT1 is to concentrate development in larger villages.²⁶⁷ The strategy expressly confirms it is “directing development to the Larger Villages to complement the spatial strategy”.²⁶⁸
90. It follows that the development of the site is entirely in line with the overall strategy for the development of land in the District and the aspirations within the Local Plan and Cholsey Neighbourhood Plan. Beryl Guiver was helpfully candid in her response as to what happened to the original proposal to allocate the site in the Cholsey Neighbourhood Plan: ‘community sentiment’.²⁶⁹ A certain scale of development should not be viewed as a challenge; it is an opportunity. It allows for comprehensive placemaking and masterplanning, rather than piecemeal ad hoc development, and only development above a certain scale will be able to viably provide such an extensive range of benefits. Tracy Smith accepted that small scale infill development will never provide 140 affordable homes.²⁷⁰ This also comes alongside specialist care for the elderly, a community building, self

²⁶¹ Stephen Stoney’s Proof (CD 19.1), paragraph 5.12

²⁶² Tracy Smith, in cross-examination

²⁶³ Local Plan (CD 4.1) page 94, paragraph 4.17

²⁶⁴ Local Plan (CD 4.1) page 23, paragraph iv

²⁶⁵ Nina Pindham closing submissions, paragraph 14

²⁶⁶ Appeal ref AP/Q3115/W/21/3272377 (CD 6.3) paragraph 37

²⁶⁷ Local Plan (CD 4.1) STRAT1(1)(iv), see also paragraph 3.8

²⁶⁸ Local Plan (CD 4.1) page 23, paragraph 3.14

²⁶⁹ Beryl Guiver in cross-examination

²⁷⁰ Tracy Smith in cross-examination; note quantum is 166 if social extra care units are included

and custom build plots, a day nursery, employment space, local-scale retail, highways improvements, recreational trails, new cycle routes, natural greenspace and a community park.²⁷¹

91. Further, critical aspects of the scheme are considered so important that they warrant express exceptions to the policy restricting the development of land to areas within settlement boundaries. One of those is the provision of specialist housing for the elderly, for which an exception is set out at Local Plan policy H1(3)(ii). The Cholsey Neighbourhood Plan also accepts new business development outside of settlement boundaries under policy I8, provided the criteria are satisfied.²⁷²
92. Given that the development plan does not plan for any further housing development in Cholsey over the entirety of the plan period – to 2035 - there are no other means by which the 271 people who selected Cholsey amongst their priority choices as a location for an affordable home would have a realistic prospect of securing a home there, no other means by which the residents of Cholsey would secure an extra care facility, and no other means by which the additional benefits of the development would accrue for the people of Cholsey and the wider area.²⁷³

Transport

93. All highways and transport related considerations have been agreed.²⁷⁴ The plans upon which the highways authority removed its objection are secured by way of the s.106 agreement.²⁷⁵
94. The Parish Council objects, though Ms Guiver fairly accepted that this meant she disagreed with the highways authority. Overall, the scheme will provide wider benefits to the community through an improved pedestrian route along Reading Road, something expressly desired by the community as set out in the Cholsey Neighbourhood Plan,²⁷⁶ a shorter and more attractive route through parkland across the site to the centre of the village for residents of Fairmile as well as to the east and south of the site, and an improved pedestrian and cycle route for all along Ilges Lane. There is scope for consultation and refinement of the road improvements along Ilges Lane during the detailed design stage, as confirmed by Mr Pettitt and Mr Arnold.²⁷⁷ There will be junction improvements, albeit with some accepted change of character along Reading Road. This is a very busy road and so whilst possibly considered to be visually charming, the interests of highway safety have to take precedence. The Appellant has sought to design the access junctions with an absolute minimum of tree loss and to more than make up for that by planting within the site.²⁷⁸

²⁷¹ Nina Pindham closing submissions, paragraph 16

²⁷² Nina Pindham closing submissions, paragraph 17

²⁷³ Nina Pindham closing submissions, paragraph 18

²⁷⁴ Highways Statement Of Common Ground, (CD 16.2) paragraph 5.1

²⁷⁵ Section 106 agreement seventh schedule

²⁷⁶ CD 4.4 page 39, paragraph 136

²⁷⁷ Mr Pettitt is the Appellant's transport consultant. The potential for further design work was confirmed during Beryl Guiver's cross examination and during s.106 discussion. Geoff Arnold for the highways authority confirmed consultation on Ilges Lane works will take place.

²⁷⁸ Nina Pindham's closing submissions, paragraphs 11 and 12

Heritage

95. The proposed access arrangements will entail the relocation of a listed milestone on Reading Road²⁷⁹. Reason for refusal 4 has fallen away following Tracy Smith's concession that there is in fact overall heritage betterment,²⁸⁰ which she also agreed should be given significant weight in the planning balance.²⁸¹ At present the milestone is unmaintained and largely invisible to the passing public by virtue of it being surrounded by overgrown vegetation.²⁸² Its restoration would correct a structural lean and could pick out its legend in an appropriately coloured paint.²⁸³ The Heritage Statement also demonstrates further benefits as part of the proposals through the painting of the lettering and numbering of the mileposts to the north and the south (NHLE references 1193746 & 1285987) which could be restored to achieve aesthetic parity with that to be reinstated to the milestone. This would, given their shared historic function, offer enhancement to their individual and collective significance.²⁸⁴ The milestone can be satisfactorily relocated in a manner supported by the Council's Conservation Officer, with necessary works secured through an appropriate condition.²⁸⁵

Landscape

96. The appeal site is ordinary; attractive but unremarkable. It is a single agricultural field with limited features. Mr Radmall confirmed the site itself has "no internal features of note".²⁸⁶ The "overwhelming" sense of the site being open is because it is a field. All fields are open. That is the very nature of a field²⁸⁷.

97. In the appellant's view, there is no objection to the development of this specific field in principle. It is fully in line with the Local Plan. Paragraph 7.8 of the SOLP, supporting policy ENV1, confirms that compliance will be assessed using the Council's Landscape Capacity Assessment, amongst other documents.²⁸⁸ This document confirms the overall landscape character sensitivity of the site is medium/low and the site is suitable for development.²⁸⁹ Mr Radmall correctly emphasizes "the Council is not seeking to argue that no development should take place in this location."²⁹⁰ This is entirely in line with the conclusion of the

²⁷⁹ Stephen Stoney's Proof (CD 19.1), paragraph 5.26

²⁸⁰ See conservation officer's consultation response appended to Stephen Stoney's evidence (CD 19.1) Appendix 1

²⁸¹ Tracy Smith's cross examination with reference to the requirement to pay "special regard" to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses under s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

²⁸² Stephen Stoney's Proof of evidence (CD 19.1), Appendix 1

²⁸³ Environmental Statement Appendix 10.1 (Heritage Statement) (CD 1.45), page 29, paragraph 6.1.4

²⁸⁴ Stephen Stoney's Proof of evidence (CD 19.1), Appendix 1

²⁸⁵ Stephen Stoney's Proof of evidence (CD 19.1), Appendix 1. See recommended condition 10

²⁸⁶ Peter Radmall in round table discussion

²⁸⁷ Nina Pindham's closing submission, paragraph 125

²⁸⁸ Local Plan (CD 4.1) page 166, paragraph 7.8

²⁸⁹ Landscape Capacity Assessment for Sites on the Edge of the Larger Villages of South Oxfordshire (CD 1.35) page 281 of 857, paragraph 3

²⁹⁰ Pater Radmall Proof of evidence (CD 12.7), page 3, paragraph 1.14

Council's Landscape Capacity Assessment that the site can acceptably accommodate development.²⁹¹

98. Just as with the Council's acceptance that they do not dispute the development of the site in principle, the Parish Council's position was fair. They initially allocated the site, which is an eminently sensible location given the AONB and flood risk constraints around Cholsey elsewhere. Ms Guiver then confirmed the site was removed from the Neighbourhood Plan as an allocation based on community sentiment regarding development at this scale.²⁹²
99. It is visually enclosed by the harsh edge of urban development on three sides and part of the fourth. Tree belts enclose it further to the north and east, in contrast to the more typically open landscape of the surrounding countryside²⁹³. The site is generally flat. Its elevation above sea level is typical of the rest of Cholsey.²⁹⁴
100. In brief, the Site is generally well enclosed by the surrounding development and established vegetation, with wider potential for visibility restricted by the flat landform within the Thames plains to the north and west. Consequently, the area from within which the development would be potentially visible is limited to an area extending approximately 3km to the south and east and up to 2km to the north and west. There are limited medium to long distance views from elevated positions on rising ground to the south and east where views are not impeded by intervening landscape features²⁹⁵.
101. The site's rural setting will be retained. Mr Radmall accepted that the area to the north of the site is of the same character. Thus, the rural landscape setting of Cholsey will remain intact. The site is otherwise enclosed by existing built development to the east, south, west, and the remaining section of the north side. This site has a close relationship with the village edge: that is how the site is experienced.²⁹⁶ Being associated with an existing village, the scheme would not alter the frequency of settlement within the landscape.²⁹⁷ The scheme does not introduce development into a landscape where this does not already exist: indeed, Cholsey is a notable settlement in the 'Wessex Downs and Western Vale Fringes' and the proposed development is directly adjoined to the west and south by the built village edge²⁹⁸. It is not experienced as unspoilt open countryside.²⁹⁹
102. In locations where it is visible, the existing edge of Cholsey is dominant at close range and an identifiable feature within long distance views. The current eastern edge of the village is an 'abrupt' feature in views, with domestic

²⁹¹ Landscape Capacity Assessment for Sites on the Edge of the Larger Villages of South Oxfordshire (CD 1.35) page 220 of 857

²⁹² Nina Pindham's closing submissions, paragraph 129

²⁹³ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraphs 2.9, 3.1 to 3.3, 3.9, 3.24 and 6.12, Nina Pindham's opening remarks, paragraph 23 and Nina Pindham's closing submissions, footnote 24 and paragraph 125

²⁹⁴ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 3.6 and 3.32

²⁹⁵ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraphs 3.21 to 3.23, 3.32, 6.13, 6.15 and 6.19, bullets 6 and 7

²⁹⁶ Katharine Ellinsfield in round table discussion

²⁹⁷ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 6.19, bullet 3

²⁹⁸ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 7.5

²⁹⁹ Nina Pindham's closing submissions, paragraph 128

- boundary fencing, dwellings backing or siding on, and limited or no structural planting to soften views of built form. From elevated locations looking towards the Site at longer distances, Cholsey forms the backdrop to the Site from the east, and partially screens the Site from the south³⁰⁰.
103. A Landscape and Visual Impact Assessment (LVIA) has been carried out.³⁰¹ The Council was invited to agree the viewpoints appraised.³⁰² Thirteen receptors were chosen for analysis.³⁰³ Most are illustrated with photoviews. Four are illustrated with photomontages of a block-form model of the scheme (created by applying the maximum building heights indicated on the relevant parameters plan).³⁰⁴ The techniques used in the photographs and the photomontages were criticised by Mr Spence for the Council but Katherine Ellinsfield asserted that all were prepared in accordance with adopted Landscape Institute Technical Guidance Note TGN 06/19 'Visual Representation of Development Proposals'.³⁰⁵
104. The development will create a more attractive, appropriate settlement edge within the rural setting for Cholsey compared to the existing situation³⁰⁶. The appeal proposal will achieve the objectives of the Cholsey Neighbourhood Plan in this respect.³⁰⁷ The objective underpinning policy H2 of the Cholsey Neighbourhood Plan is to "ensure that opportunities for suitably sited new homes in the village are allowed, and that the countryside around the village is protected to avoid unsustainable and inappropriate development. To provide an attractive rural setting for Cholsey and to retain the separate identities of Wallingford and Cholsey."³⁰⁸ The development meets all these aspirations whilst also providing the benefit of a significant landscaped improvement of the settlement edge. Even Mr Radmall accepted that visually the edge of the village is "a bit raw".³⁰⁹ That will be improved not only with sympathetic planting but with extensive parkland planting, deliberately designed to reflect what everyone has accepted is the successful landscaping at Fairmile.³¹⁰
105. In terms of the separation of Cholsey from Fairmile, a substantial gap between the two is not in line with the nucleated character of Cholsey and the Cholsey Neighbourhood Plan's aspiration to retain Cholsey's "compact" village form (as set out in policy CNP STRAT1 as part of the very first point of the overall

³⁰⁰ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 3.24 and 3.32

³⁰¹ Included within chapter 9 of the Environmental Statement (CD 1.7) and summarised in Katharine Ellinsfield's Proof of Evidence (CD 19.2), paragraphs 6.1 to 6.18

³⁰² Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraphs 3.25 and 6.2 to 6.19

³⁰³ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 3.26. The choice was made without the benefit of a calculated Zone of Theoretical Visibility but that made no difference according to Nina Pindham's closing submissions paragraph 121

³⁰⁴ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraphs 6.5 and 7.5 and Appendices B, C, D and E

³⁰⁵ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 3.29, 6.4, 6.6 and 6.7 and Nina Pindham's closing submissions paragraphs 122 to 124.

³⁰⁶ Katharine Ellinsfield's Proof of evidence (CD 19.2) paragraphs 4.4, 5.9 and 6.19, bullet 4

³⁰⁷ Cholsey Neighbourhood Plan H2: objective page 33

³⁰⁸ Made Cholsey Neighbourhood Plan (CD 4.4) page 33 of 128, paragraph 97

³⁰⁹ Peter Radmall in round table discussion

³¹⁰ Katharine Ellinsfield in round table discussion; Mr Reed, Mr Radmall and Mr Leaver all noting with approval the landscaping of Fairmile along Reading Road

aspiration of the Cholsey Neighbourhood Plan).³¹¹ Mr Radmall's attempt to draw a distinction between Fairmile and the site in fact makes exactly the Appellant's own point. He confirmed the Fairmile development is well screened.³¹² This means the undisputed evidence is that because mitigation landscaping is successful at Fairmile, mitigation landscaping can and will be successful on the appeal site. Katharine Ellinsfield confirms that the green infrastructure proposed at the eastern frontage of the appeal scheme is designed to be outward facing towards the green infrastructure, much in the same vein as Fairmile. There will still be a degree of visual separation because of the tree belt along Reading Road, which will be mostly retained, as well as the significant additional parkland planting proposed at the eastern section of the site.³¹³

106. The Council has complained about the imposition of large building blocks, but that is a matter of design, layout and scale: something that falls for consideration at reserved matters stage. The Council's closing submissions at paragraph 116 assert there is no condition limiting storeys or heights. There is. The parameters plan will be conditioned.³¹⁴

107. Reason for refusal 2 also alleges the large extent of development proposed would adversely affect the sparsely settled character of the landscape. Ms Ellinsfield gave evidence that the density proposed on the development took this into account, and local character determined the proposed quantum of development on the site. It is noted that the Landscape Capacity Assessment assessed that the site could accommodate 345 dwellings at the now unacceptably low overall density of 25 dwellings per hectare.³¹⁵ This demonstrates that the Appellant has designed a scheme that provides abundant green infrastructure which respects the character of the surrounding settlement, while also making the most efficient use of land.³¹⁶

108. The Green Infrastructure and Recreational Strategy was an additional bespoke document that was not required by planning policy or EIA scoping. It was produced in order to demonstrate the quality and multifunctional performance of the green infrastructure and the thought put into the landscaping proposals to ensure a successful landscaping scheme could be accommodated within the scheme.³¹⁷ It responds to the character and features of the site and its setting through

- Analysis of local landscape character which informs the distribution of built form and green infrastructure
- Allowing the retention of most tree cover and existing hedgerows providing habitat diversity and a connection with adjacent countryside
- A range of open spaces providing varied opportunities

³¹¹ Made Cholsey Neighbourhood Plan (CD 4.4) page 21 of 128, first bullet point under STRAT1

³¹² Peter Radmall in round table discussion

³¹³ Nina Pindham's closing submissions, paragraph 126

³¹⁴ Nina Pindham's closing submissions paragraph 133

³¹⁵ Landscape Capacity Assessment for Sites on the Edge of the Larger Villages of South Oxfordshire (CD 1.35) page 220 of 857

³¹⁶ Nina Pindham's closing submission, paragraph 120

³¹⁷ Nina Pindham's closing submissions paragraph 130

- The largest open space area integrates retained woodland, field boundary hedgerows and interconnected green spaces offering multifunctional spaces including equipped play areas, a space large enough to serve as a sports pitch, ecologically focused areas and informal walks, complementing the similar landscape structure at the Fairmile Registered Park and Garden on the opposite side of Reading Road and thus integrating the site into its setting
- A “gateway” space to the north-west, connecting with walking routes into the village and visually to the farmland to the north
- Smaller informal spaces within the development itself incorporating new habitat, planting, pedestrian / cycle links and natural children’s play.
- Surfaced and informal walks and cycle routes connecting with existing routes in the area.³¹⁸

109. Mr Radmall says giving 19% of the site to green infrastructure “is not enough”.³¹⁹ In reality, the total volume of green infrastructure proposed is 29.8%.³²⁰ This has to be viewed in light of the NPPF advocating the efficient use of land at paragraphs 124, 125, and at paragraph 125(c) telling planning authorities to refuse applications that do not make efficient use of land. It is supported by the Local Plan saying “planning permission will only be granted where it can be demonstrated that the proposal optimises the use of land and potential of the site”.³²¹

110. The criticism that the scale of provision of green infrastructure is inadequate is baseless. Katharine Ellinsfield cut and pasted figures from the environmental statement for her summary note, submitted in an attempt to help³²². 8.72 hectares will be provided. She then excluded woodland from the calculation on the grounds that it is not accessible in the same way as open fields and recreational space, even though that is expressly classified (obviously) as green infrastructure in the relevant guidance. The resulting figure of 5.8 hectares exceeds the 5.75 ha requirement generated from an application of the Fields in Trust guidance³²³. The bottom line is that there is significant over provision of green infrastructure beyond what is required.³²⁴ There will be a slight biodiversity

³¹⁸ Katharine Ellinsfield’s Proof of evidence (CD 19.2), paragraphs 4.5, 5.9 – 5.12, 5.14 and 6.10- 6.11

³¹⁹ Peter Radmall in round table discussion: referring to public open space

³²⁰ Green Infrastructure and Recreation Strategy (CD 1.44) page 6 and Katharine Ellinsfield’s Proof of evidence (CD 19.2) paragraph 2.2 separating out what qualifies as public open space

³²¹ Local Plan (CD 4.1) policy STRAT5(1) page 37

³²² Written response on the provision of green infrastructure and open space. Inquiry document ID6

³²³ Nina Pindham’s closing submissions, paragraph 131 observe that the Council’s closings allege that this guidance “forms no part of the Council’s policy and has not been referred to throughout the inquiry” (closing, paragraph 218). The Council seems to have missed the s.106 session, in which the Fields in Trust guidance is expressly referred to at pages 48, 49 and 50 in the s.106 itself and is the document by which the provision of open space is measured by the Council itself in the fifth schedule.

³²⁴ Nina Pindham’s closing submissions, paragraph 131

net gain of 0.69%. This warrants some weight as a benefit in the planning balance³²⁵.

111. The point claimed by the Council that ponds and SuDS open space is not inclusive and accessible is not understood. Planning Practice Guidance makes it clear that they are, and Ms Ellinsfield's note confirms that the relevant guidance produced by the Council also includes SuDS as green infrastructure.³²⁶
112. Ms Ellinsfield confirmed the SuDS features have been specifically designed to allow the potential for different depths to the SuDS feature as well as space for an ecological pond with scrub planting. This has scope to generate a variety of habitats to maximise the biodiversity gains. The proposed mitigation has been designed from ecological, recreational, and landscape viewpoints. The actual experience of the users of the site also fed into the design, in that the recreational routes have been designed with on the ground experience in mind. The proposed green infrastructure and recreation strategy goes far beyond just visual aspects and far beyond just responding to context.³²⁷
113. The objective underpinning Cholsey Neighbourhood Plan policy E1 is to "ensure that new development in Cholsey is mindful of its sensitive setting in and adjacent to both the Chilterns and North Wessex Downs AONBs. New housing should be at an appropriate density and of a good design with green infrastructure at its heart, acknowledging and enhancing the rural character of Cholsey, and should accord with policies for the AONBs."³²⁸ Local Plan policy ENV1 requires consideration of the AONB management plans³²⁹.
114. There is no objection based on impact on the AONBs and all landscape experts who gave evidence confirmed that whilst the impact should be taken into account, it is acceptable in light of the nature of the expansive views from the AONBs in which the site blends with Cholsey in those views.³³⁰ The scheme would not break the skyline or block views out of the AONB, nor would the scheme block views from the Public Right of Way (PRoW) along the north of the Site looking east towards the AONB.³³¹ The special qualities of the AONB directly fed into the design of the proposed green infrastructure.³³² The development will not unacceptably harm the landscape setting of Cholsey and complies with Cholsey Neighbourhood Plan policy E1, insofar as that policy is relevant.³³³

Minerals

115. It is agreed that the borehole evidence demonstrates that there are no mineral resources on the site itself.³³⁴ The dispute concerns the effect of adding sensitive

³²⁵ Nina Pindham's closing submissions, paragraph 137

³²⁶ Nina Pindham's closing submissions, paragraph 132 referencing Inquiry Document ID6 paragraphs 2.8 to 2.10

³²⁷ Katharine Ellinsfield in round table discussion

³²⁸ Made Cholsey Neighbourhood Plan (CD 4.4) page 46 of 128, paragraph 157

³²⁹ Katharine Ellinsfield's Proof of Evidence (CD 19.2), paragraph 5.2

³³⁰ Katharine Ellinsfield's Proof of Evidence (CD 19.2), paragraphs 5.5 to 5.8

³³¹ Katharine Ellinsfield's Proof of evidence (CD 19.2), paragraph 7.10

³³² Katharine Ellinsfield in round table discussion

³³³ Made Cholsey Neighbourhood Plan (CD 4.4), page 50, paragraphs 178-180

³³⁴ Tracy Smith in cross examination referring to the Mineral Resource assessment (CD 1.89), page 3, paragraph 3.3 (evidence from boreholes) and paragraph 3.4 (conclusion)

receptors to a Mineral Consultation Area surrounding the deposits which lie to the north. The simple and obvious point is that because there is already development to the north of the site along Caps Lane (which is within the Mineral Safeguarding Area, in contrast to the site, which is not)³³⁵ the southern area of the deposit is already sterilised by existing development. The development of the site therefore would make absolutely no difference in terms of the sterilisation of the mineral deposit in this area.³³⁶

Education

116. The appellant's case has three strands. One is that the request for a financial contribution through a s106 obligation would be contrary to Community Infrastructure Regulation 122. The second is that any contribution is unnecessary because the education system has sufficient capacity. The third is that the financial contribution sought is not justified by the costs of providing the education facilities.
117. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 provides that planning obligations must only be sought where they meet all of three tests. One test is whether the obligation is necessary. An obligation is not necessary if the Community Infrastructure Levy (CIL) provides the funding.
118. The Council's current CIL Spending Strategy (April 2021) states that 50% of CIL available (after deducting administrative costs and the contributions to Parish Councils) is to be passed to Oxfordshire County Council to spend on education, transport, libraries and household recycling centres.³³⁷
119. For the Council, Barbara Chillman raised the point that CIL was never intended to fully fund projects on the infrastructure list and so there is a funding gap,³³⁸ but reg. 122 constrains what decision makers can do in such circumstances. It is the law, and it provides that an obligation is not to be taken into account where it is not compliant with reg. 122.³³⁹ The Council's own SPD on contributions confirms that CIL, not s.106, will fund education infrastructure including specifically secondary education and SEN.³⁴⁰ The Council consulted on a draft revision to this document in February 2022 paragraph 4.20 of which confirms

³³⁵ Stephen Stoney's Proof (CD 19.1), paragraphs 5.29 and 7.5. For plan of Mineral Safeguarding Area vs. Mineral Consultation Area see Tracy Smith's Appendix 2

³³⁶ Nina Pindham closing submissions, paragraph 5

³³⁷ Ben Hunter's Proof of evidence (CD 19.3), paragraph 2.10, referencing the South Oxfordshire District Council Community Infrastructure Levy – Spending Strategy – April 2021 (CD4.8), paragraph 14, also attached as Appendix 2 to Mr Hunter's Proof, page 2, paragraph 14 (i) and page 3 table 1 and page 6 paragraph 31 (ii).

³³⁸ Barbara Chillman in cross-examination

³³⁹ Nina Pindham's closing submissions, paragraph 108

³⁴⁰ Nina Pindham's closing submissions paragraph 109, referencing the Section 106 Planning Obligations Supplementary Planning Document (adopted 1 April 2016)(to be found filed in the Supplementary Guidance folder within the LPA Questionnaire folder in the Inspectorate's file); Table 2 on page 12 confirms alternatives, one or the other, never both, and page 14 – confirms education relating to non-strategic sites and not including the provision of land are to be funded by CIL not s.106 obligation. See also footnote 2 "sites that are not strategic sites will raise monies for education from CIL", and page 26 paragraph 10 "Other education facilities will be funded through CIL. Sites that are not strategic sites will raise monies for education from CIL"

- that whereas education provision on strategic sites will be funded through s106 payments, "with other developments, financial contributions collected through CIL could also be used to fund education facilities where necessary."³⁴¹
120. Department for Education guidance³⁴² advises that "Developer contributions for education are secured by means of conditions attached to planning permission, a planning obligation under Section 106 of The Town and Country Planning Act 1990, **or** the Community Infrastructure Levy (CIL)."³⁴³ (emphasis added in Nina Pindham's closing submissions, paragraph 109). It continues; "**Alternatively**, a Section 106 planning obligation secures a contribution directly payable to the local authority for education (or direct provision of a school 'in kind')",³⁴⁴
121. The local authority has calculated its requested s106 contribution based on the estimated cost per pupil place based on the full child yield of the development. Therefore, if any CIL funding collected from this development is spent on Education infrastructure, the appellant would have paid twice over. That would not be fairly and reasonably related in scale and kind to the development and so would fail the test of CIL regulation 122.³⁴⁵
122. This conclusion is confirmed by legal opinion³⁴⁶ and by a previous Secretary of State decision, where the Secretary of State approved of the Inspector's recommended reduction of the s.106 obligation by an amount necessary to set off any possible duplication with CIL funding.³⁴⁷ If there is a shortfall, then Oxfordshire County Council has Basic Need funding to pay the difference. This means that nothing should be payable by the appellant for education development mitigation beyond the payment of CIL.³⁴⁸
123. The matter of the request to fund school transport with a s106 contribution was not raised as an issue in principle by the Appellant³⁴⁹ but Wallingford School lies within the statutory distance parameter and so no transport costs would be

³⁴¹ Paragraph 4.20 of South Oxfordshire Developer Contributions Supplementary Planning Document Draft For Public Consultation, attached as Appendix 10 to Ben Hunter's Proof of Evidence

³⁴² Securing Developer Contributions for Education (November 2019) (CD 7.3, also found as Appendix 5 to Ben Hunter's Proof), page 5, paragraph 1

³⁴³ CD 7.3 page 5, paragraph 1 quoted by Ben Hunter in his proof, paragraph 3.17

³⁴⁴ Emphasis added by Ben Hunter in his proof, paragraph 3.21

³⁴⁵ Ben Hunter's proof (CD 19.3), paragraphs 3.25 and 3.28

³⁴⁶ Paper by Jonathan Easton and Philip Robson of Kings Chambers; "The end of double-dipping. The practical implications of the Removal of Reg 123 of the CIL regulations" attached as Appendix 7 to Ben Hunter's Proof of Evidence (CD 19.3A), referenced in paragraphs 4.2-4.5 of Ben Hunter's proof of evidence and paragraph 110 of Nina Pindham's closing submissions.

³⁴⁷ The Siege Cross appeal ref APP/W0340/W/15/3141449. Extracts are attached as Appendix 9 to Ben Hunter's Proof of Evidence (CD 19.3A), but do not include the passages from the Secretary of State's decision (page 7, paragraph 47) referred to in paragraph 111 of Nina Pindham's closing submissions. Paragraph 109 of the extract appears to be from the Inspector's report on the suggested reduction of the s106 obligation. A claimed link to the full decision in footnote 7 of Ben Hunter's proof in fact links to a different decision entirely. The full decision can be found attached as Annex 1 to Barbara Chillman's Rebuttal Proof of Evidence (CD 12.9)

³⁴⁸ Ben Hunter's Proof of Evidence (CD 19.3) paragraph 4.9

³⁴⁹ It was raised in questioning by the Inspector

- incurred. In response to the Inspector's question the appellant responded that reg. 122 applies to planning decision makers irrespective of what the parties say about it. Mr Hunter pointed out that reg. 30 of the Local Government Act 2003 already provides for funding for school transport and there is a real question as to whether the County Council is also seeking double funding in relation to school transport costs.³⁵⁰
124. There is no dispute about primary school capacity. The dispute concerns secondary school provision. School funding rules mean that it is in schools' best interests to maximise intake, so they take from a wide catchment area and some enrol over capacity³⁵¹. Catchment areas only operate to limit admissions where a school is oversubscribed³⁵².
125. There is one state-funded, non-selective academic trust school accommodating Secondary School aged pupils within a three-mile radius of the development site: Wallingford School. This school forms its own Educational Planning Area (Wallingford Secondary Planning Area) within the Oxfordshire County Council administrative area³⁵³.
126. The school is being expanded up to a total capacity of 1,500 pupils but cannot be expanded further. The County Council says that this is only anticipated to be enough for the scale of housing growth already planned but that does not take into account the extent to which the school takes pupils from outside its designated area.³⁵⁴
127. The response to a Freedom of Information request to Oxfordshire County Council shows that 15% of its pupils are currently attending the school from outside its designated area.³⁵⁵ This amounts to 196 pupils, more than double the forecast child yield of the development.³⁵⁶ In year group 7, likely to reflect the effects of new housing development, the figure is 17%³⁵⁷, so the number of out-of-catchment students is growing, not falling.³⁵⁸ When out-of-catchment pupils contribute so significantly to numbers on the roll, there is a strong case against helping to fund a continuation of the over-capacity.³⁵⁹
128. Forecasts show that there would be no excess over capacity until at least the 2026/27 academic year. It is not clear whether the forecasts imply a reduction of pupils from outside catchment but the likelihood is that Wallingford School is likely to be able to accommodate the child yield of the development,³⁶⁰ as they

³⁵⁰ Nina Pindham's closing submissions, paragraph 112.

³⁵¹ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.1

³⁵² Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.2

³⁵³ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.4

³⁵⁴ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.8

³⁵⁵ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.14

³⁵⁶ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.15

³⁵⁷ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.16

³⁵⁸ Nina Pindham's closing submissions paragraph 114

³⁵⁹ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.17, quoting paragraph 21 of appeal decision APP/Y3425/A/04/1156382, annexed as Appendix 12 of his Proof

³⁶⁰ Ben Hunter's Proof of evidence (CD 19.3), paragraphs 5.19 – 5.20

will be given priority in the admissions criteria over those attending from out of the catchment.³⁶¹

129. If there is displaced pupil demand, it could be accommodated at north-east Didcot where the education authority is already planning a new school to cope with planned development and which could be built larger than currently planned³⁶². Forecasts for the Didcot Secondary Planning Area show 415 places spare capacity in the 2027 academic year.³⁶³ Oxfordshire County Council forecasts that the roll will exceed the capacity at some point in the 2040s, but the County Council has a track record of significantly overpredicting child yield from development.³⁶⁴ On the basis of the above, the need for Secondary School planning obligations is highly questionable on the basis of significant spare capacity.³⁶⁵

130. Turning now to the Cost Multipliers requested by OCC, the County Council is requesting funding at the following rate:

- £33,237 per Secondary School aged pupil place; and
- £114,733 per SEN place

131. DfE's Best Practice Guidance Securing Developer Contributions for Education (paragraph 15, page 9)³⁶⁶ advises that the assumed cost of mainstream school places be based on national average costs published in the DfE school place scorecards. The DfE further advises³⁶⁷ that the rate per place should be uplifted by around 10% to meet improved sustainability standards. This would lead to a figure of £32,261 per new Secondary School place for new buildings.³⁶⁸

132. The costs are not now significantly different between the two parties; this is because the County Council reduced the sum they were requesting from its original amount.³⁶⁹ Mr Hunter fairly conceded that this is not a huge issue for the Appellant in terms of substance but the matter is rather one of principle because here the County Council is asking developers to pay more than what the government itself considers reasonable. He queries why that is considered to be fair. Education is funded on a "per pupil" basis, and so costs should be based on what is being paid for, not who is paying.

133. Turning now to SEN: Hampshire County Council, East Riding of Yorkshire Council, the DfE, Local Government Association, National Association Construction Frameworks, and the Educational Building and Development Officers

³⁶¹ Nina Pindham's closing remarks, paragraph 114. See Wallingford School's admissions criteria at paragraph 5.9 of Ben Hunter's proof (CD 19.3) and also Appendix 11 (CD 19.3A)

³⁶² Ben Hunter's Proof of evidence (CD 19.3), paragraphs 5.21 and 5.22

³⁶³ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.26

³⁶⁴ Nina Pindham's closing submissions paragraph 115 and Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.27

³⁶⁵ Ben Hunter's Proof of evidence (CD 19.3), paragraph 5.28

³⁶⁶ Attached as Appendix 5 to Ben Hunter's Proof of Evidence (CD 19.3)

³⁶⁷ DfE Basic Need allocations 2023-2024 and 2024-2025: Explanatory note on methodology, attached as appendix 14 of Ben Hunter's Proof of evidence (CD 19.3A)

³⁶⁸ Ben Hunter's Proof of evidence (CD 19.3), paragraph 6.6

³⁶⁹ Nina Pindham's closing submissions paragraph 117 referencing Ben Hunter in cross-examination

Group (EBDOG), collectively published National School Delivery Cost Benchmarking for Primary, Secondary & SEN Schools in May 2021³⁷⁰. This states that the average cost for a new SEN place is £76,184 (page 25). Applying the regional weighting, you get £85,326 per pupil place. OCC is therefore requesting funding for a SEN place at £29,407 per pupil more than national benchmarking, which is clearly excessive.³⁷¹

134. The sum requested by the County Council is the highest figure anyone at Ben Hunter's consultancy has ever seen by some substantial way. He suggested a proportionate sum was that set out in Figure 11 of the scorecard (accepting the funding in this case was for a new school, and so Figure 10 was not relevant). The Council's closings at paragraph 170 note Mr Hunter's point that because SEN students benefit from bespoke plans it is difficult to directly link a planning obligation to the requisite reg. 122 tests in advance, but Mr Hunter was stating a fact, not challenging the principle. There is comfort in the s.106 clawback clause in this respect, because if there is no spend on bespoke SEN, that money is returned. Further and in any event, the provision of SEN facilities is to be funded by CIL, just as the provision of secondary school facilities for the reasons set out earlier.³⁷²

The planning balance and economic benefits

135. In the appellant's view, the Council is unable to demonstrate a five-year housing land supply and so paragraph 11(d) of the NPPF applies³⁷³. It is agreed that if paragraph 11(d) of the NPPF applies, the policies most relevant to the determination of the appeal are automatically out of date³⁷⁴. Then, within the tilted balance, it is agreed that insofar as one of those policies is seen to restrict development that is otherwise acceptable, less weight should be given to it³⁷⁵.
136. That is the Appellant's contention in relation to policy STRAT1: it is accepted that the development proposal partially conflicts with Local Plan Policy STRAT1 and Neighbourhood Plan overall strategy STRAT1; the site is not allocated, but the Local Plan policy does indicate that defined Larger Villages (including Cholsey) can be supported through the provision of appropriate development³⁷⁶. Less weight should be given to these policies because they restrict what is sustainable development applying the test set out in the tilted balance.³⁷⁷ It does not offend housing policies in any other substantive way³⁷⁸. That sole policy conflict is insufficient to justify the conclusion that the proposal is contrary to the development plan when read as a whole. But, in any event, the appellant's view

³⁷⁰ Attached as Appendix 16 to Ben Hunter's Proof of Evidence (CD 19.3A)

³⁷¹ Ben Hunter's Proof of Evidence (CD 19.3) paragraphs 6.9 and 6.10

³⁷² Nina Pindham's closing submissions, paragraph 118, summarising Ben Hunter's Proof, paragraphs 6.10 to 6.12 and referencing Ben Hunter's cross-examination

³⁷³ Stephen Stoney's Proof of Evidence (CD 19.1), paragraph 8.2

³⁷⁴ Nina Pindham's closing submissions, paragraph 140, referencing Tracy Smith's cross-examination

³⁷⁵ Nina Pindham's closing submissions, paragraph 140, referencing Tracy Smith's cross-examination

³⁷⁶ Stephen Stoney's Proof of Evidence (CD 19.1), paragraph 8.2

³⁷⁷ Nina Pindham's closing submissions, paragraph 140, Stephen Stoney's Proof of Evidence (CD 19.1), paragraphs 10.1(i) and 10.1(iii)

³⁷⁸ Stephen Stoney's Proof of Evidence (CD 19.1), paragraph 8.2 and 10.4

- is that the proposals do accord with the development plan overall, with no identified impacts which would outweigh the significant benefits of the proposals. The substantial benefits of the proposal are material considerations that justify any departure from the development plan.³⁷⁹
137. The scheme provides a significant contribution to housing in general and affordable housing, self-build housing and extra-care accommodation in particular.³⁸⁰ The principle of acceptability in traffic and transport terms has been achieved.³⁸¹ It is accepted some BMV will have to be lost, and this is a harm, however there is no viable economic use for the field in its own right nor is it versatile in terms of its agricultural uses³⁸².
138. The development would have a Gross Value Added (direct, indirect and induced) of £140.7 million. There would be 2629 direct, indirect and induced construction jobs created. There would be annual operational benefits of 389 operational net jobs created (direct, indirect and induced). The total net operational related GVA (direct, indirect and induced) would be £20.8 million. It would generate £0.7 million per annum in Council tax and a New Homes Bonus of £2.5 million. The local area would retain £3.3m of expenditure from new residents. The annual savings to the health service by provision of extra care housing would be £0.12 million³⁸³. In terms of wider economic benefits, Ms Smith's planning balance did not include any of these benefits beyond job creation.³⁸⁴
139. Ms Smith's planning balance for the Council did not give any weight to the benefits of provision of green infrastructure on the site for the public in terms of parkland area, additional cycle routes, recreational trails, all of which will be maintained and provided for public use. She did not give any weight to the benefit of biodiversity net gain, even though she accepts this is a benefit. She accepts she was wrong to give heritage harm any weight, and now gives heritage a significant positive weight. She is wrong to consider mineral sterilisation is even an issue, let alone to give it moderate weight as an identified harm³⁸⁵.
140. Ms Smith only gives the provision of community space limited weight, but this is a desire expressed by the community in the Cholsey Neighbourhood Plan itself, and so it should be given more than limited weight. Her planning balance does not take account of the provision of a day nursery: she accepted this benefit should be added as a moderate weight to her planning balance. In terms of education, because there is no chance that education will not be funded it is wrong to attribute any harm to the provision of education in the planning balance.

³⁷⁹ Stephen Stoney's Proof of Evidence (CD 19.1), paragraphs 8.1, 8.3, 8.11, 10.1(ii) and 10.3

³⁸⁰ Stephen Stoney's Proof of Evidence (CD 19.1), paragraphs 8.5 to 8.10, 9.2 to 9.4, 10.5 to 10.7 and 10.9

³⁸¹ Stephen Stoney's Proof of Evidence (CD 19.1), paragraph 10.8

³⁸² Nina Pindham's closing submissions paragraph 142

³⁸³ Nina Pindham's closing submissions paragraph 143 referencing the Economic Impact Assessment attached as appendix 3 to Stephen Stoney's Proof of Evidence (CD 19.1).

³⁸⁴ Nina Pindham's closing submissions paragraph 143

³⁸⁵ Nina Pindham's closing submissions paragraph 140

Conclusion

141. The appeal scheme proposes 350 dwellings, which includes affordable housing, as well as self-build housing, specialist housing for older persons (and possibly additional facilities such as a pool and wellness centre for the community),³⁸⁶ local-scale retail, employment, community facilities, recreational trails linked to the wider landscape and community, and wider transport improvements that will benefit all the people of Cholsey. It also gives the Council an opportunity to carry out a comprehensive masterplanning exercise to ensure the development delivers as many public benefits as possible in a high quality well-designed addition to the settlement, as opposed to the historic trend of smaller piecemeal development that has failed to halt the worsening affordability trends, failed to provide essential facilities for the people of Cholsey in the form of extra care housing, and failed to provide development which enhances the appearance of the settlement edge, properly integrating the edge of the settlement into its rural context³⁸⁷
142. A healthy society protects and looks after its most vulnerable members. That is not happening, and matters are getting worse, not better, in South Oxfordshire. Those on the affordable housing waiting list are languishing, their numbers swelling year after year after year. This has real impacts on real lives. Further, the elderly who would like safe and secure housing with 24/7 care immediately available cannot access that. And this need is set to skyrocket. If solutions to addressing need on this scale were easy the problems would be resolved. There are no easy solutions. The reality is that people are going to have to accept new development in their communities if we are to meet the needs of the present population and resolve the ongoing housing crisis.³⁸⁸
143. This appeal scheme, however, presents an easier choice than most. This is an unremarkable field which both the Council and the Parish Council accept is suitable for development in principle. They just don't want as much development. But this is what is needed to provide all of these substantial benefits whilst striking the right balance between making the most efficient use of land and respecting the rural setting of Cholsey.³⁸⁹
144. The appeal scheme represents high quality development, the scheme being very carefully developed in light of local community aspirations as well as the guidance provided by Homes England on ensuring development is sustainable and suitable for its location. This is a scheme that meets the aims and objectives of the development plan as a whole and provides substantial benefits that are not outweighed by any harm. The Appellant respectfully requests that the appeal be allowed.³⁹⁰

The Case for South Oxfordshire District Council³⁹¹

³⁸⁶ Steve Stoney Evidence in Chief when referring to trade-offs if employment space is reduced and C2 use is increased from 80 to 130

³⁸⁷ Nina Pindham's closing submissions, paragraph 135

³⁸⁸ Nina Pindham's closing submissions, paragraph 147

³⁸⁹ Nina Pindham's closing submissions, paragraph 148

³⁹⁰ Nina Pindham's closing submissions, paragraph 149

³⁹¹ This section of the report represents the Inspector's understanding of the Council's case. It should not be taken as representing the Inspector's own view of the merits of the case.

The development strategy

145. Government policy endorses a genuinely plan-led system.³⁹² The Council benefits from a recently made development plan adopted in December 2020.³⁹³ That sets out a clear spatial strategy to determine where sustainable development should and should not go.³⁹⁴ The proposal conflicts with that strategy.³⁹⁵ A Neighbourhood Plan has been made for Cholsey. This proposal also conflicts with policy CNP STRAT 1 of that plan.³⁹⁶ The policies are definitive, not permissive, even without words saying that conflicting proposals will not be allowed³⁹⁷. Conflict with a recently made spatial strategy alone is capable of constituting substantial harm sufficient to outweigh benefits even if there were a lack of a five-year housing land supply (which is denied).³⁹⁸
146. The strategy is to focus major new development (200 or more dwellings, or 1,000 sqm or more of industrial, commercial or retail floor space) in the Science Vale area and at Didcot Garden Town.³⁹⁹ It also supports and enhances the roles of the Larger Villages but this is not an open-ended invitation for major new large scale development on their edges⁴⁰⁰. Local Plan policy H4 (Housing in the larger villages) and table 4 does not countenance development in Cholsey because, through its Neighbourhood Plan, it has already committed to more housing growth than the strategy envisages⁴⁰¹. There is no outstanding requirement for Cholsey let alone an addition of 430⁴⁰² homes which represents more than 60% more housing for the village which is demonstrably an unsustainable level of growth.⁴⁰³
147. Local Plan policy H1 permits exceptions to the strategy only if a site falls within the ambit of its subsections. The policy exception in paragraph 3(iii) of policy H1 plainly envisages specialist housing comprising 100% of the proposed development, whereas the current proposal has extra care housing as an addition

³⁹² Emmaline Lambert's opening submissions, paragraph 5, referencing NPPF paragraph 15, her closing submissions paragraphs 53 and 54, referencing NPPF paragraphs 8, 9 and 12 and her closing submissions, paragraph 229

³⁹³ Council's statement of Case (CD 12.1), paragraph 5.4. Emmaline Lambert's opening submissions, paragraph 6 and her closing submissions, paragraph 52

³⁹⁴ Emmaline Lambert's opening submissions, paragraph 6 and her closing submissions paragraph 56

³⁹⁵ Emmaline Lambert's opening submissions, paragraph 6

³⁹⁶ Emmaline Lambert's opening submissions, paragraph 8

³⁹⁷ Emmaline Lambert's closing submissions, paragraph 57 and 58 (iv) and (v), referencing *Crane v SofS* [2015] EWHC 425 (Admin) (CD 6.33)

³⁹⁸ Emmaline Lambert's opening submissions, paragraph 12 and her closing submissions paragraphs 58 to 60, referencing *Crane v SofS* [2015] EWHC 425 (Admin) (CD 6.33)

³⁹⁹ Council's statement of Case (CD 12.1), paragraph 5.5; Emmaline Lambert's closing submissions, paragraph 62

⁴⁰⁰ Emmaline Lambert's closing submissions, paragraphs 63 and 64

⁴⁰¹ Council's delegated report (CD 3.1), paragraphs 6.3 to 6.5; Council's Statement of Case (CD 12.1) paragraphs 5.6 to 5.8 and 5.10 to 5.15; Tracy Smith's Proof of Evidence (CD 12.5), paragraphs 3.5 to 3.15

⁴⁰² 350 dwellings in Use class C3 and 80 extra-care dwellings in use class C2

⁴⁰³ Emmaline Lambert's closing submissions, paragraphs 71 and 72

to a scheme for 350 dwellings plus other uses.⁴⁰⁴ By contrast, policy H13 encourages developments which include the delivery of specialist housing and so encompasses the current proposal but is subject to other development plan policies including policy H1 and STRAT1 and so, does not trump them.⁴⁰⁵ A similar argument applies to policy H12 which encourages the provision of self-build housing plots.⁴⁰⁶

148. The Local Plan Strategy provides for employment space, linking employment provision to housing. A minimum of 39.1 hectares is required. 47.94 hectares are allocated, none in Cholsey⁴⁰⁷. The employment space proposed exceeds that supported by the Council. Even with the reduction to 500sqm canvassed in the discussion on the s106 agreement⁴⁰⁸, the overall employment space proposed (retail, plus nursery plus business units) exceeds the cap in Local Plan policy EMP2.
149. Cholsey Neighbourhood Plan policy I8 provides for business uses in or adjacent to the village which respect its scale and its wider landscape setting and meet other policies in the development plan. The supporting text to this policy states that the Plan anticipates that any such new developments would be of 0.5ha or less in site area, so the scale of the proposed employment development, at 0.3 ha, would not be out of scale with the village⁴⁰⁹ but it is inappropriate to encourage large scale economic growth requiring in-commuting⁴¹⁰.
150. Local Plan Policy EMP10, enlisted by the appellant, is directed towards the growth of existing businesses in rural areas, not the introduction of new sites. The community needs a doctor's surgery and a dentist, not a second retail service centre competing with existing businesses.⁴¹¹ A children's nursery would be acceptable.⁴¹² Reading STRAT1, H1, H13, EMP1 and EMP2 together, it is plain that the appeal proposal in its totality conflicts with the development plan spatial strategy⁴¹³.
151. There is no such thing as an out-of-date development plan. Section 38(6) of the Planning and Compulsory Purchase Act is to be applied in any event⁴¹⁴. There has been no suggestion from the appellant that any development plan policies are not consistent with the NPPF or are out of date other than through challenging the Council's five-year housing land supply.⁴¹⁵

⁴⁰⁴ Council's Statement of Case (CD 12.1), paragraphs 5.15 to 5.18; Tracy Smith's Proof of Evidence (CD 12.5), paragraph 2.23; Emmaline Lambert's closing submissions, paragraphs 65 to 68

⁴⁰⁵ Emmaline Lambert's closing submissions, paragraph 69

⁴⁰⁶ Emmaline Lambert's closing submissions, paragraph 70

⁴⁰⁷ Tracy Smith's Proof of Evidence (CD 12.5), paragraphs 2.26, 3.26 and 3.27

⁴⁰⁸ Which does not appear to have been taken forward into the signed s106 agreement.

⁴⁰⁹ Council's delegated Report (CD 3.1), paragraph 6.12

⁴¹⁰ Tracy Smith's Proof of Evidence (CD 12.5), paragraph 3.28

⁴¹¹ Emmaline Lambert's closing submissions, paragraphs 78 to 80.

⁴¹² Council's delegated Report (CD 3.1) paragraph 6.18

⁴¹³ Emmaline Lambert's closing submissions, paragraph 81

⁴¹⁴ Emmaline Lambert's closing submissions, paragraph 4, referencing Peel Investments (North) Limited v SoSHCLG [2020] EWCA Civ 1175 para 55 and Monkhill Limited v SOSHCLG [2019] EWHC 1993 (Admin) para 45 (CD 6.34) and her closing submissions paragraph 226.

⁴¹⁵ Emmaline Lambert's opening submissions, paragraph 9 and her closing submissions paragraphs 6, 51 and 55.

Housing Land Supply

152. The Council's local housing need has been calculated at 12,540 homes over the plan period 2011-2035. After taking on board an apportionment of Oxford City's unmet need, the Local Plan sets the housing requirement as 23,550. In fact, the supply expected from the Local Plan for the plan period is 27,749 homes⁴¹⁶. That is 18% above the housing requirement and 121% above the local housing need figure.⁴¹⁷
153. NPPF paragraph 74 advises that local authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement⁴¹⁸. The current five-year period is agreed to be 1 April 2022 to 31 March 2027. The requirement for that period is 5874 dwellings.⁴¹⁹ Whilst two recent⁴²⁰ appeal decisions have found that the Council does not have a five-year housing land supply, none report it as low as the appellant's calculations. The Council has applied the lessons learnt from those two decisions and can currently demonstrate a 5.53 year supply.⁴²¹
154. The difference between the two main parties relates to the deliverability of twelve sites⁴²² and to windfalls. Deliverability requires only the demonstration of a realistic prospect of delivery, not a certainty or even a probability as the appellant seems to expect. There is a distinction between deliverability and delivery.⁴²³ The Council does not build houses and cannot force developers to build⁴²⁴. The 'clear' evidence referred to in the NPPF in the context of deliverability must accordingly be understood in that context and the matter approached with common sense and judgment.⁴²⁵ The Appellant interprets "realistic prospect" such that it is almost impossible to demonstrate deliverability.⁴²⁶

⁴¹⁶ Tracy Smith's Proof of Evidence (CD 12.5), paragraph 2.22 quoting Local Plan table 4c says 30,056

⁴¹⁷ Emmaline Lambert's opening submissions, paragraph 7 and her closing submissions paragraphs 15 and 16, referencing *Hallam Land Management Ltd v SofSCLG* [2018] EWCA Civ 1808 (CD 6.32)

⁴¹⁸ Emmaline Lambert's closing submissions, paragraph 10

⁴¹⁹ Emmaline Lambert's closing submissions, paragraph 8 referencing the Housing Statement of Common Ground (CD 16.8)

⁴²⁰ APP/Q3115/W/19/3230827 in April 2020 and APP/Q3115/W/21/3272377 in September 2021

⁴²¹ Emmaline Lambert's opening submissions, paragraph 9 and her closing submissions paragraph 19 and footnote 22, modifying Tracy Smith's Proof of Evidence (CD 12.5), paragraph 2.12

⁴²² Reduced from 15 in the Housing Statement of Common Ground

⁴²³ Emmaline Lambert's opening submissions, paragraph 10 and her closing submissions paragraphs 10 to 14, referencing *St Modwen Developments Ltd v SofS* and others both at first instance [2016] EWHC 968 (Admin) and at appeal [2017] EWCA Civ 1643 (CD 6.30) and *East Bergholt Parish Council v Babergh DC* [2019] EWCA Civ 2200 (CD 6.31)

⁴²⁴ Emmaline Lambert's closing submissions, paragraph 49

⁴²⁵ Emmaline Lambert's closing submissions, paragraph 22

⁴²⁶ Emmaline Lambert's closing submissions, paragraph 21

155. Mr Bolton's Table 1 compares the Council's forecasts of deliverability with completions (actual delivery) from 2008 to 2021⁴²⁷. This demonstrates that, since the start of the plan period (2011) the actual average delivery has been 102% of that projected by the Council.⁴²⁸
156. National Planning Practice Guidance⁴²⁹ advises that, amongst other indicators, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and buildout rates can be evidence of deliverability. For the appellant, Mr Bolton agreed that the Council's proformas used in its most recent Housing Land Supply Statement⁴³⁰ comprise such evidence. Developer feedback is endorsed by the Secretary of State.⁴³¹
157. The proformas are completed by the Council. They are sent to developers and landowners for comment but the comments are critically assessed and not all accepted. A range of sources has been interrogated and new analyses of local build-out rates and average site lead-in times undertaken.⁴³² The commonly accepted Lichfields report recommends that its national figures are only used where there is no local evidence.⁴³³
158. The detail of the originally fifteen disputed sites can be summarised⁴³⁴ as follows;
- i. *Chiltern Edge Top Field*. Subsequent to drafting Thomas Rice's Proof of Evidence⁴³⁵, the Council accepts that this should be removed from the supply because there is currently no clear method to address an objection from Sport England.
 - ii. *Wyevale Garden Centre*⁴³⁶. An allocated site with an outline permission. Reserved matters expected to be determined by the end of 2022. Experienced developer on board, who agrees with the Council's trajectory. Issues not insurmountable for a ten unit start in 2023/4, forty in total.
 - iii. *Wheatley Campus*⁴³⁷ An allocated site with an outline permission. Reserved matters application expected by April 2023. Permission for development allowing student accommodation to move to City granted 4 July 2022. Oxford Brookes University website confirms campus relocation by September 2024. Site being marketed. Promoter describes Council's trajectory as cautious. Realistic prospect well beyond probable.

⁴²⁷ Roland Bolton Proof of Evidence (CD 19.4), paragraph 5.3

⁴²⁸ Emmaline Lambert's closing submissions, paragraph 27

⁴²⁹ Paragraph: 007 Reference ID: 68-007-20190722

⁴³⁰ CD 9.26

⁴³¹ Emmaline Lambert's closing submissions, paragraphs 24 and 33, referencing appeal decisions APP/B3030/W/17/3169436 and 3179732 (CD 6.29), paragraph 15

⁴³² Emmaline Lambert's closing submissions, paragraphs 29 to 35, referencing appendices D and E of the July 2022 Housing Land Supply Statement (CD 9.26)

⁴³³ Emmaline Lambert's closing submissions, paragraphs 34 and 35, referencing the report Start to Finish by Lichfields (CD 9.18)

⁴³⁴ Emmaline Lambert's closing submissions, Appendix 1

⁴³⁵ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.2 to 5.20

⁴³⁶ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.75 to 5.77

⁴³⁷ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.49 to 5.52

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- iv. *West of Wallingford site B*⁴³⁸. Site under construction. Outline permission for remainder. No ownership or infrastructure constraints. Developer agreed Council's trajectory on 27 June 2022. Unrealistic to expect developer to walk off and stop building.
 - v. *Didcot Gateway*⁴³⁹ Reduced site now wholly owned by Homes England. Demolition completed. Remaining highways objection being addressed before application expected to be determined by year's end. Council's assessment of delivery rates agreed by developer.
 - vi. *Didcot North-East*⁴⁴⁰ This is an allocation divided into four elements; one being a main outline consent for 1,880 dwellings with twelve phases of which seven⁴⁴¹ are either under construction or have submitted reserved matters applications and three other elements (known respectively as Reserved Farmland, Pearith Farm and Hughes Land) for which consents are expected to be issued in September 2022⁴⁴². The trajectory of the remaining phases is based on the approved phasing plan⁴⁴³. For the five-year period, a total projected delivery of 1,081 homes across the entire site is expected⁴⁴⁴. Developers are on site and building. The main infrastructure is completed⁴⁴⁵. The trajectory is based on average build-out rates applied to each parcel rather than to the site overall, resulting in a high build-out rate for the overall site but one comparable to recent experiences on another site.⁴⁴⁶ The appellant's criticisms of proformas is inconsistent and contradictory.⁴⁴⁷
 - vii. *Ladygrove East*⁴⁴⁸ Since the Lady Grove appeal decision, a resolution to grant outline consent was made in March 2022. Concerns over infrastructure and potential highways impact have been resolved. The Council and the County Council have discussed triggers for s106 contributions. The information exists to ensure a comprehensive draft agreement. The Council expects to grant planning permission in December 2022. The developer is experienced and considers that the Council's trajectory is pessimistic.⁴⁴⁹
 - viii. *Land at Lady Grove*⁴⁵⁰ Permission was given on appeal, during which a public commitment was made to a quick delivery. The permission has a condition requiring an early start. The promoter sold the site to a
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⁴³⁸ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.72 to 5.74

⁴³⁹ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.21 to 5.27

⁴⁴⁰ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.28 to 5.34 and Appendix 2

⁴⁴¹ Now eight, as a further reserved matters application for Willowbrook Park Phase 3 was submitted on 6 August 2022; see Inquiry document ID1

⁴⁴² Outline consent in two cases, detailed consent in the third, according to Appendix 2 of Thomas Rice's Rebuttal Proof of Evidence

⁴⁴³ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraph 5.30

⁴⁴⁴ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraph 5.29

⁴⁴⁵ Emmaline Lambert's closing submissions, Appendix 1, paragraph 18

⁴⁴⁶ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.31 to 5.33

⁴⁴⁷ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraph 5.34(a)

⁴⁴⁸ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.40 to 5.44

⁴⁴⁹ Emmaline Lambert's closing submissions Appendix 1, paragraph 22

⁴⁵⁰ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.45 to 5.48

developer in August 2022. There is thus a realistic prospect of deliverability within five years.

- ix. *Land south of Newnham Manor*⁴⁵¹ Since the Lady Grove appeal decision, the Crowmarsh Neighbourhood Plan has been made on 7 October 2021. It includes the site within the settlement boundary within which it supports development. A resolution to grant planning permission was made in December 2021. A draft s106 is in circulation. Permission is expected in October 2022. Subsequent to the publication of the Council's Housing Land Supply Statement, the developer has confirmed the accuracy of the Council's proforma⁴⁵².
- x. *Land west of Fairmile*⁴⁵³ Site is allocated within Neighbourhood Plan. The Council and the applicant are working to resolve one outstanding highways objection, unlikely to prevent delivery within five years. Detailed permission is expected to be issued in April 2023.
- xi. *Land south of Wallingford site E*⁴⁵⁴ Council's expected build out rate has been reduced in response to developer's comments. An application for approval of reserved matters and discharge of conditions in relation to 128 dwellings was submitted on 7 July 2022. At the time of the Inquiry, consultee responses were supportive. It is unrealistic to expect that application for the remaining 44 dwellings will not be made.
- xii. *The Orchard*⁴⁵⁵ Since the Lady Grove appeal decision, an application for full planning permission has been made in November 2021. Council officers are minded to approve the application subject to agreement of the final wording of the s106 agreement and pre-commencement conditions. Permission is expected to be issued in September 2022. The trajectory for the site is therefore realistic and informed by clear evidence.
- xiii. *Land north of Bayswater Brook*⁴⁵⁶ This is a site allocated in the Local Plan. Since the Lady Grove appeal decision, the site promoter has carried out two public consultations and a Planning Performance Agreement has been signed (June 2022), providing finance for dedicated officer support in the three Councils involved. The Council's comments on the Scoping Opinion represent progress in identifying issues early in the application process. None are insurmountable. The Upper Heyford site in Cherwell District is a remote, brownfield site requiring decontamination and front-loading of infrastructure and so, not comparable with Bayswater Brook, which is a greenfield site with lesser constraints. Even so, once the developer, who is common to both sites and has a proven track record of achieving completions on technically challenging sites, was involved at Upper Heyford, first completions in 2014/5 followed an outline application submitted in 2010. There is therefore a realistic prospect that housing completions will take place on this site in the five-year period.

⁴⁵¹ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.53 to 5.58

⁴⁵² See appendix 5 to Thomas Rice's Rebuttal Proof of Evidence

⁴⁵³ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.59 and 5.60

⁴⁵⁴ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.63 to 5.65

⁴⁵⁵ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.66 to 5.71

⁴⁵⁶ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.2 to 5.12

- xiv. *Land west of Hale Road*⁴⁵⁷ This site has detailed consent for 84 units and Mr Bolton for the appellant agreed that it was deliverable further to the evidence submitted on Day 1 of the Inquiry⁴⁵⁸ which demonstrates that the Council's assessment is sound.
- xv. *Land off Pyrton Lane, Watlington*, Mr Bolton for the appellant agreed in cross-examination that this site was deliverable.
159. The forthcoming requirements for biodiversity net gain will not have an adverse effect on viability (and hence, deliverability) because there is strong evidence that on-site mitigation is possible for little or no cost for the majority of housing developments. They have been anticipated for some time and are now integrated into viability assessments.⁴⁵⁹
160. NPPF paragraph 71 allows for a realistic windfall allowance justified by the compelling evidence of historic delivery rates and expected future trends.⁴⁶⁰ The Council has made an analysis of ten years' worth of data. It shows an average of 158 windfalls per year, with more than 170 in five years out of ten, but recent years' outturn affected by Covid.⁴⁶¹
161. The newly adopted Local Plan has a more permissive approach to infill sites and can be expected to deliver more windfalls. Recent changes to permitted development will increase windfalls. Consequently, the Council makes an allowance for 170 dwellings per annum from windfall sites but only in years 4 and 5 of the five-year supply, so as to avoid double counting those sites with known planning permissions, resulting in a contribution of 340 units to the supply.⁴⁶²
162. The Council accepts that there is a need for housing but it is submitted that there is no shortfall in its housing land supply. In light of the over provision in the Local Plan, the weight to be given to housing provision should be moderated.⁴⁶³
163. The Council recognises that there is now a condition (finally agreed during the appeal and after the evidence of the Council had closed) requiring an application for approval of Reserved Matters (RM) made not later than 18 months from the date of permission, if given. The Council welcomes this but notes that it is a contradictory position of the Appellant to suggest that their site is deliverable and will meet short term needs when Mr Bolton discounted from the Five-Year Housing Land Supply sites with outline planning permission with or without RM applications in many instances. Other reasons for doubting any early contribution is that the Appellant is not a housebuilder and there is none on board and there is no agreement with a provider for older person's housing. The

⁴⁵⁷ Thomas Rice's Rebuttal Proof of Evidence (CD 12.8), paragraphs 5.35 to 5.39

⁴⁵⁸ Inquiry document ID1

⁴⁵⁹ Emmaline Lambert's closing submissions, paragraph 26 referencing Roland Bolton's cross-examination and Tom Rice's rebuttal proof (CD 12.8), paragraphs 4.6 and 4.7

⁴⁶⁰ Emmaline Lambert's closing submissions, paragraphs 36 to 38

⁴⁶¹ Emmaline Lambert's closing submissions, paragraph 41

⁴⁶² Emmaline Lambert's closing submissions, paragraphs 36, 40, 42 and 43.

⁴⁶³ Tracy Smith's Proof of Evidence (CD 12.5), paragraphs 4.27 to 4.32; Emmaline Lambert's closing submissions, paragraph 204, referencing appeal decisions APP/R5510/W/21/3279371 (appendix 4 of Tracy Smith's Proof (CD 12.5A)), paragraph 36 and APP/M2270/W/20/3247977 (Appendix 5 of Tracy Smith's Proof (CD 12.5A)), paragraph 107

Council does therefore have doubts about the early contribution to housing that this site might make in contrast to its own allocations and the Cholsey Neighbourhood Plan allocations⁴⁶⁴.

Extra care Housing

164. It is accepted that there is a significant need for specialist older person's housing over the plan period⁴⁶⁵. Its provision should be given significant weight⁴⁶⁶. The Council has not sought to calculate the requirement/need for extra care housing in the district, nor has it allocated sites, as it considers that Local Plan policies H1 and H13 are supportive of all types of specialist accommodation to come forward⁴⁶⁷.
165. The "need" that is pressed upon the decision maker is not always a need – it is often choice⁴⁶⁸. The table relied upon by Mr Bolton⁴⁶⁹ "People's preferences should they need care" (Table 2) shows that what most people want is overwhelmingly to stay in their own home whether with support from friends and family (62%) or from carers (56%). Other options which still do not involve extra care housing were moving to a smaller home, moving to sheltered housing with a warden, moving in with son or daughter, move to private residential home. There are a range of options. The Council does not dispute a need but the Council does dispute the overplayed level of need put forward⁴⁷⁰.
166. There is no standard method for assessing the need for extra care housing. There are a number of on-line toolkits, each only as good as its built-in assumptions. There is no national guidance about those assumptions.⁴⁷¹
167. The adjustments made within the appellant's model are open to challenge⁴⁷². Alternative adjustments leading to a much lower rate of need would be a true local adjustment.⁴⁷³
168. The conventionally accepted rate of need (45 units per 1,000 population aged 75 and over) applied to the existing population would require an increase in provision of 2.8 times existing provision (16 units per 1,000 population aged 75 and over). Population growth would require an even greater quantity of provision to maintain a rate of 45 units per 1,000 population aged 75 and over. The appellant's figure of 62 per 1,000 population aged 75 and over would require

⁴⁶⁴ Emmaline Lambert's closing submissions, paragraph 207

⁴⁶⁵ Council's Delegated report (CD 3.1), paragraph 6.14; Tracy Smith's Proof of Evidence (CD 12.5), paragraph 3.23 and 4.10; Emmaline Lambert's closing submissions, paragraph 180

⁴⁶⁶ Tracy Smith's Proof of Evidence (CD 12.5) paragraph 4.11 and her Rebuttal Proof of Evidence (CD 12.10), paragraph 3.55

⁴⁶⁷ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 3.4, 3.15 and 3.16

⁴⁶⁸ Emmaline Lambert's closing submissions, paragraph 200

⁴⁶⁹ His Older Persons Housing Need Model (CD 9.2) table 2 on page 32

⁴⁷⁰ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10) paragraphs 3.5, 3.12, 3.30 to 3.34, 3.37 and 3.52; Emmaline Lambert's closing submissions, paragraphs 181 and 201

⁴⁷¹ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 3.10 – 11 and 3.38; Emmaline Lambert's closing submissions, paragraphs 183-186

⁴⁷² Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 3.44 to 3.48; Emmaline Lambert's closing submissions, paragraph 189

⁴⁷³ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 3.22 to 3.29 and 3.49; Emmaline Lambert's closing submissions, paragraph 190

an increase in provision of 4 times current provision for the current population. Population growth would require an even greater quantity of provision to maintain a figure of 62 per 1,000 population aged 75 and over. It is simply out of step with reality.⁴⁷⁴

169. The Sonning Common Appeal decision of June 2021⁴⁷⁵ used a rate of need provided by an expert with a track record accepted by several Inspectors. By contrast, the appellant's new research is entirely different and has not been tested at appeal or accepted by any decision maker or formed part of any publication for peer review.⁴⁷⁶ Other recent appeal decisions are based on a much lower rate of need.⁴⁷⁷
170. Within South Oxfordshire there is an existing supply of housing for older persons and a pipeline supply and a wholly supportive policy framework for that type of housing and for accessible and adaptable dwellings which provide other options for people.⁴⁷⁸ It should not be a hook, on which appellants can achieve a housing estate outside a village.⁴⁷⁹ In terms of the suggested knock-on benefits, those put forward are wide ranging, sometimes unsubstantiated, and all are a by-product of meeting housing needs in general⁴⁸⁰.

Affordable housing and self-build housing

171. Policy H9 of the South Oxfordshire Local Plan requires schemes with a net gain of 10 or more homes to provide 40% of the total number of dwellings on the site as affordable housing. For a site of 350 units this would equate to 140 affordable homes⁴⁸¹. The Council is satisfied that the proposed s106 agreement would secure policy compliant affordable housing⁴⁸². Although the appellant has miscalculated the increasing demand for affordable housing⁴⁸³, the need is not disputed and its provision is given significant weight⁴⁸⁴.
172. However, the Appellant had not noted the evidence of Mrs Guiver and the Rule 6 Party that 75 affordable homes would be provided in Cholsey as a result of

⁴⁷⁴ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 3.36 to 3.43; Emmaline Lambert's closing submissions, paragraphs 192 and 193

⁴⁷⁵ APP/Q3115/W/20/3265861 (CD 6.4)

⁴⁷⁶ Emmaline Lambert's closing submissions, paragraph 187

⁴⁷⁷ Emmaline Lambert's closing submissions, paragraph 188, referencing appeal decisions at Homebase Walton on Thames (APP/K3605/W/20/3263347 (CD 6.22), paragraph 87 – Ms Lambert's footnote reference to CD 6.16 paragraph 45 is incorrect), Edenbridge Golf Club (APP/G2245/W/21/3271595 (CD 6.21 – Ms Lambert's reference to CD 6.12 is a typo), paragraph 45. She concluded (at paragraph 194) by commending the Sandown Park appeal (APP/M2270/W/21/3289034, (CD 6.36)), paragraphs 76 to 80

⁴⁷⁸ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 3.18, 3.19 and 3.51; Emmaline Lambert's opening submissions, paragraph 11 and her closing submissions paragraph 198

⁴⁷⁹ Emmaline Lambert's closing submissions, paragraph 202. She observes that other appeal decisions referred to are for specialist housing alone.

⁴⁸⁰ Emmaline Lambert's closing submissions, paragraph 203

⁴⁸¹ Council's delegated report (CD 3.1), paragraph 6.8

⁴⁸² Emmaline Lambert's opening submissions, paragraph 4. Tracy Smith's Proof of Evidence (CD 12.5), paragraph 1.25

⁴⁸³ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 2.4 to 2.6

⁴⁸⁴ Tracy Smith's Proof of evidence (CD 12.5), paragraph 4.9

allocations and commitments made. Given that 63 people on the Council's housing needs register chose Cholsey as their first choice (out of 219 who expressed it as a preference⁴⁸⁵), Cholsey is well placed to deal with affordable housing need without the appeal proposal⁴⁸⁶. Furthermore, unlike in the Lady Grove appeal⁴⁸⁷, there is not the same link between a lack of affordable housing and an impact on the local economy (despite the Appellant's attempt to make that link in written evidence⁴⁸⁸) as there is no link between housing in Cholsey and employment in the Science Vale⁴⁸⁹.

173. Fourteen self-build plots would be an important contribution to supply and is given significant weight⁴⁹⁰.

Landscape

174. Although a Landscape Capacity Assessment identified some of the site as appropriate for development, it specifically did not recommend its development in full⁴⁹¹. It was an exercise in assessing "what could be accommodated with the least harm if you had to"⁴⁹². The site is located outside the village of Cholsey and is therefore located within the open countryside.⁴⁹³

175. NPPF paragraph 174 advises that the intrinsic character and beauty of the countryside should be recognised. That means "protect".⁴⁹⁴ NPPF paragraph 176 provides that development within the setting of AONBs should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Protection and enhancement of the rural character, landscape and setting of Cholsey is a common theme of the objectives and policies of both the Local Plan and the Cholsey Neighbourhood Plan. Landscape character assessments are key to the operation of these policies.⁴⁹⁵

176. The appellant's LVIA accords with prevailing guidance but contains some fundamental flaws⁴⁹⁶. No Zone of Theoretical Visibility is defined to inform view-point selection. There is an absence of visualisations from the closest range

⁴⁸⁵ Tracy Smith's Rebuttal Proof of Evidence (CD 12.10), paragraphs 2.8 to 2.10

⁴⁸⁶ Emmaline Lambert's closing submissions, paragraph 205

⁴⁸⁷ APP/Q3115/W/21/3272377 (CD 6.3), paragraph 40

⁴⁸⁸ Steven Stoney's Proof of Evidence (CD 19.6), paragraph 8.6

⁴⁸⁹ Emmaline Lambert's closing submissions, paragraph 206

⁴⁹⁰ Tracy Smith's Proof of Evidence (CD 12.5), paragraphs 3.18 and 4.13

⁴⁹¹ Emmaline Lambert's opening submissions, paragraph 13; Council's delegated report (CD 3.1), paragraph 6.26; Council's Statement of Case (CD 12.1), paragraphs 5.26 and 5.28

⁴⁹² Emmaline Lambert's closing submissions, paragraph 103. Peter Radmall's Proof of Evidence (CD 12.7), paragraph 1.14 states: "I should emphasize that the Council is not seeking to argue that no development should take place in this location."

⁴⁹³ Council's Statement of Case (CD 12.1) paragraph 5.9; Emmaline Lambert's opening submissions, paragraph 3

⁴⁹⁴ Emmaline Lambert's closing submissions, paragraph 85, referencing *Cawrey Ltd v SofSLG and others* [2016] EWHC 1198 (Admin) (CD 6.28), paragraph 49

⁴⁹⁵ Emmaline Lambert's closing submissions, paragraphs 82 to 84

⁴⁹⁶ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 1.6; Emmaline Lambert's closing submissions, paragraph 86. Nevertheless, Peter Radmall states at paragraph 5.2; "My own fieldwork indicates that the ES provides an accurate overview of the potential visual influence of the site and of the relevant receptors".

views, particularly from the northern edge of the site.⁴⁹⁷ The sensitivity of the site has been confused with the sensitivity of its setting.⁴⁹⁸ Guidance in relation to residential receptors has not been followed.⁴⁹⁹

177. The visualisations are wrong, have no credibility and no weight can be placed upon them⁵⁰⁰. The key issues with the visualisations are as follows⁵⁰¹:

(a) The visualisations are not presented in accordance with the standard guidance

(b) The centre of some of the photographs is in the sky/not in the correct location

(c) Technical information provided is inaccurate. For example, View Point D Sheet 2 of 4 states 39.6 degrees. It cannot be.

(d) As a result, the 3D modelling which works with geometry, is wrong

No winter visualisations are provided⁵⁰².

178. The openness of the site itself is valued. As would be expected, the most severe effects of the development would be experienced by the appeal site itself and by its associated landscape features and experiential qualities⁵⁰³. There would be substantial/major adverse landscape effects within the site itself comprising the loss of a parcel of open rolling downland, sections of the tree-belt that defines the Reading Road frontage of the site, and the rural character of the eastern edge of the village⁵⁰⁴. The completed development would have an overwhelmingly urbanizing effect on the site, which would cease to be perceived as part of the countryside, becoming instead an extension to the village⁵⁰⁵.

179. It qualifies as a parcel of relatively attractive landscape which is representative of the Open Rolling Downs and contributes to the setting of the village⁵⁰⁶. Its development would represent a large extension of the built-up area into the open countryside⁵⁰⁷. There would be moderate adverse effects for the character of Cholsey. This is partly due to the sheer scale of development, which amounts to an approximately 25% increase in the number of households. But it is also due to the provision of this increase in the form of a single extension, as opposed to a series of incremental developments⁵⁰⁸.

⁴⁹⁷ Emmaline Lambert's closing submissions, paragraphs 86 to 88

⁴⁹⁸ Emmaline Lambert's closing submissions, paragraph 89

⁴⁹⁹ Emmaline Lambert's closing submissions, paragraph 90

⁵⁰⁰ Emmaline Lambert's closing submissions, paragraph 107, referencing Michael Spence's comments in the round table discussion on landscaping

⁵⁰¹ Emmaline Lambert's closing submissions, paragraph 110, summarising Michael Spence's evidence

⁵⁰² Emmaline Lambert's closing submissions, paragraph 113

⁵⁰³ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 7.6

⁵⁰⁴ Peter Radmall's Proof of Evidence (CD 12.7) paragraph 1.16

⁵⁰⁵ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 6.10

⁵⁰⁶ Emmaline Lambert's closing submissions, paragraph 93, referencing Peter Radmall's Proof of Evidence (CD 12.7), paragraph 1.15

⁵⁰⁷ Emmaline Lambert's opening submissions, paragraph 13. Peter Radmall's Proof of Evidence (CD 12.7), paragraph 7.7

⁵⁰⁸ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 6.12

180. Whilst the Fairmile site is within the Built-Up Area Boundary of Cholsey, it is not perceived to form part of the “village proper” in landscape terms. The site helps to maintain the perceived integrity of the settlement as a village by providing separation from the outlying Fairmile Hospital development⁵⁰⁹. The development of the site would cause coalescence.⁵¹⁰ Impacts on Reading Road will arise from (i) the creation of the junctions, the loss of trees from the roadside tree belt and the opening up of views⁵¹¹. The site plays an important role in defining the countryside setting of the village.⁵¹² In consequence, there would be substantial adverse effects on Cholsey’s setting as the development would expand Cholsey into its own setting⁵¹³.
181. The Landscape Character Assessment for the Local Plan 2033⁵¹⁴ analyses the district in terms of Landscape Character Areas and Landscape Types. The Site is type LCT14 and sits within LCA7. It is highly representative of three characteristics in LCT14 and moderately representative of the remaining three. It is moderately representative of 7 and highly representative of one characteristic (out of 11) in LCA7⁵¹⁵. The landscape effects of the development would decrease substantially as the frame of reference increases⁵¹⁶. There would be minor/moderate adverse effects on the surrounding landscape character area and medium/high impacts on several viewpoints.⁵¹⁷

⁵⁰⁹ Peter Radmall’s Proof of Evidence (CD 12.7), paragraph 2.15

⁵¹⁰ Council’s delegated Report (CD 3.1), paragraph 6.27; Emmaline Lambert’s closing submissions, paragraphs 95-98, referencing Peter Radmall’s Proof of Evidence (CD 12.7), paragraphs 2.12, 3.9 and 6.13

⁵¹¹ Council’s Delegated report (CD 3.1), paragraphs 6.33 to 6.35; Emmaline Lambert’s closing submissions, paragraph 105

⁵¹² Emmaline Lambert’s opening submissions, paragraph 3

⁵¹³ Emmaline Lambert’s closing submissions, paragraph 98

⁵¹⁴ CD 8.11

⁵¹⁵ Council’s Statement of Case (CD 12.1), paragraph 5.27; Emmaline Lambert’s closing submissions, paragraph 100, referencing Peter Radmall’s Proof of Evidence (CD 12.7), paragraphs 3.3 to 3.6

⁵¹⁶ Peter Radmall’s Proof of Evidence (CD 12.7), paragraph 7.8

⁵¹⁷ Emmaline Lambert’s opening submissions, paragraph 14, referencing Mr Radmall’s evidence. Emmaline Lambert’s closing submissions, paragraph 102. The Council’s delegated report (CD 3.1), paragraph 6.25 makes particular reference to view 8. Peter Radmall’s evidence (CD 12.7), paragraphs 5.10 and 5.11 record his own assessment of the existing role of the site in the assessment views, in terms of its degree of prominence (high/medium/low/not visible) and its influence on the perceived character of each view. The results may be summarised as demonstrating that it is in the close-range views that the site is most prominent. It is hardly prominent at all from viewpoint 8. As viewing distance increases, it is the tree belts that become the most prominent. It is seen as part of an arable landscape and also in association with the built-up area of Cholsey and Cholsey Meadows (Fairmile Hospital). Longer-distance views reinforce the high degree of inter-visibility between the two AONBs, across the Thames Valley, and the location of Cholsey within the middle-ground of many of these views. He summarises the effects of the development on these views at paragraph 7.2 and comments in paragraph 7.3 that he generally agrees with the appellant’s assessment of impact on the longer-range views (7-11), with the exception of VP8, for which he rates the Year 1 impact slightly higher. For the short- to medium-range views (1-6), he considers the LVIA to have generally under-stated the magnitude of change and over-stated the effectiveness of the likely mitigation.

182. Absence of designation does not mean absence of value⁵¹⁸. Although the Council does not allege any harm to the two AONBs⁵¹⁹, the site's relationship to their settings suggests that the landscape of which it forms part, and which includes a degree of inter-visibility between them across the Thames valley, should be regarded as possessing substantial value⁵²⁰. Its development would cause obvious landscape harm within the setting of two separate Areas of Outstanding Natural Beauty.⁵²¹
183. The underplaying of value and sensitivity and the overplaying of mitigation combined with the disregard for effects at local and site-specific levels and the issues with visualisations and viewpoints all combine to reduce the credibility of the Appellant's evidence and demonstrate that the predicted effects of the development are significantly worse than estimated in the LVIA.⁵²² The Council is not opposed to some form of residential development on this site, particularly if it improves the somewhat abrupt character of the existing settlement edge. However, the appeal proposal is considered to be excessive, thereby creating more landscape harm than it resolves.⁵²³
184. The achievement of only a 0.6% biodiversity net gain is shocking and disappointing in equal measure. Much of the mitigation is harmful in itself, introducing the suburban character of amenity space replacing countryside. Even in the appellant's case, there is still a residual moderate adverse effect on the site (assessed as major adverse by Peter Radmall)⁵²⁴.

Green infrastructure

185. The appeal proposal will deliver public open space which will include equipped areas of play, multi-use games area and allotments. It is primarily to be mitigation for future occupiers, not a social benefit. No weight should be afforded this aspect of the scheme in the determination of this appeal⁵²⁵.
186. On the Appellant's case over 70%⁵²⁶ of the site will be covered by urban development with the potential for 3-storey development⁵²⁷ by virtue of the parameters plan and there is no condition limiting storeys or heights. Mr Stoney

⁵¹⁸ Emmaline Lambert's closing submissions, paragraph 99, referencing Peter Lambert's Proof of Evidence (CD 12.7), paragraph 4.5

⁵¹⁹ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 1.18

⁵²⁰ Council's Statement of Case (CD 12.1), paragraph 5.25; Peter Radmall's Proof of Evidence (CD 12.7), paragraph 4.5, although his paragraphs 4.3 and 4.4 note that in practice, inter-visibility between the site and these designated areas is limited. As a result, potential views are confined to the more elevated parts of the AONB, broadly in the vicinity of Port Way (B479), over distances of c2km.

⁵²¹ Emmaline Lambert's opening submissions, paragraphs 3 and 13. Yet, Peter Radmall's evidence (CD 12.7), paragraph 7.9 records; "no material harm to the setting of either AONB has been identified."

⁵²² Emmaline Lambert's closing submissions, paragraphs 115 to 118. Peter Radmall's Proof of Evidence (CD 12.7), paragraph 7.12

⁵²³ Council's Statement of Case (CD 12.1), paragraph 5.28; Peter Radmall's Proof of Evidence (CD 12.7), paragraph 8.21

⁵²⁴ Emmaline Lambert's closing submissions, paragraphs 116-117

⁵²⁵ Tracy Smith's Proof of Evidence (CD 12.5) paragraph 4.24

⁵²⁶ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 6.4 says more than 80%

⁵²⁷ Peter Radmall's Proof of Evidence (CD 12.7), paragraph 6.5

set out in his evidence that the policy requirement for open space was for 6.19 hectares. The note provided to the inquiry (on Day 7 of the inquiry without any notice) and later circulated via email on Friday 9th September (“the Appellant’s GI Note”)⁵²⁸ states that the demand generated by the proposed development based on occupancy rates is 5.75 hectares. According to the Appellant’s GI Note the public open space provides for 5.80 hectares and therefore over provides by 0.05 hectares. This is wrong⁵²⁹.

187. The Table on page 4 of the Appellant’s GI Note has removed “Allotments”. If these are included (which they should be as per the Council’s policy requirements), the requirement for Open Space is 6.19 hectares and the appeal proposals provide only 6.13 hectares. Furthermore, at 16.09 hours on 12th September, the Appellant confirmed that SuDS (Sustainable Drainage systems) have been included in the Public Open Space calculation (0.34 hectares). Whilst the Appellant’s GI Note sets out a definition from the 2015 “Fields In Trust” document, this forms no part of the Council’s policy and has not been referred to throughout the Inquiry⁵³⁰.

188. The Council’s position is that SuDS is not part of Public Open Space for the following reasons⁵³¹:

- Local Plan Policy CF5 provides that “New residential development will be required to provide or contribute towards inclusive and accessible open space and play facilities having regard to the most up to date standards set out in the open Spaces Study....” – SuDS is not inclusive and accessible open space.
- The Draft South Oxfordshire District Council Developer contributions SPD provides that “All open space should ...be usable have a purpose and be of a size, location and form appropriate for the intended use, avoiding space left over after planning (SLOAP) requirements or pushing open space to the periphery of development...” – SuDS is not usable open space.
- The PPG defines “Green infrastructure” as including sustainable drainage features⁵³² but the paragraphs on “Open space, sports and recreation facilities” do not include SuDS⁵³³.

189. The Appellant’s GI Note states that the overall GI figure includes the 5.80 hectares of POS and 2.92 hectares of “additional GI”. However, the additional GI includes 2.0 hectares of existing retained woodland. That is already there. That is not additional GI. It also provides for 0.92 hectares of new woodland belts/blocks and landscaping within the development area. Furthermore, it includes 0.34 hectares of SuDS. The Council asked on Friday 9th September 2022 in open inquiry how the 0.34 hectares of SuDS was calculated. Nothing was provided. It asked again on Monday 12th September and the response was an unhelpful reference to the Flood Risk Assessment. The bottom line is that nothing has been provided so that the Council can verify the size. The Council

⁵²⁸ Document INQ6

⁵²⁹ Emmaline Lambert’s closing submissions, paragraph 217

⁵³⁰ Emmaline Lambert’s closing submissions, paragraph 218

⁵³¹ Emmaline Lambert’s closing submissions, paragraph 218

⁵³² National Planning Practice Guidance Paragraph: 004 Reference ID: 8-004-20190721

⁵³³ National Planning Practice Guidance Paragraph: 001 Reference ID: 37-001-20140306

has checked the FRA and there is nothing to assist hence why the question was asked in the first place – the Council could not understand how the Appellant had calculated the size of the SuDS and still does not understand⁵³⁴.

190. The Appellant's GI note, with sources unpublished (such as how the 0.34 hectares of SuDS comes about) and based on documents not before the inquiry and provided on the penultimate day of the inquiry has the appearance of scrabbling around for greenery on the Site. It has not altered the Council's position. In a development of 29 hectares, the new GI being provided (especially given the loss of trees of Reading Road) is, again, woeful. The Appellant's GI Note is a poor and inaccurate document which has not been adequately explained and it is disappointing that it was introduced after evidence had closed given how it has raised questions rather than answered them. Like the visualisations, no weight can be placed on this document⁵³⁵.

Education

191. It is agreed that the development would generate 92 secondary school and sixth form aged pupils⁵³⁶. The appellant eventually agreed that the costs of providing their places should be mitigated via a contribution of some description⁵³⁷ but disputes the method of the funding⁵³⁸.

192. The Siege Cross decision,⁵³⁹ relied upon by the appellant, where the Secretary of State approved of the Inspector's recommended reduction of the s.106 obligation by an amount necessary to set off any possible duplication with CIL funding predates the 2019 amendments to the CIL regulations. As such, it is over 5 years old, relates to a different era with different CIL Regulations and different guidance in place, is of no relevance to this appeal and no weight should be placed on it.⁵⁴⁰

193. It used to be the case that local authorities published a list (the Regulation 123 list) of "relevant infrastructure" which would be funded by CIL and so not eligible to be funded through s106 agreements. The purpose was to prevent a local authority from "double dipping" by requiring a developer to pay twice over from both sources for the same piece of infrastructure. But regulation 123 was abolished in the 2019 amendments to the CIL regulations and with it, the regulation 123 list.⁵⁴¹ The same piece of infrastructure can now be funded from both sources.

194. It is correct that, in accordance with the Council's current CIL Charging Schedule⁵⁴², contributions to fund school places will be sought via CIL and not via

⁵³⁴ Emmaline Lambert's closing submissions, paragraph 220

⁵³⁵ Emmaline Lambert's closing submissions, paragraph 221

⁵³⁶ Emmaline Lambert's closing submissions, paragraph 121; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.1

⁵³⁷ Emmaline Lambert's closing submissions, paragraph 121

⁵³⁸ Emmaline Lambert's opening submissions, paragraph 16

⁵³⁹ Appeal ref APP/W0340/W/15/3141449 attached as Annex 1 to Barbara Chillman's Rebuttal Proof of Evidence (CD 12.9)

⁵⁴⁰ Emmaline Lambert's closing submissions, paragraph 127(d)

⁵⁴¹ Emmaline Lambert's closing submissions, paragraphs 128 to 138 and 147; Barbara Chillman's Proof of Evidence (CD 12.6), paragraphs 7.2 to 7.17

⁵⁴² CD 4.14

- s.106. However, that CIL Charging Schedule is dated April 2016. Not only are the charging rates out of date but it was adopted prior to the 2019 Amendments to the CIL Regulations⁵⁴³. A replacement draft CIL Charging Schedule⁵⁴⁴ has been submitted and was the subject of an examination hearing in August 2022. It updates CIL rates for South Oxfordshire and, importantly, is now silent as to CIL funding education infrastructure. It is expected to be adopted by the end of the year.⁵⁴⁵ Moreover, the Council's Draft Developer Contributions Supplementary Planning Document⁵⁴⁶ (consulted upon between February 2022 and March 2022 and due to be adopted in the Autumn of 2022) sets out at policy "DEV 2 Education" that in relation to residential development, contributions towards educational facilities will be secured through s106 monies⁵⁴⁷.
195. The reason is because there is an infrastructure funding gap. The Council's Draft Infrastructure Funding Gap Statement dated February 2022⁵⁴⁸ shows that the CIL income expected up to 2035 at the new higher rate to the end of the plan period is £70,370,850. Even if the County Council were to get 50% of that expected CIL funding (which it will not because it gets 50% of what is left after payments are made to town councils etc.), it would get nowhere near its needs just for highways infrastructure alone. There is a funding gap for transport and highways infrastructure amounting to £219,597,636.⁵⁴⁹ Consequently, all Education infrastructure is assumed to be funded through "*other sources of funding....including Section 106*".⁵⁵⁰
196. Wallingford School is the catchment area secondary school for the development site⁵⁵¹. Its annual intake increased from 190 to 216 in 2019 and will rise to 242 starting in 2022/23⁵⁵² but its site area is not considered to offer potential for further expansion.⁵⁵³
197. Displacement of out of catchment children, combined with current spare capacity would mean 368 places potentially available for in-catchment growth in the current year.⁵⁵⁴ But housing development commitments imply the generation of 482 additional pupils by 2031/32.⁵⁵⁵ These pupil forecasts show that by 2026

⁵⁴³ Emmaline Lambert's closing submissions, paragraph 139; Barbara Chillman's Proof of Evidence (CD 12.6), paragraphs 7.19 and 7.27

⁵⁴⁴ CD 4.11

⁵⁴⁵ Emmaline Lambert's closing submissions, paragraph 140; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 7.21

⁵⁴⁶ CD 4.10

⁵⁴⁷ Emmaline Lambert's closing submissions, paragraph 141; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 7.2; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 7.20.

⁵⁴⁸ CD 4.12

⁵⁴⁹ Emmaline Lambert's closing submissions, paragraphs 149 and 150.

⁵⁵⁰ Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 7.22

⁵⁵¹ Council's Statement of Case (CD 12.1), paragraph 5.49; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.2

⁵⁵² Council's Statement of Case (CD 12.1), paragraph 5.49; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.3

⁵⁵³ Council's Statement of Case (CD 12.1), paragraph 5.50; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.4

⁵⁵⁴ Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.8

⁵⁵⁵ Barbara Chillman's Proof of Evidence (CD 12.6), paragraphs 4.9 and 4.10

demand in year 7 would exceed Wallingford's capacity, even without the proposal⁵⁵⁶.

198. The additional secondary school pupils generated by the development would displace future pupils from within Wallingford School's catchment to alternative schools. This would harm community cohesion and parental choice and unsustainably increase travel times and distances.⁵⁵⁷ That is the harm that the development would cause. It is a harm not even recognised by the appellant⁵⁵⁸. It is not possible in abstract to identify exactly which parts of the catchment would be unsuccessful at securing a place, but they could include the proposed development⁵⁵⁹.
199. Demand displaced from Wallingford could be directed towards Watlington or Didcot⁵⁶⁰. For Cholsey pupils, Didcot would be nearest location. It is fair to say that OCC has had challenges forecasting for Didcot because one of its four schools is new and because large scale housing development makes forecasting more difficult than when mostly driven by demographics but those factors will settle over time⁵⁶¹. DfE advice is that if a new school opens in a single phase below its full capacity while it awaits pupils moving to the development, this does not represent an available surplus for other developments assessing their own impact and mitigation, unless the development delivering the new school will not be completed or generate enough pupils to fill the school⁵⁶².
200. Current pupil forecasts, reinforced by analysis of GP registration data⁵⁶³, show that demand for intake Year 7 places in Didcot would be expected to exceed the combined Published Admission Numbers of the town's schools by 2027/28, excluding the impact of the appeal proposal, with a shortage of five Year 7 places forecast in 2027/28 (the extent of the validated forecasts) and with demand for places still rising⁵⁶⁴. Housing growth will continue beyond current school places forecasts. The scale of longer-term growth is such that another new secondary school will be required.
201. A site for this has been secured within the development now underway at North-East Didcot. This school would become the nearest alternative school for

⁵⁵⁶ Council's Statement of Case (CD 12.1), paragraph 5.51; Emmaline Lambert's closing submissions, paragraphs 153 and 155; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.6

⁵⁵⁷ Emmaline Lambert's opening submissions, paragraph 15; Tracy Smith's Proof of Evidence (CD 12.5), paragraph 4.23; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 4.12; Emmaline Lambert's closing submissions, paragraph 177

⁵⁵⁸ Emmaline Lambert's closing submissions, paragraph 210

⁵⁵⁹ Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 5.3

⁵⁶⁰ Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 5.5

⁵⁶¹ Emmaline Lambert's closing submissions paragraph 156

⁵⁶² Barbara Chillman's Rebuttal Proof of Evidence (CD12.9), paragraph 4.1; Emmaline Lambert's closing submissions paragraph 159, referencing Securing Developer Contributions for Education (CD 7.3), paragraph 33

⁵⁶³ Emmaline Lambert's closing submissions, referencing Barbara Chillman's Rebuttal Proof of Evidence (CD 12.9), figure 1

⁵⁶⁴ Emmaline Lambert's closing submissions paragraph 161; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 5.6

Cholsey pupils unable to attend Wallingford School⁵⁶⁵. The County Council's current plan is to build the new school as a 600-place school in the first instance, with an option on additional school land having been secured to enable the school to be expanded up to 1,200 places as it becomes necessary. This delivery profile will be kept under review as the local population grows, and it may be that the school is instead built at a larger size from the outset. The new school would then be able to accommodate the additional pressure on school places which would be generated by this proposed appeal development, and it therefore represents a solution to mitigating its impact but without avoiding the harm to community cohesion and sustainable travel described earlier.⁵⁶⁶

202. Government advice is to base estimates of school building costs on its school place scorecards. But, for new-build schools (as opposed to expansions⁵⁶⁷), the scorecards are based on small sample sizes. This understates the cost of building smaller than average schools and overstates the cost of building larger than average schools. The contribution to funding sought is therefore based on a full review of school building costs carried out in 2019 by Gleeds, a leading global property and construction consultancy, the results of which were reviewed to ensure their robustness by Mott MacDonald, a global engineering, management and development consultancy.⁵⁶⁸ On this basis, a contribution of £33,237 per place is sought⁵⁶⁹. These figures include loose furniture, equipment, school start-up costs and project management costs not included in the DfE scorecard calculations and so are lower than the DfE scorecard figures when those differences are eliminated.⁵⁷⁰
203. Government guidance is that funding for Special Educational Needs should be sought in direct proportion to the needs arising from planned housing

⁵⁶⁵ Council's Statement of Case (CD 12.1), paragraph 5.52; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 5.7

⁵⁶⁶ Council's Statement of Case (CD 12.1), paragraph 5.53; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 5.8; Emmaline Lambert's closing submissions paragraph 177

⁵⁶⁷ Incorrectly used by Mr Hunter, as pointed out in Barbara Chillman's Rebuttal Proof (CD 12.9), paragraph 5.7

⁵⁶⁸ Barbara Chillman's Proof of Evidence (CD 12.6), paragraphs 6.3 to 6.6

⁵⁶⁹ In Barbara Chillman's Rebuttal Proof of Evidence (CD 12.9), paragraphs 7.1 and 7.2, there is the suggestion that the whole of the contribution sought would be provided by the Ladygrove East scheme, if that development commenced prior to the current appeal scheme but that if the current appeal scheme commenced first, then it would bear the whole of the contribution sought. As originally drafted the s106 agreement embodied that suggestion. I pointed out that such an arrangement gave both developers a multi-million pound incentive not to start development before the other and requested that the parties consider an equalisation arrangement for both developments to share the financial contribution equably. In the event, the signed s106 obligation submitted after the close of oral evidence provides a secondary education contribution of £1,402,950, not qualified by any reference to the Ladygrove East development. This may represent either a contribution of £15,249 for each of the 92 secondary and sixth form pupils generated by the development, or a contribution of £33,237 for each of a lower number of 42 pupils. The basis by which the contribution is calculated is not explained but it is reasonable to presume that, in response to my request, an apportionment has been made between the appeal site and the Ladygrove East development.

⁵⁷⁰ Barbara Chillman's Rebuttal proof of Evidence (CD 12.9), paragraphs 5.4 and 5.5; Emmaline Lambert's closing submissions paragraph 167

development applying the same principle to SEN provision as to mainstream. This results in a figure of £114,733.⁵⁷¹

204. The Council also seeks a contribution to the costs of providing Secondary School Transport at a cost of £290 per day for 190 days per school year for 7 years, a total of £385,700.⁵⁷² This cannot be provided by CIL because it is not infrastructure and so, can only be provided through s106 monies.⁵⁷³ If pupils need to travel from Cholsey to Didcot to access a school place, transport costs will be covered by OCC because the pupils are travelling more than 3 miles. In the unlikely event that pupils are lucky enough to travel to Wallingford from Cholsey, transport costs will be covered by OCC because the journey is deemed an unsafe walking route. In either case, parents will not fund school transport and so a contribution should be made as required by OCC.⁵⁷⁴

Other matters, planning balance and conclusion

205. Highways matters have been satisfactorily resolved⁵⁷⁵ but mitigation does not amount to a benefit⁵⁷⁶. Harm to a listed milestone would be less than substantial and would be outweighed by public benefits but must still be taken into account.⁵⁷⁷ Although not reasons for refusal, there are further harms in the loss of Best and Most Versatile Agricultural Land and potential impact on the working of minerals which are relevant in the planning balance.⁵⁷⁸

206. The development of the Site would result in the permanent loss of approximately 26.25 ha of BMV land, described by the Environmental Statement supporting the application as a 'significant' effect which cannot be fully mitigated. The harm that this loss represents is to be factored into the planning balance⁵⁷⁹.

207. The loss of the best and most versatile agricultural land was justified in a letter written on headed notepaper of the JD Leavesley Estate, part of the same group as the Appellant. The author, Joe Blackstone, is Head of Agriculture of JDL Estates i.e. an employee of a company closely connected to the Appellant. His letter was not in the form of a witness statement. It was not in the form of a statutory declaration. He did not appear to be questioned. The letter contained no detail as to the numbers so that the Council and third parties could interrogate whether what was being said was true or reasonable. As residents stated, there are no issues of security as they have seen equipment left on site on "numerous occasions". The point was well made that 3 incidents reported by Mr Blackstone

⁵⁷¹ Emmaline Lambert's closing submissions paragraph 170, referencing Securing Developer Contributions for Education (CD 7.3) paragraph 11; Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 6.8.

⁵⁷² Barbara Chillman's Proof of Evidence (CD 12.6), paragraph 2.7

⁵⁷³ Emmaline Lambert's closing submissions paragraph 173

⁵⁷⁴ Emmaline Lambert's closing submissions paragraph 174

⁵⁷⁵ Emmaline Lambert's opening submissions, paragraph 4. Tracy Smith's Proof of Evidence (CD 12.5) paragraphs 1.12 to 1.22

⁵⁷⁶ Tracy Smith's Proof of Evidence (CD 12.5), paragraph 3.37

⁵⁷⁷ Council's Statement of Case (CD 12.1), paragraphs 5.34 to 5.37; Emmaline Lambert's opening submissions, paragraph 17 and her closing submissions paragraph 224

⁵⁷⁸ Emmaline Lambert's opening submissions, paragraph 18 and closing submissions paragraph 214; Tracy Smith's Proof of Evidence (CD 12.5), paragraphs 3.40 to 3.48

⁵⁷⁹ Council's Delegated report (CD 3.1), paragraph 6.84; Tracy Smith's Proof of Evidence (CD 12.5), paragraphs 3.40 to 3.43

- in 30 years is hardly a security hazard. It was also noted that there are various options open to the Appellant such as offering the land to more local farms of which there was no evidence. The long and short of it is that the letter was entirely self-serving and lacking in substance and did not on any level justify the loss of BMV farmland which is in active production⁵⁸⁰.
208. There will be short term economic benefits for the local economy via construction jobs. Economic benefits in the form of additional full and part time jobs will come forward on other schemes in appropriate locations. There is likely to be job creation via the specialist older persons accommodation, the employment space, retail and day nursery.⁵⁸¹ The Appellant produced no evidence to show that South Oxfordshire had a higher level of unemployment than the rest of Oxfordshire or the rest of the UK such that this benefit should be elevated in weight⁵⁸².
209. Items like Council Tax and the New Homes Bonus included by the Appellant⁵⁸³ are not economic benefits to be weighed in the balance. Council Tax pays for services. The New Homes Bonus, as a 'local finance consideration' for the purposes of s.70(2) of the 1990 Act, can only be taken into account as a material planning consideration when it is demonstrated that it could help to make the development acceptable in planning terms. No such link is made in this proposal⁵⁸⁴.
210. Open Space is not a reason for refusal but this is not a benefit as the Appellant attempts to pray in aid. The Public Open Space, even if the Appellant is right, provides a marginal over provision. However, on the Council's calculations it under-provides. This is hardly surprising given how much land take there is for development⁵⁸⁵. The community building proposed to be provided is plainly to serve the development as Cholsey is already well served for a village of its size⁵⁸⁶. The community of Cholsey expresses no desire for it – indeed, quite the contrary⁵⁸⁷. In the overall balance, the benefits of housing (market, affordable and for older people) are not unique to this site and would not outweigh the environmental and social harms the development would cause.⁵⁸⁸
211. The scheme is in the wrong place at the wrong time. The NPPF advises that the planning system should be genuinely plan-led. The development plan includes the Cholsey Neighbourhood Plan, advanced and supported by the Cholsey community. It does not allocate and has rejected this site.

⁵⁸⁰ Emmaline Lambert's closing submissions paragraph 222

⁵⁸¹ Tracy Smith's Proof of evidence (CD 12.5), paragraph 3.33

⁵⁸² Emmaline Lambert's closing submissions paragraphs 211-12

⁵⁸³ In Appendix 3 of Stephen Stoney's Proof of Evidence (CD 19.1)

⁵⁸⁴ Emmaline Lambert's closing submissions paragraph 213, referencing National Planning Practice Guidance Paragraph: 011 Reference ID: 21b-011-20140612

⁵⁸⁵ Emmaline Lambert's closing submissions paragraph 219

⁵⁸⁶ Council's Delegated Report (CD 3.1), paragraph 6.18; Tracy Smith's Proof of Evidence (CD 12.5), paragraph 4.25

⁵⁸⁷ Emmaline Lambert's closing submissions paragraph 209

⁵⁸⁸ Emmaline Lambert's opening submissions, paragraph 20 and her closing submissions, paragraph 208, 227 and 228

Development on sites such as this would make a farce of the local plan process which government advocates and which local people trust.⁵⁸⁹

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212. The development plan must be read as a whole. Individual policies which may appear to support a proposal should not be cherry picked and read in isolation⁵⁹¹.
213. The development plan comprises the South Oxfordshire District Council Local Plan and the Cholsey Neighbourhood Plan. A review of the latter is at examination stage and it is expected that the reviewed plan will be made by the Council by the end of September 2022.⁵⁹² At that point, the four criteria of NPPF paragraph 14 will have been met and so the adverse impact of allowing development that conflicts with the neighbourhood plan should be regarded as significantly and demonstrably outweighing its benefits⁵⁹³.
214. The Cholsey Neighbourhood Plan was made in July 2019. It sets out the planning policies for the village, including the allocation of 189 new homes, 75 of which are to be affordable.⁵⁹⁴ The appeal scheme is a major development, to be focused in the Science Vale, including growth at Didcot and Culham. It is not an allocated site in either of the development plan documents. It was not allocated in the Cholsey Neighbourhood Plan because its scale would have exceeded the capacity of local services and infrastructure⁵⁹⁵ It lies outside the built-up area boundary shown on the Cholsey Neighbourhood Plan proposals map. It therefore does not accord with the spatial strategy for housing within the district and conflicts with Local Plan policies STRAT 1 and H1 and Cholsey Neighbourhood Plan policies STRAT1 and H2⁵⁹⁶. Location adjacent to a settlement identified for proportionate growth does not of itself make the appeal scheme sustainable.⁵⁹⁷
215. The community worked hard to prepare the Neighbourhood Plan in advance of the Local Plan. That enabled housing delivery 18 months earlier than would otherwise have occurred. The community has great pride in its neighbourhood

⁵⁸⁹ Emmaline Lambert's closing submissions, paragraphs 229 and 230

⁵⁹⁰ This section of the report represents the Inspector's understanding of the Parish Council's case. It should not be taken as representing the Inspector's own view of the merits of the case.

⁵⁹¹ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.1 and 5.1; Statement of Case (CD 13.3), paragraphs 0.1 and 5.1; opening statement paragraph 1; closing statement, paragraph 1.1

⁵⁹² The reviewed Cholsey Neighbourhood Plan was made on 13 October 2022. See paragraph 22 above.

⁵⁹³ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraph 2.22; Statement of Case (CD 13.3), paragraph 2.24; closing submissions, paragraphs 2.2 to 2.7 and 5.5

⁵⁹⁴ Cholsey Parish Council's opening submissions paragraph 2; closing submissions paragraph 1.3

⁵⁹⁵ Cholsey Parish Council's Statement of Case (CD 13.3), paragraph 2.40

⁵⁹⁶ Cholsey Parish Council Proof of Evidence (CD 13.1), paragraphs 0.3, 2.32 and 5.3;

Statement of Case (CD 13.3), paragraphs 0.3, 0.4, 2.33 to 2.39 and 5.3; opening submissions paragraphs 3 and 4; closing submissions paragraphs 1.4, 3.4 and 3.11 to 3.15

⁵⁹⁷ Cholsey Parish Council closing submissions, paragraph 5.2

- plan and its current update and seeks its respect. To allow the appeal would undermine faith in the plan-led system.⁵⁹⁸
216. There were 271 objections to the original application. 296 objections to the appeal have been sent directly to the Inspectorate. A local petition objecting to the proposal has over 1,600 signatures, representing 55% of the adult population of Cholsey⁵⁹⁹. A children's voice document has more than 50 representations⁶⁰⁰.
217. The Local Plan proposes 15% growth in Larger Villages. In fact, Cholsey has already identified 691 new dwellings and commitments by 2020, compared to the target of 612; 13% more than required⁶⁰¹. The Local Plan itself will deliver some 30,000 new homes compared to a requirement of 23,550. Although the short-term land position may be tight, over the plan period, more than enough market housing is being provided in Cholsey and the wider district.⁶⁰² To allow the appeal would undermine the exceptional circumstances justifying the allocation in the Local Plan of sites in the Green Belt around the edge of Oxford⁶⁰³. Cholsey has come up with 75 affordable homes through its Neighbourhood Plan, dealing with the immediate need identified by the 63 names on the Council's affordable housing register who nominated Cholsey as their first-choice location.⁶⁰⁴
218. A scheme that would deliver an additional 70% growth on top of Cholsey's targets cannot be seen as sustainable.⁶⁰⁵ There is no requirement to accommodate shortfalls from other Larger Villages as 8% more homes above target have been delivered across all Larger Villages within 18 months of Local Plan adoption⁶⁰⁶.
219. The appeal scheme is an outline application for a site of strategic size. If allowed, reserved matters submissions would have to be prepared, submitted and approved, pre-commencement conditions discharged and pre-occupation conditions and off-site works carried out before housing completions could occur. There are no guarantees that this appeal site could contribute any completions to the Council's housing supply within the next five-years⁶⁰⁷.

⁵⁹⁸ Cholsey Parish Council Proof of Evidence (CD 13.1), paragraph 2.31; Statement of Case (CD 13.3), paragraph 2.36; opening submissions, paragraph 16; closing submissions, paragraphs 4.53 and 4.54

⁵⁹⁹ Inquiry Document INQ3

⁶⁰⁰ Inquiry Document INQ4

⁶⁰¹ Cholsey Parish Council Proof of Evidence (CD 13.1), paragraphs 0.2 and 2.33 and 2.34; Statement of Case (CD 13.3), paragraphs 0.2 and 2.42 and 2.43; closing submissions paragraphs 3.5 and 3.6

⁶⁰² Cholsey Parish Council Proof of Evidence (CD 13.1), paragraphs 2.23 to 2.25, 2.29, 2.30 and 5.2; Statement of Case (CD 13.3), paragraphs 2.25 to 2.27, 2.31, 2.32 and 5.2; closing submissions paragraph 4.25

⁶⁰³ Cholsey Parish Council Proof of Evidence (CD 13.1), paragraph 2.28; Statement of Case (CD 13.3), paragraph 2.30

⁶⁰⁴ Cholsey Parish Council closing submissions paragraph 4.29 to 4.31

⁶⁰⁵ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraph 2.34; Statement of Case (CD 13.3), paragraph 2.43; closing submissions paragraph 3.8

⁶⁰⁶ Cholsey Parish Council closing submissions paragraphs 3.9 and 3.10

⁶⁰⁷ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraph 2.26; Statement of Case (CD 13.3), paragraph 2.28; closing submissions paragraphs 4.26 and 4.27

220. There are doubts about the precise nature of the specialist housing for older people to be provided and the speed of its delivery.⁶⁰⁸ There is no immediate need in the local area for such housing. There is already an appropriate mechanism for its delivery⁶⁰⁹. Local Plan policy H13 requires such developments to have good access to public transport. Yet the only bus service runs hourly on a circular route which does not provide a return service from the village centre or railway station. The latter is a mile away and lacks disabled access. It is therefore questionable whether good access to public transport is provided.⁶¹⁰
221. The development would result in the permanent loss of Best and Most Versatile Agricultural Land, chosen, without following a sequential test of prioritising poorer quality land, for reasons of security and anti-social issues which are disputed. Yet, it would be developed at an inefficiently low density, contrary to Local Plan policy STRAT5.3.⁶¹¹
222. Local Plan Policy EMP10 does not support business growth adjacent to, or outside a village or as part of an unallocated site outside of a settlement boundary. Cholsey Neighbourhood Plan supports proposals in or adjacent to the village which respect its scale and wider landscape setting. The proposal is for 3,000 sqm of business use, disproportionate to the context and scale of the village. There is no evidence of its need or demand. The proposed retail use would be comparable to the existing village centre supermarket. Duplication of facilities already available in the village centre would undermine them to the detriment of the village as a whole.⁶¹² Job creation during construction would not be unique to this appeal proposal.⁶¹³
223. The Cholsey Neighbourhood Plan movement policies and proposals set out in CNP STRAT1, CNP T1 and CNP T2 seek to minimise car travel and discourteous behaviour and to improve walking and cycling routes and public transport facilities. The proposal omits to provide a designated cycle route to Wallingford. Its proposed roundabout capacity enlargements would be to the detriment of pedestrians and cyclists. Proposed pedestrian improvements to Ilges Lane have not been discussed with residents. There are practical objections to their

⁶⁰⁸ Cholsey Parish Council opening submissions paragraph 9 and closing submissions, paragraphs 4.32, 4.33 and 4.38

⁶⁰⁹ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.7, 3.8 to 3.13 and 5.7 and Appendix 1; Statement of Case (CD 13.3), paragraphs 0.8, 3.8 to 3.13 and 5.8 and Appendix 1; opening submissions paragraph 9; closing submissions, paragraph 4.37

⁶¹⁰ Cholsey Parish Council Proof of Evidence (CD 13.1), paragraphs 2.12 to 2.18, 3.6 and 3.14; Statement of Case (CD 13.3), paragraphs 2.12 to 2.18, 3.6 and 3.14; closing submissions paragraphs 4.34 to 4.36

⁶¹¹ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.11, 2.1 and 5.11; Statement of Case (CD 13.3), paragraphs 0.12, 2.1 and 5.11; opening submissions paragraphs 5 and 12 and closing submissions paragraphs 4.1 to 4.8 and 4.24

⁶¹² Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.7, 2.3 to 2.5, 3.26 to 3.28 and 5.7; Statement of Case (CD 13.3), paragraphs 0.8, 2.3 to 2.5, 3.26 to 3.28 and 5.8; opening submissions paragraph 7 and closing submissions paragraphs 4.9 to 4.13

⁶¹³ Cholsey Parish Council's closing submissions, paragraphs 4.21 to 4.23

- implementation. The pedestrian and cycle links to Cholsey Meadows (Fairmile Hospital) do not follow natural desire lines.⁶¹⁴
224. The children generated by the development will displace from Wallingford School those within its catchment area, such as at Moulsoford, not even considered by the appellant's witness. The development has no regard to the social or environmental harms caused by having to send children from Cholsey to Didcot, some 10 miles and a 30-minute drive away⁶¹⁵.
225. Both water supply and sewage disposal are deficient in Cholsey⁶¹⁶. There are inadequate facilities available or capable of being made available to support a development of this scale in Cholsey⁶¹⁷. Cholsey Neighbourhood Plan sets out clearly that the village's most desired additional facilities would be a doctor's surgery and a NHS dentist but the Clinical Commissioning Group believes satellite surgeries are unsustainable. It is not clear how CIL payments could be used immediately to mitigate the problem.⁶¹⁸
226. Neighbourhood Plan policy I1 seeks provision for sport, including playing pitches, on site. Local Plan policy CF5 has similar requirements. Cholsey is in need of larger playing pitches to support the sports teams who battle with insufficient capacity at the Recreation Ground. The five-a-side pitch proposed by the appellant does not meet the needs of the local community.⁶¹⁹
227. The appellant's LVIA is unreliable⁶²⁰. The appeal scheme does not reflect the developable area identified in the Landscape Capacity Study⁶²¹ to mitigate impact on the landscape. The "low density residential and care village" area on the Land Use parameters plan sits to the northern and eastern end of the site, an area specifically identified by the Landscape Capacity Study to have the most landscape harm. The two junctions and accesses into the site are designed by reference to Manual for Roads and Bridges rather than the Manual for Streets, resulting in larger dimensions and considerable amounts of tree removal causing a harmful impact on Reading Road and the village edge. The proposal represents a 25% increase in the land coverage of the village. It is clearly immensely out of

⁶¹⁴ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.6, 2.8, 2.19 and 5.6; Statement of Case (CD 13.3), paragraphs 0.7, 2.8, 2.11, 2.19, 2.20 and 5.7; opening submissions paragraph 8 and closing submissions paragraphs 4.14 to 4.20

⁶¹⁵ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraph 3.15; Statement of Case (CD 13.3), paragraph 3.15; closing submissions, paragraphs 4.39 to 4.43

⁶¹⁶ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 3.19 to 3.25; Statement of Case (CD 13.3), paragraphs 3.19 to 3.25

⁶¹⁷ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.5, 3.16 to second paragraph 3.17 and 5.5; Statement of Case (CD 13.3), paragraphs 0.4, 3.16 to second paragraph 3.17 and 5.6.

⁶¹⁸ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraph 3.17 and Appendix 2; Statement of Case (CD 13.3), paragraph 3.17 and Appendix 2; closing submissions, paragraphs 4.44 to 4.46

⁶¹⁹ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraph 3.18; Statement of Case (CD 13.3), paragraph 3.18; closing submissions, paragraphs 4.47 to 4.50

⁶²⁰ Cholsey Parish Council's Proof of Evidence (CD 13.1), Appendix 3; Daniel Leaver's Proof of Evidence (CD 13.2), paragraphs 2.3.1 to 2.3.9

⁶²¹ Landscape Capacity Assessment for Sites on the Edge of the Larger Villages of South Oxfordshire by Kirkham Landscape Planning Ltd (CD 1.35); Daniel Leaver's Proof of Evidence (CD 13.2), Appendix 6

scale. It will block or interfere with views into and out of the Chilterns AONB (though Daniel Leaver's evidence classes both landscape and visual effects as "not significant"⁶²²), break the skyline, lose tranquillity by the introduction of lighting, introduce a significant change to landscape character, lose biodiversity, put pressure on the Cholsey Marsh Local Wildlife Site and result in significant harm to the wider landscape and to the setting of the North Wessex Downs and Chilterns AONBs⁶²³.

The case for others who appeared at the Inquiry⁶²⁴

Professor Richard Harding

228. The adopted Local Plan has an ambitious housing target for 23,550 new dwellings between 2011 and 2035, including unmet need from the City of Oxford. It represents an increase in household numbers of nearly 50%. To achieve this target, the Plan allocates land for in excess of 30,000 dwellings – a very large margin of excess.
229. The target is predicated on the idea that by building excess houses, their price reduces. That does not seem to have worked in South Oxfordshire where more dwellings than the increase in households were built between 2011 and 2021 but house prices rose by 50%. Natural population growth in South Oxfordshire is less than 200 persons per year and decreasing so the new developments are not for local people. They will be occupied by people from London or the north of England. This is not consistent with the government's "Levelling up" agenda.
230. The strategy is to concentrate housing at high densities into the "Science Vale" between Didcot and Oxford and at Strategic Sites in a band around Oxford, not low density housing in villages. Larger villages should also take a sustainable and balanced share. For Cholsey, this is 619 dwellings. As of the year 2000 (*sic*, presumably 2020 is meant), Cholsey has allocated land for 690 houses.
231. The Local Plan and Cholsey Neighbourhood Plan were extensively consulted on and debated. Local people cannot be expected to participate in the process if the plans are turned on their head within eighteen months. The appeal proposal is an affront to local democracy.
232. Underlying the overall housing strategy is the use of high densities in the market towns and close to Oxford city. Low density housing in villages is not appropriate; it would be an inefficient use of resources. Every house will release at least 100 tons of carbon dioxide in its construction. To build more housing than is needed is disastrous to attempts to limit carbon emissions. The appeal site comprises Best and Most Versatile agricultural land, which could produce enough grain for over half a million loaves of bread a year, enough for the entire

⁶²² Daniel Leaver's Proof of Evidence (CD 13.2), paragraphs 2.3.6 and 2.3.7

⁶²³ Cholsey Parish Council's Proof of Evidence (CD 13.1), paragraphs 0.4, 0.13, 4.3 to 4.12, 5.4 and 5.14 and Appendix 3; Statement of Case (CD 13.3), paragraphs 0.5, 0.14, 4.3 to 4.13, 5.5 and 5.14; opening submissions paragraphs 6 and 14; closing submissions paragraphs 4.56 to 4.67; Daniel Leaver's Proof of Evidence (CD 13.2), paragraphs 3.1.1 to 3.1.7 and Appendices 2 and 3

⁶²⁴ This section of the report represents the Inspector's understanding of the case for others who appeared at the Inquiry. It should not be taken as representing the Inspector's own view of the merits of the case.

population of Oxfordshire for a week. Its loss would damage our capability to feed ourselves. It would clearly damage the setting of two Areas of Outstanding Natural Beauty and the rural nature of Cholsey.

Liz Nixon

233. Due diligence carried out before moving to the village confirmed that the Local Plan and the Neighbourhood Plan both showed no further development. She believed its surroundings were protected.
234. Two things kept her working for the NHS through the Covid pandemic; her colleagues and the thought of returning home to peace and quiet.
235. She observed that the World Health Organisation defines health as a complete state of physical and mental well-being. Research by MIND (the mental health charity), published in the magazine NATURE shows a close relationship between nature and mental health. The Covid epidemic showed how nature and the outdoors was needed. The development would remove from many people a fundamental right. The loss of the field and ten years of building would have an unimaginable effect.

Ginnie Herbert

236. Planetary heating is caused by greenhouse gas emissions. Huge reductions in carbon emissions need to be made. The 2008 Climate Change Act sets a legally binding target, referenced in the NPPF and carried through into the Local Plan. Cholsey Parish Council has an action plan to reduce greenhouse gas emissions, to enhance biodiversity and to increase carbon sinks.
237. Cholsey's estimated carbon emissions are 32,000 tonnes of CO₂ equivalent⁶²⁵, representing 18.8 tonnes per annum, nearly 50% higher than the national average. The construction of 350 houses would result in an estimated additional 35,000 tonnes of carbon emissions, more than Cholsey's total for a year. As good agricultural land, the site is presently a carbon sink. The development would be unsustainable due to harm from carbon generation and altered land use.
238. The development plan for Cholsey makes more than adequate provision for both market and affordable housing. Sufficient provision for older persons housing can be made on allocated strategic sites. The appellant's claim that Cholsey is a sustainable location appears to derive from the provision of rail transport but in fact, rail accounts for just 3% of all trips. Overprovision of housing on a greenfield site resulting in carbon generation and loss of a carbon sink is irrational and inappropriate.

Sam Park

239. She remarked that local businesses might be expected to welcome the increase in population which the development would bring but, in fact, they believe it would do more harm than good. Demand for car parking already exceeds supply. If the development were to go ahead, availability would reduce further, losing a substantial amount of business.

⁶²⁵ Data from www.impact-tool.org.uk

240. She noted that the development would reserve space for commercial retail uses. But Cholsey is not big enough to support two retail centres. Small businesses in the existing centre provide essential services for many residents but would not be able to compete with a larger store in the new development and so would go out of business.
241. Her entire customer base has expressed their concerns about the development. That has emboldened her to host a petition, signed by 1634 residents supporting Cholsey Parish Council and South Oxfordshire District Council in objecting to the Leavesley development of the field between Papist Way, Reading Road and Ilges Lane.⁶²⁶
242. As a parent, she is concerned that her children would be unlikely to be able to attend Wallingford School and would be separated from their Primary School friends. To send them to school by public transport would make her uncomfortable. To drive them to school would require a later opening of her shop. To move out of the village would be a likely outcome, a perverse result of a development intended to allow young families to reside in Cholsey.

Judy Collins

243. The Localism Act 2012 aims to give local people a say in the development of their area. Cholsey has defined its local Neighbourhood Plan, supporting a locally appropriate level of growth and restricting inappropriate development beyond the village boundary. The plan was subject to consultation, with significant engagement. Put to a referendum in March 2019, over 95% of voters supported it.
244. A group of volunteers and councillors has invested almost 1,000 hours of effort into updating the plan. Its aims and its village boundary do not change. It has just completed its consultation phase. The democratic view of the community has been expressed through this Neighbourhood Plan, through the Parish and District Councils, through the County Councillor and the local MP, all of whom oppose the development.
245. The democratic view of the community that this development should not proceed is also evidenced by
- The petition⁶²⁷ signed by 85% of those approached, representing about 55% of the adult population
 - The Children's Voice⁶²⁸ comprising 60 contributions
 - The objections to the development, amounting to about 10% of the population
 - The public protest in July 2022, attracting over 100 local residents, and
 - The attendance at the Inquiry⁶²⁹

⁶²⁶ Inquiry Document INQ3

⁶²⁷ Inquiry Document INQ3

⁶²⁸ Inquiry Document INQ4

⁶²⁹ The attendance lists include all parties; 93 names on day 1; 55 on day 2; 23 on day 3; 27 on day 4; 21 on day 5; 19 on day 6; 15 on day 7; 33 on day 8

Dr Duncan Reed

246. The Chartered Institution of Water and Environmental Management requires its members to adhere to a Code of Ethics. Two of its 16 clauses are to act honestly, objectively and impartially and to consider the needs of the community.
247. Adjoining the appeal site is a development by Linden Homes, now Agatha Christie Way. Its development caused disruption to the existing sewer system in Kennedy Crescent and Queens Road. There has been a subsequent blockage and a foul sewerage flood. These are instances of what happens when ever more development is plugged into a sewer network designed in a much earlier period of village expansion.
248. The drainage strategy for the development indicates that sewage would be pumped to join the existing village network in Ilges Lane. But the small size of the sewer in the upper part of Ilges Lane is not documented. It could not accommodate the sewage from 350 homes.

Val Bolt

249. The Cholsey community has been positive about the proportionate growth proposed through the South Oxfordshire Local Plan and the Cholsey Neighbourhood Plan. However, the development of first, Cholsey Meadows (Fairmile Hospital) and subsequently, East End Farm has given the community direct experience of the difficulty of integrating large numbers of new residents into a community, which continues ten years after most of the houses were built.
250. The developments caused disruption, noise and road closures during construction, with increased traffic and congestion in the village. There was stress on school places, doctors, dentists and other healthcare provision. The local Wallingford Medical Practice closed its books to new patients for more than six months.
251. The effects on residents' quality of life were accepted as part of the fair allocation of new housing agreed upon. The appeal proposal is likely to have even greater impact, particularly for health, education, water, drainage and longer build-out time. This will greatly harm community relations and the integration of new residents into the wider community.

Cllr Dr Sue Roberts

252. The Secretary of State has a duty to ensure that we meet the UK's carbon budgets. The Oxfordshire Growth Deal will use up almost all of the local carbon budget. Leavesley proposes to lose another carbon sink, create CO₂-using homes and release greenhouse gas emissions during construction.
253. The site is Best and Most Versatile agricultural land. In the light of global events, we should not lose our food security.
254. It is dismaying to discuss housing supply in such immense detail. The Council's housing supply is so tight because it was forced to plan for twice the number of homes needed.
255. The Environment Act specifies a 10% biodiversity net gain. This proposal would result in a decrease in biodiversity; quite an achievement when starting

from near nothing on industrially farmed land. Humankind depends on insects to support the food chain.

Joanne Baker (written submission following late request to speak)

256. Despite lying just one mile south of the appeal site, no consideration appears to have been given to its effects on Moulsoford village. Existing developments around Cholsey and Wallingford have already had the effect of excluding Moulsoford children from Wallingford School necessitating complex travel arrangements to Didcot schools. The villagers had been assured that the now completed expansion of Wallingford School would address the issue. But the proposed development would place 350 homes, almost 50% more than the whole of Moulsoford, closer to the school and so, continue to exclude Moulsoford children from Wallingford School and require their continued difficult commuting journey to Didcot.
257. Moulsoford Parish Council is also concerned that little or no consideration has been given to the effects of the development's additional traffic movements on the A329 road running south of Cholsey through Moulsoford. It will exacerbate existing congestion in the village at peak times.

Written Representations⁶³⁰

258. Two hundred and forty-nine written representations were sent to the Inspectorate in response to notification of the appeal. Seven were from individuals who spoke at the Inquiry and whose views have been reported above. Others commented on flooding, the lack of village infrastructure, leisure, health and education provision, Best and Most Versatile agricultural land, traffic, parking congestion in the village, retail provision undermining existing shops, shift in the village's centre of gravity, the lack of walking, cycling and public transport options, loss of wildlife (photographs were submitted of deer using the site), hedgerows as a critical habitat for rare white-letter hair streak butterflies, inadequate water supplies and sewage disposal, the effect on the Local Nature Reserve, AONBs and views to and from them, housing targets already met, the experience of previous attempts to introduce commercial uses and a nursery at Fairmile Hospital (Cholsey Meadows), care home and community facilities not needed, CO₂ generation, disproportionate increase in size of village, loss of privacy to houses in Agatha Christie Way, Charles Road and Lapwing Gardens. Of these representations, the Chilterns Conservation Board's summary of its original representation to the Council, together with its additional comments made to the inspectorate are worth quoting in full;

"This application falls within the setting of the Chilterns AONB and also the North Wessex Downs AONB. Those settings relationships would be harmed. This harm is readily demonstrated in the landscape and visual impact section of the Environmental Statement (ES). Photomontage viewpoint C very clearly illustrates how views from the Wallingford - Goring and Wallingford - Woodcote corridor are impacted. The CCB would ask that the assessment of setting is given full weight and the duties in the CROW Act 2000, section 85 are applied

⁶³⁰ This section of the report represents the Inspector's understanding of the cases made in written representations by those who did not appear at the Inquiry. It should not be taken as representing the Inspector's own view of the merits of their cases.

when calibrating the planning balance (i.e. impacts upon the special qualities arising from development outside the AONB).

"This application seeks to re-open the Neighbourhood Plan assessment, in which site CHOL 2 was not supported by the neighbourhood planning body, nor the Local Planning Authority. The sensitivities of this site within the setting of two AONBs was considered in the assessment of sites and roundly dismissed. The assessor agreed with the Parish Council's assessment and concluded the site allocations were based on 'clear evidence' (7.47 of the assessor's report).

"In the discharge of the planning balance, the CCB would ask that the LPA gives weight to the settings implications (clearly illustrated in the applicant's photomontage viewpoint C), the sweeping and majestic views of the dipslope landscape from higher ground south east of Mongewell and the landscape character assessment in the Lepus study of November 2019. Lighting within the development will serve to further exacerbate these harmful impacts.

"From the standpoint of AONB impact this application is contrary to Development Plan policy in the Local Plan ENV 1 (setting and AONB Management Plan) and Neighbourhood Plan EO1 and EO2, contrary to AONB Management Plan policy DP4 (setting) and the CCB's Position Statement on the Setting of the AONB. The CROW 2000 at section 85 gives legal force to setting when assessing impacts. The NPPF 2021 consultation revisions include the setting of an AONB as a material matter of importance. This revision may be in force by the time this application is determined.

"We would like to make the following comments in supplement to our previous objection (as below):

"(1). Intervisibility and common ground. That comment [*sic*; presumably common is meant] ground exists between the appellant and us, when assessing visual impact, sometimes referred to in the papers as intervisibility. In the applicant's additional LVIA commentary (3rd Sep 2021) the landscape consultants make the point, 'The LVIA recognises that long views are possible in many directions from the fringes of the Chilterns (CA6) including some intervisibility with the site'.

"We would add that such intervisibility also applies from views within the Chilterns, looking towards and across the appeal site. Photomontage viewpoint C demonstrates this (taken near the A4074 Wallingford-Reading Road). This higher ground on the plateau above Woodcote, enjoys expansive views to the west, towards the Thames and with the North Wessex Downs.

"The key assessment of visual impact, as opposed to matters of landscape character, will be the extent to which that impact is harmful and impacts upon the perception of the landscape when walking the public rights of way network and enjoying the landscape. The LVIA commentary describes this impact as 'fleeting' and, in effect, a small part of a wider panorama when viewing the proposal from the more elevated rights of way in the Chilterns. We disagree. When walking the landscape and looking down upon the site, the applicant's desire to extend development to the east will be clear in the wider view. The extent, scale and layout would be readily apparent and somewhat 'blocky'. Winter/dusk will bring inevitable light spill and glare. This would further

highlight the fact that development had been permitted outside the reasonable limits of a settlement envelope. Appropriate policy restraint would have been breached, as contained within the Neighbourhood Plan, Local Plan, NPPF and AONB Management Plan. Further, the SODC Landscape Capacity Study 2015 and AONB Settings Position Statements would resist this eastern 'spill' of development into the wider setting.

"CCB key submission: We recommend for the appointed Inspector's site visit that an assessment of the visual impacts from within the AONB can be taken from the A4074 'Port Way' where a bridleway runs to the southwest (linking with the Springs Hotel and then North Stoke). The topography falls away towards the river. The site is directly in the view. The applicants present this as viewpoint C.

"(2). AONB Policy. The setting of the AONB is now a matter of increased importance, following its incorporation into revisions to the NPPF 176 in July 2021. Such a revision chimes with the SODC Local Plan at ENV1, the 2019-2024 AONB Management Plan at policy DP 4 and with the CCB's own position statement on setting (2011). Whilst we accept that setting must be assessed on a case-by-case basis, the visual impact in this case is well documented by the applicant in their photomontage (part 2 as posted to the SODC portal) at viewpoint C. The CCB's planning adviser has walked this route on several occasions and formed the view that the magnificent sweep of landscape looking southwest from the plateau landscape, would be harmed by this comprehensive eastern extension of Cholsey. The development proposed would look very 'out of place' and cannot be meaningfully mitigated. This proposal would negatively alter perception of the Chilterns and North Wessex Downs landscape, when viewed within the AONB.

"We note the point in the statement of case (8.8.3) that reason for refusal 2 does not mention the AONB explicitly. That does not invalidate a consideration of its merits and we would respectfully ask that weight is given to the setting of two AONBs as a material issue. The Countryside and Rights of Way (CROW) Act section 85 also applies to setting (any function 'so as to affect'). The combined effect of CROW, NPPF, Development (Local) Plan and AONB Management Plan is to raise the importance of landscape setting from within a highly valued nationally protected landscape and looking out towards another AONB (the North Wessex Downs AONB).

"CCB key submission: When attributing weight and discharging the planning balance, the CCB would ask that great weight is given to the setting of the AONB and, following CROW, that regard is paid to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

"(3). Special Qualities of the AONB. We note from the papers the appellants will deal with the June 2021 planning appeal decision at Little Sparrows, Sonning Common (also in SODC and PINS reference APP/Q3115/W/20/3265861). Planning permission was granted for this proposal within the AONB, as opposed to land within its setting. The merits of these cases are very distinguishable. What unites them is their impact upon the special qualities of the AONB. These qualities are set out in the 2019-2024 Management Plan (pages 10 and 11) and include panoramic views, unspoilt countryside, and relative tranquillity. In this case we would respectfully invite

the appointed Inspector to give weight to these features when viewing the site from the public rights of way network.

“CCB key submission: That the special qualities of the AONB is key to any assessment and that in this case the panorama of unspoilt countryside and its relative tranquillity would be negatively impacted.”

259. In addition, two hundred and eight representations made to the Council at application stage need to be taken into account. The Council's committee report records two hundred and thirteen but this figure includes instances where the same objector has made more than one submission. Eight representations were from individuals who spoke at the Inquiry and whose views have been reported above. One representation supports the proposal, with caveats. The remainder oppose the development on grounds which are summarised within the Council's delegated report as follows⁶³¹;

Matters of principle

- Contrary to the Cholsey Neighbourhood Plan - The Cholsey Neighbourhood Plan does not support development in the area proposed. The proposed development falls outside of the Built-up Area in the NP.
- The village not only met but exceeded the required quota of houses already.
- The South Oxfordshire Local Plan does not allocate the site for development.
- Cumulative impacts with developments in Cholsey in recent years e.g: the Fairmile development, Yew Tree development, Poppy Fields development, Agatha Christie development and infill housing at Deanfield Place.
- The size of the development is completely out of proportion with the existing village of Cholsey.
- The field is Grade 2 listed arable farmland which surely should be utilised to continue to grow food to feed all the people that live in our ever-growing population, not concreting over it.

Landscape/wildlife impacts

- The land the application is proposing building on is also used by a wide variety of wildlife including but not exhausting bats, deer, birds and rabbits. The proposed development will result in a loss of natural habitat and biodiversity.
- The proposed development would affect the setting of two Areas of Outstanding Natural Beauty - the Chilterns and the North Wessex Downs.

Impacts on Infrastructure

- The effects of a development this size would have a significant impact on the village whose infrastructure is already under pressure with the current increasing level of homes.

⁶³¹ CD 3.1

- An additional 300 homes will lead to over 300 more cars on the streets of Cholsey and surrounding areas.
- Papist Way is already a busy road providing the main access to the village centre and parking is unrestricted along most of this. There is a potential increase in traffic along this road as a result of the development.
- The centre of the village does not have the level of retail required for the current population or adequate space for parking.
- No provision for doctors or dentist, the development will increase number of patients at clinics in Wallingford that are already busy (and will have additional members due to the other developments).
- No school provision people are already struggling to get their children into the local school.
- The local secondary school in Wallingford will likely not have sufficient capacity.
- The increase of cycle and pedestrian usage will add overwhelming pressure on the existing paths and Ilges Lane.
- Will the drainage system cope with so many additional houses?
- Cholsey already has frequent challenges with water pressure.
- The village has no bus transport access after 1730hrs and a reduced train service.

Masterplan/uses concerns

- Question the need for a Nursery.
- The master plan shows limited space between properties and green areas and large areas of concrete. This will contribute to faster run-off during rainfall.
- Question the need for a Care home.
- The development is also considerably unneighbourly to the adjoining properties on Charles Road, Papist Way, Agatha Christie Way, Ashfield Way, Lapwing Lane, Rowland Road and Ilges Lane.
- Impact on privacy to existing properties.
- The developer proposes to rely heavily on parking courts.
- The development appears to hinge on the necessity of affordable housing; therefore the development should offer a greater allocation of shared ownership houses.

260. Not noted in the Council's report is a representation commenting that light pollution would restrict amateur astronomical observations supporting the public outreach programmes of the Newbury Astronomy Society and the Abingdon Astronomical Society.

Obligations

261. The section 106 agreement dated 30 September 2022 consists of a set of definitions followed by thirteen sections setting out recitals and making provisions as to statutory provisions, covenants, interest, general provisions, reasonable behaviour, costs, third party rights, data protection, value added tax, jurisdiction, general and delivery. There are eight schedules. The first five are for the benefit of the District Council. They deal with Affordable Housing, Extra Care, contributions to the District Council, self-build and custom build units and Open Space, each starting with its own set of additional definitions. The sixth and seventh schedules are for the benefit of the County Council. They deal with Contributions, annexed to which is a matrix by which the Special Educational Needs contribution is calculated according to the number of dwelling units of varying bedroom numbers and Highway Works, each commencing with its own set of additional definitions. The eighth schedule sets out the Councils' obligations to the developer. Appendix 1 provides a location plan. Appendix 2 provides a draft s278 agreement. Appendix 3 provides plans of the works to be carried out to the highway.
262. Clauses 6.14, 6.14.1 and 6.14.2 provide that if the Secretary of State in his decision letter states that an obligation is not a material consideration or is incompatible with Regulation 122 of the Community Infrastructure Regulations, then that obligation shall have no effect. I report on the compliance of the provisions of the planning obligation with the CIL regulations in my conclusions below.
263. The four clauses of section 8 of the agreement provide that the owner shall pay the District and County Council's legal expenses and costs reasonably incurred in the preparation of the agreement and its enforcement and shall pay the District Council £3,248 and the County Council £15,527 for administration and monitoring.
264. Schedule 1 provides that 40% of the total number of dwellings (other than extra care units) shall be provided as general needs affordable housing, of which 40% shall be affordable rent, 35% social rent and 25% shared ownership. It provides that 40% of the extra care units shall be provided as affordable extra care units, of which 75% shall be affordable rent units and 25% shall be shared ownership units. It also specifies the dwelling mix (by size) of each type of affordable housing and requires all the general needs affordable housing to comply with Category M4(2) of part M of the Building Regulations 2010 and 5% of the general needs affordable housing to be built as wheelchair accessible dwellings in accordance with Category M4(3) (but not as flats not on the ground floor). It also requires that all the affordable housing in any phase of development must be completed and sold to a registered provider before more than 75% of the general market housing in that phase is occupied and that the extra care affordable housing may not be occupied by anyone other than someone who qualifies for extra care housing and their partner.
265. Schedule 2 extends the limitation on occupancy to all the extra care housing. It defines a person who qualifies for extra care housing as someone over 65 years old, assessed as needing at least 2 hours of Personal Care per week, who has contracted to receive the Minimum Care Package and for whom an Assistance Plan is produced and maintained at least annually. It requires the engagement of an Extra Care Provider to provide the necessary Personal Care before any Extra Care Unit is occupied. It establishes a Care Village Management Company to

- operate the Care Village Community building. Any profit is to be used to offset the service charge payable by the individual owner of each Extra Care unit.
266. Schedule 3 provides a payment to the District Council of £186 per dwelling (index-linked) towards the provision of waste and recycling bins, £229 per dwelling (index-linked) towards the provision of street naming and numbering within the development and £17,019 (index linked) to pay for fencing at Cholsey Marsh Nature Reserve.
267. Schedule 4 provides for the location, programming and marketing of self-build plots, a Design Guide for their execution, a certification process for their completion and a process for releasing self-build plots from the obligation in the event that they are unable to be sold.
268. Schedule 5 provides for a minimum area of 6.19 Ha of Open Space comprising allotments, Parks and Gardens (including a minimum of 1.53 ha as recreational open space), Amenity space, Play Area and SuDS. A specification is included for 0.33 ha of land to be provided as allotments, for a Local Equipped Area of Play of 600 sq m, and a Neighbourhood Equipped Area of Play of 1,000 sq m. Provision is made for a Management Company to maintain and manage the open space, funded by a service charge on each dwelling. It requires the LEAP and NEAP to be provided before more than 150 dwellings are occupied and the allotments and parks and gardens to be provided before 75% of the dwellings are occupied.
269. Schedule 6 provides for the payment to the County Council of £5,271 to monitor the travel plans associated with the development, £17,852 (index-linked) for bus stop infrastructure, £451,930 (index-linked), payable in three instalments, for bus service improvements, £1,402,950 (index-linked), payable in two instalments, towards the costs associated with providing a new secondary school in north-east Didcot, £385,700, payable in two instalments, towards the cost of providing school transport and £263,888, payable in two instalments, towards the cost of providing a new special school serving Didcot. It specifies a formula, based on the number of dwellings of each size, by which a greater financial contribution towards special educational needs provision could be payable.
270. Schedule 7 provides a s278 agreement to be entered into for the construction of the first new vehicular access to the site, a pedestrian improvement scheme along Ilges Lane, a toucan crossing of Reading Road, relocation of bus stops in Reading Road, the provision of pedestrian and cycle facilities as described in the appellant's Safer Routes Study and capacity improvements at three roundabouts on the Wallingford bypass prior to the occupation of any development on site and for the second access to the site to be constructed before the occupation of more than 100 dwellings.
271. Schedule 8 requires the Councils to apply the financial contributions to the purposes intended and to return unspent monies, with interest, on request, after ten years.

Conditions

272. The parties prepared a list of 51 suggested conditions for use in the event of the appeal being allowed⁶³². My observations on these are set out below. I distinguish between suggested conditions (those suggested by the parties), and recommended conditions (those which I recommend to be used). Although my recommendation is to dismiss the appeal a schedule of recommended conditions is attached for use in the event that the Secretary of State decides to allow the appeal.
273. The parties' first three recommended conditions reflect statutory requirements for conditions to place time limits on the validity of the permission, adjusted to reflect the fact that the development is likely to be carried out in phases and to reflect the intention to secure an early start on site as a benefit of the scheme. Further adjustments are necessary to reflect the fact that the proposal does not include details of all access matters and that further details remain a reserved matter and also to impose start dates for phases subsequent to the first.
274. The fourth suggested condition (mistakenly numbered 3 in the parties' draft) is necessary to limit the development to the quantities evaluated in the Environmental Assessment.
275. The first of the two suggested conditions numbered 4 in the parties' draft would require the submission of a masterplan showing land uses and quantities of development, a design and access parameter plan, a movement framework including a layout and street type hierarchy, phasing, a design code and details of key green infrastructure. But much of this information is required anyway by condition 1 requiring details of reserved matters to be submitted including access, appearance, landscaping layout and scale, by conditions 5, 6 and 7 imposing parameter plans and suggested condition 7 requiring a phasing plan, (which I recommend as condition 8) so I consider that this suggested condition is not necessary and do not include it amongst the recommended conditions.
276. The second of the two suggested conditions numbered 4 in the parties' draft specifies the approved plans with which the development must comply. This includes the three submitted parameters plans which, by virtue of court rulings, must be applied so as to set a context for the submission of reserved matters. However, two of these include both specific and indicative provisions. The latter do not meet the test of precision set out in NPPF paragraph 6 so I recommend that condition 5 refer only to the detailed access plans and the land use and density parameter plan which is sufficiently detailed to meet the test of precision. I recommend conditions 6 and 7 which contain specifications of the matters which are shown on the other parameter plans with which the development must comply.
277. Suggested condition 5 would require reserved matters to include information about utilities and services, parking for vehicles and bicycles, landscaping and levels. But landscaping is a reserved matter, details of which are required in any event by condition 1. The other matters do not appear to fall within the definition of reserved matters and so I recommend condition 9 to ensure that details are submitted for approval.

⁶³² CD 16.6

278. There is no suggested condition number 6. Suggested condition number 7 has been discussed earlier. Suggested condition 8 would require a Housing Delivery Document to be submitted for the whole site and for each phase, detailing dwelling mix and tenure, accessible and wheelchair housing and prescribing the use of Nationally Described Space Standards. The application of Nationally Described Space Standards in 1 and 2 bedroomed market housing is prescribed by Local Plan policy H11 (4) in any event and so does not need to be additionally prescribed by condition. The policy simply needs to be applied to reserved matters applications as they are made. For affordable housing, this condition would largely duplicate the provisions of the first schedule of the s106 agreement discussed earlier and so is to that extent, unnecessary, but overall, the details of tenure and accessible housing would not be obtained through reserved matters applications and are needed to evaluate compliance with sub-clauses (1), (2) and (5) of Local Plan policy H11 on Housing Mix. It is therefore recommended that the requirements be included within recommended condition 9.
279. Suggested condition 9 would require the internal layout of the site to provide and accommodate a bus route and bus stops but this would simply duplicate the provisions of the Parameters Plan for Movement, applied by recommended condition 7 and so is unnecessary.
280. Suggested condition 10 would require for each phase of development the submission of a Biodiversity Enhancement Plan, to accord with the submitted amended Biodiversity Offsetting Assessment July 2021.⁶³³ But, in fact the Biodiversity Offsetting Assessment does not contain proposals; it is, as its title suggests, an evaluation of the proposals contained within the two parameter plans Landscape and Open Space and Land Use and Density⁶³⁴ and is submitted to justify the proposals contained therein. The application of the content of the two parameter plans is required in any event by recommended conditions 5 and 6; the submission of details of landscaping is required by condition 1, so there is no need for a condition requiring further submissions. All that is required is for the local planning authority to evaluate the submissions which result from that and other conditions, to establish the extent to which they comply with Local Plan policy ENV3 which requires a net gain in biodiversity where possible and for supporting evidence to demonstrate a biodiversity net gain using a recognised biodiversity accounting metric.
281. Suggested condition 11 would require the submission of a maintenance schedule and management plan for soft landscaping works. But landscaping is a reserved matter. Until details of landscaping have been submitted, it is not possible to ascertain that they will need a maintenance schedule and management plan. If none is submitted with the reserved matters application, it would be for the local planning authority to determine the acceptability, or otherwise, of the reserved matters application, with or without a condition applicable at that stage and to determine it accordingly. At this stage, suggested condition 11 is unnecessary.
282. Suggested condition 12 would require the submission of a surface water drainage scheme for the site. But this suggestion duplicates the need for

⁶³³ CD 2.10

⁶³⁴ Paragraph 1.1.2 of the Biodiversity Offsetting Assessment July 2021 (CD 2.10)

- drainage details set out in suggested condition 5 and which has been included in recommended condition 9. A separate condition is therefore unnecessary.
283. Suggested condition 13 requires details to be submitted of lighting. This information would not be forthcoming in response to reserved matters applications and so needs to be included as an item in recommended condition 9.
284. Suggested condition 14 seeks two things; first the submission of a landscaping scheme and secondly, the identification of existing trees and shrubs to be retained. The first requirement simply duplicates the requirement in recommended condition 1 for the submission of a landscaping scheme as a reserved matter and so is unnecessary. The second requirement can be met by a condition (recommended condition 11) requiring the implementation of the Tree Protection Plan included with the submitted Arboricultural Impact Assessment⁶³⁵ and the recommendations for tree protection included at paragraph 5.1.7 of that document.
285. Suggested conditions 15 and 16 would require details to be submitted of car parking and bicycle parking. These duplicate the provisions of suggested condition 5 which I have included in recommended condition 9. Separate conditions are therefore not necessary.
286. Suggested condition 17 would require the submission of an energy statement for each phase of development. The submitted Energy Strategy⁶³⁶ is not acceptable to the Council⁶³⁷ and so a new statement is required. I recommend that this requirement be included within condition 9.
287. Suggested condition 18 would require a method statement to be submitted for the relocation of the listed milestone. This would tend to duplicate the requirements for Listed Building Consent which is needed in any event and so appears to be unnecessary but, as noted earlier (footnote 77), the requirement to restore the milestone has not been included in the s106 agreement as had been envisaged and so it is necessary to impose a condition to ensure that the works are carried out (recommended condition 10).
288. Suggested condition 19 would require a Construction Environmental Management Plan for Biodiversity for each phase. It is not clear why this would be required in addition to the Construction Management Plan discussed below in relation to suggested condition 30. It is recommended that a single Construction Management Plan be enforced.
289. Suggested condition 20 would require a Construction Environmental Management Plan for Soils for each phase. Although requested by Natural England in its response to consultation, it is not clear why this would be required in addition to the Construction Environmental Management Plan for Biodiversity discussed above in relation to suggested condition 19 or the Construction Management Plan discussed below in relation to suggested condition 30. It is recommended that a single Construction Management Plan be enforced.

⁶³⁵ CD 1.86

⁶³⁶ CD 1.62

⁶³⁷ Tracy Smith, in discussions on conditions

290. Suggested condition 21 would require the submission of a Construction Traffic Management Plan. It is not clear why this should be required in addition to the Construction Management Plan discussed below in relation to suggested condition 30. It is recommended that a single Construction Management Plan be enforced.
291. Suggested condition 22 seeks a Woodland Management Plan for the management of the existing woodland on site. The existing woodland exists and is protected by Tree Preservation Orders. The Landscape and Open Space Parameters Plan, imposed by recommended condition 6 shows it to be retained. Although a Management Plan is good practice, it is not clear why it is relevant to the development proposed or should become necessary to make the development acceptable except that paragraph 5.1.6 of the appellant's Arboricultural Impact Assessment⁶³⁸ recommends that the plantation be selectively thinned. Condition 12 is recommended accordingly.
292. Suggested condition 23 seeks a scheme to provide for electric vehicle charging points. Several Local Plan policies are quoted in support but none make specific reference to the need for electric vehicle charging. Support for the concept is found in NPPF paragraph 107(e) but, with effect from 15 June 2022, part S of Schedule 1 of the Building Regulations requires the provision of infrastructure for the charging of electric vehicles in new development. Consequently, this suggested condition is unnecessary.
293. Suggested condition 24 seeks a three-phase risk assessment to manage potential land contamination. But the suggestion overlooks the fact that a phase 1 Geo-environmental Desk Study⁶³⁹ has already been carried out which finds "that contamination is unlikely to pose a significant risk to the proposed residential development of the site".⁶⁴⁰ Nevertheless "it is recommended that a targeted Phase 2 intrusive site investigation be undertaken to establish baseline chemical and geotechnical properties of the site, and to allow advice to be given on foundations, and the suitability of near surface soils for re-use within future developments."⁶⁴¹ The Council's Environmental Protection Officer commented that "the content of the report satisfactorily addresses the requirements for submission of a Phase 1 contaminated land preliminary risk assessment." It is not clear therefore why the recommended condition requires this phase of investigation to be repeated. I therefore recommend an adjusted requirement be added to condition 9.
294. Suggested condition 25 would require the submission of a foul water drainage scheme. This duplicates the requirement included in suggested condition 5 and in recommended condition 9 and so is not separately necessary.
295. Suggested conditions 26 and 27 would require an Archaeological Written Scheme of Investigation to be carried out. Yet, an archaeological evaluation of the site has been carried out following a trial trench evaluation and was

⁶³⁸ CD 1.86

⁶³⁹ CD 1.64

⁶⁴⁰ Paragraph 8.3 of report by Wardell Armstrong dated November 2018; LAND QUALITY ASSESSMENT: PHASE I GEO-ENVIRONMENTAL DESK STUDY (CD 1.64)

⁶⁴¹ Paragraph 8.5 of report by Wardell Armstrong dated November 2018; LAND QUALITY ASSESSMENT: PHASE I GEO-ENVIRONMENTAL DESK STUDY (CD 1.64)

- submitted with the application as part of the Environmental Statement.⁶⁴² Notwithstanding this evaluation, the County's archaeologist, in noting the results of the evaluation, comments that "whilst these recorded heritage assets are not demonstrably of such significance that would constrain/preclude proposed development, it will result in impact on these archaeological features as recognised in the submitted Environmental Statement, and as such, they will require further investigation and record in advance of development should consent be granted." I therefore recommend an appropriate bullet point in condition 9.
296. Suggested condition 28 would require submission of details of materials to be used in the external construction and finishes of the development. But appearance is a reserved matter, details of which are anyway required by condition 1. The definition of appearance in s2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 includes materials and so this suggested condition would be a duplication, not separately necessary.
297. Suggested condition 29 would require details of refuse and recycling storage to be provided. These would not otherwise be provided through the submission of reserved matters and so the condition is necessary to comply with Local Plan policy EP3. I recommend the addition of a further bullet point to condition 9 and a clause requiring provision before occupancy.
298. Suggested condition 30 would require a construction management plan to be submitted for approval. As discussed above in relation to suggested conditions 19, 20 and 21 regarding suggested Construction Environmental Management Plans for Biodiversity, Soils and Traffic, it is recommended that condition 13 seeks the submission of a consolidated Construction Management Plan.
299. Suggested condition 31 calls for a Landscape and Ecology Management Plan. To some extent its requirements for details of the mechanism for long-term management of landscaping would duplicate arrangements set out in the s106 agreement and so, are unnecessary but, in any event, unless a landscaping scheme (required to be submitted by virtue of condition 1) is submitted without a management plan, there can be no certainty that this condition is necessary. At this stage it would be premature and so is not recommended.
300. Suggested condition 32 would secure details of the layout and equipment to be included in the children's play space and a timetable for their implementation. But this would duplicate paragraphs 2.1 and 2.3 of, and the definitions of LEAP and NEAP in, the fifth schedule to the s106 agreement and so is unnecessary.
301. Suggested condition 33 would secure the implementation of the approved energy efficiency measures before occupation. Instead of a separate condition, I recommend the addition of a clause to condition 9 requiring implementation before occupancy.
302. Suggested condition 34 would secure a BREEAM rating of excellent for non-residential buildings. But such a condition would pre-empt the energy efficiency measures required to be submitted by suggested condition 17 (recommended to

⁶⁴² CD 1.48

- be imposed as a clause within condition 9). The required certification would duplicate the compliance clause of condition 9. Such duplication is unnecessary and so is not recommended.
303. Suggested condition 35 would require certification that the SuDS drainage scheme has been installed in accordance with approved details. The requirement presupposes that the details of surface water drainage to be submitted as required by condition 9 would be a SuDS scheme and so pre-empts that condition. The required certification would duplicate the compliance clause of condition 9. Such duplication is unnecessary and so is not recommended.
304. Suggested condition 36 would require certification of the completion of any land decontamination works required to be carried out. It is recommended that a compliance clause be added to condition 9 instead of a separate condition.
305. Suggested conditions 37 and 47 are included at the request of Thames Water to secure the coordination of development with any necessary upgrades of the off-site water supply and sewerage network. They are necessary to make the development acceptable but are recommended to be included as a consolidated condition 14.
306. Suggested conditions 38, 39 and 40 would require all pedestrian and cycle accesses and all works and means of access along Reading Road to be provided before any part of the development could be occupied. Until a phasing plan is agreed, it is not clear that all could be provided before the first phase to be completed is ready for occupation and so the conditions would not be reasonable. Moreover, the suggested conditions largely duplicate and partly conflict with the provisions of paragraphs 2.2 and 2.3 of the seventh schedule of the s106 agreement which set out a programme by which occupation of parts of the development is limited to the completion of highway works (including pedestrian and cycle facilities), specifically permitting a degree of occupation before the second access onto Reading Road is completed, and so, to that extent, would be both unnecessary and contradictory. Consequently, no condition is recommended.
307. Suggested conditions 41 and 42 would secure Travel Plans for the various uses within the development. A Framework Travel Plan has already been submitted with the application⁶⁴³ but the document fails to meet Oxfordshire County Council's criteria and needs to be amended in accordance with the Council's guidance (Transport for New Developments – Transport Assessments and Travel Plans, March 2014). The others are necessary to make the development acceptable and compliant with Local Plan policy TRANS5. It is recommended that a consolidated condition (15) be imposed.
308. Suggested condition 43 seeks the submission of details of noise controls to be applied to commercial premises. However, the need for noise controls has not been established, so there is no evidence that this condition in this form is necessary at this stage. Similar to suggested condition 43, suggested condition 44 seeks details of odour control for premises which may be preparing food and suggested condition 45 seeks details of proposed hours of use of each of the commercial premises. There is no condition proposed limiting the use of the non-

⁶⁴³ CD 1.92

residential uses proposed to preclude noise-generating uses or the preparation of food (which could be on an ancillary basis).

309. Information to identify the operating hours of the non-residential uses and to identify which premises might be generating noise or preparing food would not be provided through reserved matters applications and so conditions are necessary to ensure that this information is submitted so as to enable the local authority to consider whether it would be necessary to impose limiting conditions when considering detailed matters. I recommend condition 16 to secure this information accordingly.
310. Furthermore, recommended condition 1 requires details of layout and appearance (which includes materials to be used) to be submitted before the development commences. At that stage a judgement could be made about whether the layout and juxtaposition of differing or noise-sensitive uses proposed or the use of acoustically transmissive materials would necessitate the submission of a scheme for protecting noise sensitive uses from potential noise - generating uses and a condition imposed requiring the submission of such a scheme. Conditions could also be used to control the hours of operation of a noise-generating use if the detailed layout suggested that it would otherwise give rise to unacceptable noise conditions for noise-sensitive uses.
311. Suggested condition 46 would seek details of broadband connectivity. But, this would duplicate suggested condition 5 (recommended as condition 9) which requires details of utilities and service layouts to be submitted for approval. I recommend that a clarification be inserted into condition 9 to make it clear that it applies to the provision of broadband.
312. Following suggested condition 46 in the parties list of suggested conditions is a second suggested condition numbered 38 which would seek to ensure that the route for a bus service through the site (though not the service itself, which is covered by Schedule 6 of the planning obligation) is made available before more than 150 dwellings are occupied. Although recommended condition 7 would require the development to be carried out in accordance with the parameters plan which shows a route for a bus to be provided, it does not impose any time limit by which that should happen. Likewise, clause 2.3 of the seventh Schedule to the s106 agreement requires that the second access off of Reading Road be constructed before 100 dwellings are occupied but it does not require the bus route through the site to be completed by any particular time. The bus route provision is regarded as one of the benefits of the scheme and so I recommend that condition 17 is necessary to secure that benefit.
313. Suggested condition 47 has been discussed earlier in conjunction with suggested condition 37. Like recommended condition 4, suggested condition 48 is necessary to limit the development to the quantities and uses evaluated in the Environmental Assessment. As originally drafted, it omitted to refer to the community building proposed as part of the development. The parties originally suggested that the employment floor space be limited to 500 sqm but, during the round table discussion on conditions, it was agreed that it be retained at 3,000 sqm to accord with the quantities of development set out in paragraph 1.1.1 of the Planning Statement submitted with the application, on which the Environmental Assessment was based. It is recommended that the condition be combined with condition 4.

314. Suggested condition 49 would seek to require infrastructure to be provided at two bus stops within the site. But this condition would duplicate the provisions within paragraph 2.4 of the sixth schedule of the s106 agreement for a financial contribution (the Bus Infrastructure Contribution) to be made to the County Council for just such infrastructure to be provided. The condition is therefore unnecessary.

Inspector's Conclusions

315. References in this section in square brackets [thus] are to previous paragraphs of this report.

316. During the course of the Inquiry, contentions arose around matters which were not reasons for refusal but which were raised in third party cases and written representations and in the appellant's case. These include the use of Best and Most Versatile agricultural land, the safeguarding of mineral reserves, the five-year supply of housing land and the need for and supply of specialist older persons housing. Issues concerning green infrastructure and open space provision arose, otherwise unpresaged, out of discussions on landscape character. Nevertheless, I report on these below.

317. Of the six original reasons for refusal, three (highways impact, heritage asset and affordable housing) had been agreed between the two main parties by the time of the Inquiry. Nevertheless, they remain contentious. Of the three remaining original reasons for refusal, a technical solution to the provision of social infrastructure in terms of secondary schooling has been identified, although its desirability remains in contention and may be seen as a manifestation of the consequences which would flow from the second contentious issue which is compliance with the development plan strategy for the development of land. The third most contentious issue is the effect of the proposal on the landscape character of the area which, as noted above, morphed into a debate about the adequacy of green infrastructure and open space provision.

Character and landscape

318. Although this issue reached no resolution during the Inquiry, between the three experts who gave evidence on the subject, who mainly focussed their disagreements on the quality of the appellant's Landscape and Visual Impact Assessment and its accompanying photographs and montages [103, 176, 177, 183, 227], there was a surprising degree of agreement about the substantive impacts of the proposed development on the landscape character of the area.

319. Although Mr Leaver, for the Parish Council, appears ambivalent [227], both main parties agreed that any effect on the two Areas of Outstanding Natural Beauty neighbouring Cholsey and their setting would be acceptable [114, 182 and footnotes 517, 518]. I concur. I visited most of the viewpoints identified in the appellant's Landscape and Visual Impact Analysis report and found that, whatever their technical deficiencies, the photographs and photomontages did not give a misleading impression of the real world. Although I found more distant objects somewhat more prominent in reality than they appear in the photographs, that is as likely to be a function of my eyesight as much as any technical deficiencies in the photography.

320. Consistent with NPPF paragraph 176, paragraph 157 of the Cholsey Neighbourhood Plan exhorts us to be mindful of its sensitive setting in and adjacent to two AONBs [113, 175] as do other contributions in the evidence [113, 114, 117, 182, 227, 258,]. Viewpoint 8, from the Chilterns plateau at the junction of the A4074 Portway with a bridleway leading down towards North Stoke, encapsulates the concerns expressed forcefully on behalf of the Chilterns Conservation Board [258], which are representative of others. This is a panoramic 180° view. Yet the site would represent only about 5° of that 180° view and about one-third of the vertical extent of the facing hillside within that small segment of the view. It is a wide view of a settled landscape in which the settlement of Cholsey, amongst others, figures slightly. That settlement would be slightly larger, if the appeal were allowed. Presence in a view does not obstruct or ruin it. In my opinion the landscape experts have correctly identified the visual impact of the proposal on the view from the Chilterns AONB as not significant. Consequently, whilst acknowledging the strongly argued views of the CCB, my advice is that the development would not harm the setting of the AONB.
321. I also visited Wittenham Clumps which had been identified by one of the third parties as a location from which a view would be affected by the proposed development. This is an even more panoramic view (probably about 270°) than viewpoint 8, from which the village of Cholsey can be identified between the enclosing hillsides of the Thames Valley. It is possible to discern the gable ends of dwellings in Agatha Christie Way from there, as well as other buildings within Cholsey. Once again, Cholsey is within the view, as are other settlements such as Benson and Wallingford but only as a small element. It does not rise above the skyline. If the development were permitted, it could no doubt be seen within the view as part of Cholsey but, in my opinion, its effect would not be of any significance. My conclusion is that the development would be such a small part of the overall view that concerns that it would adversely affect its setting are overstated and consequently, whilst recognising the vehemence with which they are held, I do not share them.
322. The landscape experts are also agreed that the site has only limited visibility in the medium range [99, 100, 101, 179, 181, footnote 517] with minor/moderate adverse effects. I concur. That conclusion reinforces my judgement that the effects of the proposal on the landscape setting of Cholsey would be acceptable.
323. The main landscape character effects would be at local level; on the site itself and in the relationship between historic Cholsey and the more recent conversion of Fairmile Hospital into an adjunct to the village (Cholsey Meadows). Although there is presently a continuous line of development from the historic village, along Papist Way, into Ferry Lane and onto Cholsey Meadows and considerable efforts have been made to integrate the two communities socially [249-251], the latter's formal grounds fronting on to Reading Road tend to combine with the site and its tree belts to form a physical separation between historic Cholsey and Cholsey Meadows.
324. The proposal would tend to integrate the two physically, although there would still be a degree of separation [105, 180]. Some people regard this as a harm to a traditional relationship. I regard it as a benefit which would reinforce the efforts which have been made to bring about social integration. I agree with Cholsey Parish Council that the pedestrian and cycle links connecting the two would not follow natural desire lines [223], because the internal layout of Cholsey

Meadows results in ingress and egress being focused on Rotherfield Road and Newlands Way at its northern and southern extremities rather than at what was the main entrance to the former hospital which appears to be the object of the appeal scheme's links. Consequently, the physical integration would not be as effective as intended.

325. Moreover, the generously-sized accesses to the appeal scheme would tend to accentuate the severance caused by Reading Road. Although the whole length of Reading Road adjacent to the appeal site is within a 30mph speed limit, indicating that it lies within an urban area, the two junctions into the site have been designed using the parameters of the Design Manual for Roads and Bridges, more appropriate to an inter-urban trunk road than to what would become an intra-urban street were the appeal to succeed. I am not convinced by the claim that the dimensions of the junctions are necessitated because they would be used by turning buses; no other junction within Cholsey used by the bus route has similar right-turning lanes. The consequence would be a loss of protected trees transforming the character of the highway from a rural main road contained by tree belts into an expansive traffic intersection unwelcoming to pedestrians, alien to any other junction within Cholsey. However, the outcome would result from what the two local authorities involved have sought.
326. It is unarguable that the development would transform the character and appearance of the unremarkable site itself [96, 178]. This would have two consequences. It would have the benefit of replacing the present, somewhat raw edge of Cholsey, comprising rear or side elevations and domestic boundary fencing [102], with a more planned face to the edge of the settlement [104]. On the other hand, it would deprive fifty or so dwellings in Rowland Road, Lapwing Lane, Agatha Christie Way, Ashfield Way and Charles Road of a view across the agricultural site towards the Chilterns AONB on the far side of the Thames Valley.
327. The affected views are not ones enjoyed by members of the public from a public vantage point and so, their retention would not be a public benefit to be secured by the exercise of public authority. Conventionally, in planning philosophy, there is no right to a view, only to an adequate outlook, so the issue is one of protecting the private interests of a sizeable number of households [235].
328. Furthermore, it needs to be recognized that both the local authority and the Parish Council have previously accepted the suitability of the majority of the site to be developed to an extent which would have caused a similar transformation of the site and a loss of view to local residents [97, 98, 174, 183, 227].
329. I conclude that there would be no significant visual effects on the landscape in terms of long-distance views or of views from the AONBs and their setting. There would only be minor or moderate adverse effects on the limited extent to which the site is visible in medium-distance views and so, only similar limited effects on the setting of the village. The transformational effects on the site itself would eliminate views enjoyed by private households but would provide some public benefits to the appearance of the edge of Cholsey and to the physical integration of its parts, albeit moderated by the severance which would be caused by the large road junctions to access the scheme required by the local authorities. The overall effect on landscape character would be neutral. Because the Cholsey Neighbourhood Plan defines a settlement boundary for the village,

the site is defined as countryside and so, by definition its development would contradict Local Plan policy SRAT1 which seeks to protect and enhance the countryside [88]. Nevertheless, the proposal would represent sustainable development in terms of its effects on landscape character and would be consistent with Local Plan policy ENV1.

Education

330. There is no dispute that recently expanded Primary School provision within Cholsey would be able to accommodate the numbers of primary school children arising from the development [124]. Although the appellant was able to show that Wallingford School would be likely to accommodate the secondary school pupils arising from the development, that would only be possible by displacing children living more distant from within the school catchment, or from without its catchment [125 – 128, 196 - 199].
331. Even the appellant's figures do not show spare capacity at schools within Didcot, to which displaced children would be sent, beyond the 2027 academic year [128, 129, 200, 201] which is when the effects of the development are likely to be felt. Accordingly, it is right that the appellant should be expected to make a financial contribution towards the costs of providing additional secondary school accommodation [191, 201].
332. When account is taken of project management costs, start-up costs, loose furniture and equipment, the County Council's estimates of the cost of providing a new school place are lower than those of the appellant [130-132, 202]. Although high, the County Council's basis for calculating the cost of Special Educational Needs premises appears to be well-founded [133, 203]. I therefore find that the Secondary Education Contribution and the Special Educational Needs Contribution (and the formula for calculating the Revised Special Educational Needs Contribution) set out in the sixth schedule of the s106 agreement to be directly related to the development and fairly and reasonably related in scale and kind to the development.
333. The Council's currently operative CIL Spending Strategy is quite clear that 50% of CIL available will be passed to Oxfordshire County Council to spend on education infrastructure amongst other matters [118, 194]. The Council's existing supplementary planning documents confirm that stance and although policy DEV2 of its draft Developer Contributions SPD replacement refers only to s106 payments, paragraph 4.20 indicates that on non-strategic sites (such as the appeal site), financial contributions such as CIL could also be used to fund education facilities where necessary [119, 194 and footnotes 342 and 343]. There is therefore a legitimate expectation that it should only be necessary for a s106 contribution to be made if CIL is inadequate to provide the funding [117].
334. The Council's evidence is that indeed, that is the case. There is a huge funding gap, for transport alone greater than the whole of the expected income from CIL [195]. The Council's draft revision to its CIL Spending Strategy (which is likely to be adopted before the Secretary of State takes the decision on this appeal) is silent on whether CIL would fund education infrastructure. The Council's replacement Draft Developer Contributions SPD is ambiguous, as noted above, but its Draft Infrastructure Funding Statement of February 2022 is quite clear that even if all the County's share of CIL money goes to Highways, there

- would still be a funding gap and that all Education infrastructure funding would be through s106 payments [195].
335. Legislative changes in 2019 mean that both CIL and s106 monies can be used to contribute to the same piece of infrastructure [193]. Although the evidence shows that it is most unlikely to happen in practice, there remains a theoretical possibility that the Council could choose to use CIL funding to contribute to the new Didcot school. In the event that that were actually to happen, there needs to be a mechanism to ensure that, although contributions from both sources would be acceptable, the appellant does not pay for the same piece of infrastructure twice over (once in full through CIL and once in full through s106) [121]. Such a mechanism was used in the Siege Cross appeal decision referred to by the parties [122, 192].
336. I therefore recommend that the Secondary Education Contribution and the Special Educational Needs Contribution (and the formula for calculating the Revised Special Educational Needs Contribution) set out in the sixth schedule of the s106 agreement be found to be necessary to make the development acceptable in planning terms only to the extent that such contributions are reduced in parallel with any contribution which outturns show to have been made from CIL funding and that the planning obligations concerned are a material consideration in determining this appeal only to that extent.
337. Until I questioned the matter, there was no dispute between the parties over the Secondary School Transport Contribution [123, 204]. There is no suggestion that capital infrastructure is required to provide this service as a result of the development. It is a service funded through revenue expenditure and provided across the County, not just to the appeal development. Undoubtedly, there would be an increase in demand for the service as a result of the development for the reasons discussed earlier but this would not arise before the development is occupied. At that point, the resident population would begin to contribute to the Council's revenue funding to pay for the service both for the development and for the entire county, either directly through Council tax or indirectly through national subventions to the local authority, paid through national taxation, to which the residents of the development would proportionately contribute.
338. A financial contribution to revenue expenditure through a s106 agreement would be reflected in the price residents would have to pay to purchase their houses and so would represent paying twice over for the same service. This seems to me to be incompatible with the tests for a planning obligation set out in paragraph 57 of the NPPF and so I recommend that the Secretary of State attach no weight to the Secondary School Transport Contribution in determining this appeal.
339. Although the Secondary Education Contribution and the Special Educational Needs contribution would provide a formula by which educational infrastructure necessary to serve the additional demand generated by the development would be provided and so would to that extent comply with Local Plan policy INF1, it would be a sub-optimal solution because it would result in some children being displaced to travel to schools some distance from their home. It would result, as noted above, in an increase in travel demand, an increase in time spent by some children in commuting to school and a possible disconnect in their social lives to the extent that their secondary schooling is distant from their home community

[198, 224, 242, 256]. These are harms which are not mitigated by financial contributions. To that extent, the proposal's policy-compliant contribution to education premises would not represent sustainable development in terms of its effects on social infrastructure.

340. These social effects represent, in practical terms, harm which would result from the development not complying with the spatial strategy set out in the Council's development plan, a matter to which I now turn.

Development Strategy

341. Paragraph 3.8 of the Council's Local Plan explains that the strategy is to focus development principally at Science Vale and sustainable settlements (which include Towns and Larger Villages). The components of that strategy are stated equally; there is no hierarchy which gives precedence to the Science Vale over the Larger Villages. So, it is correct to state that the location of this appeal proposal at the largest of the Larger Villages is locationally consistent with the development strategy [86, 87, 89].

342. However, when the Strategy is translated into policy STRAT1, a hierarchy of scale is introduced. Major new development is to be focused in Science Vale, including Didcot and Culham. Paragraph 4.18 of the Plan explains that development in the Larger Villages should be proportional (amongst other considerations). Major development (large scale) is defined in the plan's glossary as one where the number of residential dwellings to be constructed is 200 or more or 1,000 sqm of industrial, commercial or retail floor space. It is clear therefore that for the purposes of the development plan strategy this appeal scheme is to be classed as a large-scale major development, which is intended to be focused at Didcot and Culham, not at Cholsey [214]. I therefore conclude that the proposal would conflict with Local Plan policy STRAT1.

343. Paragraph 4.23 of the Local Plan states that the strategy for housing distribution in the Larger Villages such as Cholsey is for each settlement to grow proportionally by around 15% from the 2011 base date. Paragraph 4.28 of the Plan suggests that unconstrained villages, such as Cholsey, might aspire to a higher growth figure. Cholsey has done so by supporting a locally appropriate level of housing growth in the village, in accordance with objective (now policy) CNP STRAT1 and has front-loaded its achievement of that target. There is no need to do more [146, 217, 218, 230]. The identification of sites for further growth might be expected to await the next update of the Local Plan.

344. As the NPPF points out, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Other things being equal, the proposal's conflict with Local Plan policy STRAT1 and with Cholsey Neighbourhood Plan objective (now policy) CNP STRAT 1 would render it an unsustainable development. It would indicate that the appeal should be dismissed because of its conflict with the development plan strategy [145]. But, before that conclusion is reached, there are other things to be considered.

345. At the heart of the NPPF is a presumption in favour of sustainable development. NPPF paragraph 11 explains that for decision-taking, this means that where the policies which are most important for determining the application are, or are to be regarded as, out-of-date, (for example where the local planning

authority cannot demonstrate a five-year supply of deliverable housing sites), permission should be granted unless either of two defined considerations indicate otherwise, one of which is a balance of benefits against adverse impacts. [136] Paragraph 14 of the NPPF explains that the adverse impacts are likely to outweigh the benefits significantly and demonstrably where four circumstances apply. Two of those circumstances are met by the recent making of the Reviewed Cholsey Neighbourhood Plan. The other two concern housing delivery and housing land supply, to which I now turn.

Housing delivery and housing land supply

346. The Council's housing delivery since the start of the Local Plan period has been in excess of requirements and, whatever the accuracy of its forecasts, delivery over the previous three years has been well in excess of the 95% threshold indicated in NPPF paragraph 76 [46, 155]. Attention therefore turns to housing land supply.
347. I am not convinced by the appellant's pessimism about the impact of biodiversity net gain on the deliverability of the Council's five-year housing land supply [48, 49]. The opening words of the Vivid economics research report referred to in the appellant's evidence are that "Biodiversity net gain is possible at little or no cost on most housing development sites." Its table of financial viability effects in a variety of scenarios show that the impact of biodiversity net gain costs on post-development land values range from 0.75% to 1.45%. Its conclusions on economic impact start with the observation that "There is strong evidence that on-site mitigation is possible at little or no cost for the majority of housing developments." [159]
348. I am not convinced by the appellant's argument on build-out rates [50]. It is commonly accepted that a single sales outlet can achieve an outcome of 45 dwellings per annum but that multiple sales outlets on a large site will achieve more. Although it is correct that, at this moment in time, it cannot be known for certain that any large site not yet started will have more than one outlet, experience shows that some do and some don't. In calculating a realistic five-year housing land supply, it is unrealistic to presume (as the appellant argues) that no large sites would be built out with more than one outlet. It would be equally unrealistic to presume that all large sites would be built out with more than one outlet. The Council's approach neither presumes one outlet in all cases, nor presumes multiple outlets in all cases but takes an average based on past records [50, 157 (footnote 432)], applying that average build-out rate to all large sites. That seems a realistic approach to obtaining a realistic assessment of future housing land supply, even if its average is derived from only a limited number of large historic sites.
349. I am not convinced by the appellant's argument on the windfall allowance [51, 52]. The appellant's approach is to take the five-year average for small sites and to deduct from it the number of dwellings projected to arise over the next three years from small sites with planning permission, leaving a residual figure for the final two years. But that residual figure for the final two years would be 115, or 57.5 pa, barely more than one third of the average actually achieved over the past five years. That is implausible. What the appellant's evidence actually shows is that the average for the identified small sites for the first three years of the five-year period is 225 pa. Whilst it is correct that there is no new evidence

to justify an uplift from the 200 of the 2021 Housing Land Supply Statement to the 340 of the 2022 Statement, the appellant's own evidence, that the average rate of small site completions over five years has been 158 dwellings per annum and is projected over three years to be 225 per annum, shows that the 2021 estimate was too low [160]. Two years at an average rate of 158 dwellings per annum is 316. That suggests that the Council's estimated allowance of 340 [161] is realistic, even without taking account of the recently adopted Local Plan's policy framework which is more supportive of windfall development.

350. The debate between the two main parties on the size of the Council's five-year housing land supply rests primarily on the application of the judgment on what should be considered "deliverable" [53]. But, that debate focused on the requirement (in the definition of deliverable in the Glossary to the NPPF) that a site should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years [54, 55]. That insistence on clear evidence downplays the requirement in the first clause of the definition that there be a realistic prospect that housing will be delivered on the site within five years.

351. Of their nature, sites falling within part (a) of the NPPF's definition (e.g those with detailed planning permission) will have to be started within the first three years of a five-year period (though they will continue to deliver in subsequent years) because their permission will be likely to have expired if not started within that time. Sites which are to start within years 4 and 5 of the five-year period will inevitably fall within part (b) of the NPPF's definition because any planning permission existing now will have expired by the fourth or fifth year of the period.

352. At this distance in time, clear evidence of what will happen four or five years' ahead, and whether an event will happen within four years and three hundred and sixty-four days, rather than five years and one day, is inherently problematic. The level of clear evidence of completions beginning on site within five years which the appellant was seeking (eg Mr Bolton's assertion that "only the dwellings that have reserved matters should be included in a five-year housing land supply" [56(vi)]) would tend to result in there being no sites identified commencing within years four or five of the five-year supply. That is implausible, as the appellant's witness accepted in response to one of my questions. If insisted upon, it would therefore result in an unrealistically low assessment of the supply of housing deliverable within five years.

353. It is therefore inevitable that a more probabilistic approach should be taken to those components of a five-year supply which are to start within years four and five of a five-year supply. National guidance is that evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;

- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Nevertheless, the clear evidence which is sought for years four and five of a five-year period will inevitably include evidence based on averages and indices of typical experiences in similar situations, rather than a contract for delivery specific to each and every site [54, 55, 154, 156, 157].

354. With that in mind, my verdict on the fifteen sites originally in contention [56, 158 and footnote 156] is as follows;

- i. *Chiltern Edge Top Field*. Both parties agreed that this site should be regarded as undeliverable [56(i), 158(i)] (44 dwellings to be removed).
- ii. *Wyevale Garden Centre*. I concur with the Council's view that the issues are not insurmountable for an experienced developer. [158(ii)]
- iii. *Wheatley Campus*. There has been progress on essential prerequisites which persuades me to agree with the Council's view that there is a realistic prospect of delivery. [158(iii)]
- iv. *West of Wallingford site B*. This is an example of the distinction between deliverability and delivery [154]. Although the Council demonstrates that the site could be delivered within its trajectory, the historic build-out rate is not encouraging and the Council's build-out rate presumes multiple outlets which does not accord with what has happened, so there isn't the clear evidence that housing completions will begin on site within five years as required by the NPPF. A single outlet rate should be presumed for an accurate prediction of delivery which would indicate 225 dwellings over five years instead of the 417 predicted by the Council (192 dwellings to be removed). [56(iv), 158(iv)]
- v. *Didcot Gateway*. The Council's arguments are convincing [56(v), 158(v)]. Examination of the references in the appellant's case shows that the claimed limitation on development until foul sewer capacity is increased is no more than a request by Thames Water that it be asked to confirm that the necessary foul water network upgrades have been completed before the development is occupied. A similar request is made in respect of the current appeal proposal but that does not prove that the development cannot be delivered, either in the current appeal proposal or in the case of Didcot Gateway.
- vi. *Didcot North-East*. The Council's arguments are convincing. In particular it addresses the point about delivery rates by responding that the trajectory is not only based on average build-out rates applied to each parcel rather than to the site overall but also on comparisons with Great Western Park, a comparable site [56(vi), 158(vi)].
- vii. *Ladygrove East*. The Council's arguments are convincing. The appellant's assertion that the arrangements for the Didcot North Perimeter Road might affect viability as they are not yet agreed is contradicted by the Council's assertion that these issues have now been addressed and that the

information exists to ensure a comprehensive draft s106 agreement will allow permission to be granted in December 2022. I have no reason to disbelieve either party's assertion [56(vii), 158(vii)].

- viii. *Land at Lady Grove.* The Council's arguments are convincing. Although the new owner may wish to review the planning permission, the fact that the new owner is a housebuilder means that delay is unlikely. On the appellant's own evidence that an average lead in time would lead to completions after 2.4 years, it is not unreasonable to expect a delivery of 81 dwellings within the remaining 2.6 years as that would only imply a delivery rate of 31 dwellings per annum, somewhat less than the 45 which the appellant accepts is average for a single-outlet site [56(viii), 158(viii)].
- ix. *Newnham Manor.* Although the Council's arguments are convincing, technically, this site falls outside the NPPF definition of deliverable because, at the close of this Inquiry, permission had not actually been issued (although expected by the time the Secretary of State is likely to make the decision) (100 dwellings to be removed). [56(ix), 158(ix)]
- x. *Land west of Fairmile.* There is no dispute that a detailed application was made in July 2019, revised in 2020 and in 2021 and that a further revision is expected. The application is still not in a form for which the Council is willing to grant permission. On that basis the appellant asserts that the Council has failed to provide cogent evidence that this site will deliver completions within the next five years. But the site is allocated in the development plan, the proposal is only for about 60-70 dwellings which could be delivered within about eighteen months of a permission and the Council expects to be able to give permission in April 2023 which still gives eighteen months leeway for further disagreements and negotiations before the Council's expectation of delivery within five years becomes unconvincing. [56(x), 158(x)]
- xi. *South of Wallingford, site E.* The Council's arguments are convincing; the build-out rate used is 86, not the 132 reported in the appellant's evidence. [56(xi), 158(xi)]
- xii. *The Orchard.* The appellant asserts that there is no clear evidence that objections can be overcome. The Council asserts that Council officers are minded to approve the application subject to agreement of the final wording of the s106 agreement and pre-commencement conditions and that permission is expected to be issued in September 2022. Even if it is not, such a small site is likely to be built out within a year and so three years would remain for any lingering disputes to be settled before the Council's assertion becomes unconvincing. [56(xii), 158(xii)]
- xiii. *Bayswater Brook.* The appellant's arguments are convincing. The lead-in time for a site of this size means that it is unlikely that more than a few dwellings will be completed within five years, if any. (375 dwellings to be removed) [56(xiii), 158(xiii)]
- xiv. *Land west of Hale Road.* Both parties agreed that this site should be regarded as deliverable. [158(xiv)] I concur.

xv. *Land off Pyrton Lane, Watlington.* Both parties agreed that this site should be regarded as deliverable. [158(xv)] I concur.

355. The Council originally claimed a surplus of identified deliverable land sufficient for 677 dwellings over and above its housing requirements for the current five-year period [46, 153]. The exercise carried out above would reduce this surplus to a deficit of 34 dwellings. But that figure is well within the margin of error of the process as my comments on sites (iv), (ix) and (xiii) demonstrate. Although I have concluded that site (ix) should not be counted as deliverable, it would not be unreasonable for the Secretary of State come to a different view which in turn would lead to a different conclusion being reached on whether the Council can or cannot demonstrate a five-year supply of deliverable housing sites. To reach a firm conclusion from the above exercise that the Council can demonstrate an identified supply of deliverable housing land sufficient to meet only 99.4% of its five-year housing land supply requirement and then to conclude therefore that its relevant planning policies should be regarded as out of date would be unreliable and possibly misleading [57, 135].

356. Unfortunately, footnote 8 to NPPF paragraph 11 does not envisage the possibility that a conclusion on housing land supply may be unreliable because of the inherent margins of error involved in the forecasting process. Consequently, I must conclude that the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In turn, I must conclude that the policies which are most important for determining the application must be regarded as out-of-date (but not, necessarily, invalid). It also follows that, to accord with government policy set out in NPPF paragraph 11, I must advise the Secretary of State that planning permission should be granted by allowing the appeal unless either the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed by dismissing the appeal, or that any adverse effects of allowing the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole.

357. To conduct either of those exercises, it is now necessary to look at other issues that may lead to conclusions on whether there are policies protecting areas or assets of particular importance which would provide a clear reason for dismissing the appeal and on whether any adverse effects of allowing the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. I now turn to those matters.

The contribution to housing supply

358. For the second of the two alternate exercises envisioned by NPPF paragraph 11(d), it is necessary to identify and appraise the benefits which the proposal would bring. Although the development of the appeal site may not be necessary to make good any deficiency in the five-year housing land supply for South Oxfordshire and is anyway, unlikely to make much contribution within five years [163, 219], notwithstanding the imposition of recommended conditions 2 and 3 designed to encourage speedy progress, nevertheless there is a government objective of significantly boosting the supply of homes [45]. The 430 new homes which would be provided in this appeal proposal would contribute to the attainment of this objective. That represents 37% of one year's housing requirement for South Oxfordshire. It would probably be built out over a number

of years and so, another way of estimating the benefit of the housing which would be provided, is to note that it would represent about 7.3% of South Oxfordshire's five-year housing land supply requirement. Whichever way it is looked at, it would be a significant contribution, albeit one which is more than is needed, bearing in mind that the Local Plan allocates more land for housing than its requirement [152, 162, 228, 238, 254].

Affordable housing

359. Although the appellant has not recognised the contribution to the supply of affordable housing which the Cholsey Neighbourhood Plan might have made [60, 172, 217], the benefits of the affordable housing which the appeal proposal would provide [58 – 63] are not disputed, could not be met by a succession of small infill developments [90], would comply with Local Plan policy H9 and should be given significant weight [171].

Self-build housing

360. There is no dispute between the two main parties that the fourteen self-build housing plots to be provided would be an important contribution to this niche market, would comply with Local Plan policy H12 and should be given significant weight [64, 173]. I concur.

Specialist Older Person's housing

361. Although the Council argues that the knock-on benefits of specialist older person's housing are those of housing provision in general [170], it is accepted that specialist older person's housing provides public benefits over and above its value as housing [65- 67]. Both main parties are agreed that significant weight should be given to the provision of extra care older person's housing [137, 164]. I concur.

362. In light of that agreement, it seems unnecessary to try to resolve the dispute between the two main parties over the quantity of extra care older person's housing needed in South Oxfordshire (and by inference, the degree of benefit which would result from provision within the appeal proposal) [69-79, 165-169]. The appellant is understandably proud of the research which has been commissioned into assessments of need for older person's housing but although a considerable amount of Inquiry time was spent on presenting and disputing its findings, scrutiny of that research is more appropriately dealt with in a local plan examination than in this s78 appeal.

363. Whether the need in South Oxfordshire is 2.8 times current provision, as the Council accepts, or 4 times current provision, as the appellant argues [168], the conclusion is the same; the proposal would make a significant contribution towards meeting that need [80, 164]. It should be noted that the local planning authority considers that Local Plan policies H1 and H13 are supportive of the provision of all types of specialist provision for older people [68, 164]. If it stood alone, although Cholsey is perhaps not an ideal location for such a facility [220, 238], the part of the proposal which provides for extra care older person's housing would perform well against the criteria of those two Local Plan policies. But, it does not stand alone; it is the lesser part of a large-scale major mixed-use development and so must be considered in the round [147, 170].

Employment, retail and community uses

364. As noted earlier, the 3,000 sq m of employment space proposed is one of the components which places this scheme into the Local Plan category of large-scale major development, to be focused in the Science Vale at Didcot and Culham, not Cholsey and so, contrary to Local Plan policy STRAT1. Nevertheless, although the employment space proposed would be six times the cap in Local Plan policy EMP2 [81, 148], and the Parish Council considers the proposed floorspace disproportionate [222], the Council accepts that it would not be out of scale with the village and so would comply with Cholsey Neighbourhood Plan policy 18 [82, 83, 149]. It did not challenge the Bidwell's Commercial Strategy report which justified the quantity of employment floorspace as necessary to create a critical mass [81]. The Council's ambivalence leads me to conclude that although this element of the proposal would be contrary to Local Plan policies STRAT1 and EMP2, any harm would be limited.
365. There is no suggestion that the quantity of retail floorspace proposed would be other than proportional to the residential floorspace of the appeal [84]. But it would result in a second village centre to rival that of the historic village. It would be more centrally sited in relation to the present geographical extent of Cholsey and so better placed to be more successful [18, 150, 222, 239-241, 258] but there is no substantive evidence to show that the outcome would be harmful or contrary to any Local Plan policy.
366. Likewise, there is no suggestion that the community building would be other than appropriate to serve the needs of the older person's housing and so I conclude that its inclusion would cause no harm. On the other hand, it offers no special benefits because Cholsey is already well provided with community meeting places [85].

Transport

367. By the close of the Inquiry, this issue had been resolved to the satisfaction of the two main parties [93, 205], but not of the Parish Council [94, 223]. The appellant provided sufficient information to assess the impact of the development on the highway network, especially the roundabouts on the Wallingford bypass. Funding for the identified improvements is enshrined in the s106 agreement. Adequate information to demonstrate safe vehicular and pedestrian access to the development has been provided. Arrangements for funding or carrying out the accesses to the development, the improvement of pedestrian conditions on Ilges Lane and a safe crossing of Reading Road are written in to the s106 agreement. All these are mitigations of the effects of the proposals rather than planning benefits meeting community desires [94, 205, 223] but they secure compliance with Local Plan policies TRANS 2, 4 and 5.
368. Although not part of any reason for refusal, bus infrastructure and a contribution towards improving the local bus service have also been secured, which would be a public benefit, albeit not one altering the fundamental characteristics of Cholsey as a less than ideally sustainable location having a good train service on the edge of the village but a somewhat poorly designed bus service [18, 220, 259]. Overall, the transport proposals associated with the development accommodate and reinforce a dependence on less sustainable transport methods characteristic of Cholsey [238].
369. The appellant did not challenge the potential duplication of payment from CIL and from the s106 obligation in respect of transport matters as was done for

education [117-122], even though the Council's current CIL Spending Strategy states that 50% of CIL available is to be passed to the County Council to spend on transport amongst other matters [118] and there is no suggestion that its currently drafted revisions to policy would exclude transport from the benefit of CIL funding. Nevertheless, the same considerations apply. Although, in the light of the funding gap for transport, it is most unlikely that any of the transport provisions of the s106 agreement would be fully funded from CIL, it is nevertheless theoretically possible that the Council could choose to use CIL funding to contribute to the transport matters listed in the s106 agreement. In the event that that were actually to happen, there needs to be a mechanism to ensure that, although contributions from both sources would be acceptable, the appellant does not pay for the same matter twice over (once in full through CIL and once in full through s106). Such a mechanism was used in the Siege Cross appeal decision referred to by the parties [122, 192].

370. I therefore recommend that the Bus Infrastructure Contribution and the Bus Service Improvement Contribution set out in the sixth schedule of the s106 agreement be found to be necessary to make the development acceptable in planning terms only to the extent that such contributions are reduced in parallel with any contribution which outturns show to have been made from CIL funding and that the planning obligations concerned are a material consideration in determining this appeal only to that extent.
371. It might be argued that the Bus Service Improvement Contribution should be part of the Council's general function of securing bus services; a service funded through revenue expenditure and provided across the County, not just to the appeal development. But the County Council's Regulation 122 Compliance Statement makes it clear that bus route 136 which serves Cholsey is funded by s106 contributions from a number of developments to provide service improvements and to provide "pump priming" until the service is viable. As such, the s106 contribution is directly related to the development and fairly and reasonably related in scale and kind in that the service improvement would not otherwise take place. There is no question of the resident population contributing to the Council's revenue funding to pay for the service improvements both for the development and for the entire county, as well as through the s106 agreement. Consequently, I am satisfied that the transport elements in the sixth schedule of the s106 agreement meet the CIL regulation requirements and should be a material consideration in the determination of the appeal.

Green infrastructure and open space

372. Although not a reason for refusal of the application, at a late stage in the Inquiry a dispute emerged between the two main parties concerning the adequacy of the green infrastructure and open space to be provided within the proposal. There are inconsistencies in the information provided by the appellant (eg concerning allotments, at one point confirming their omission but at another point confirming their provision as the appellant responded to information from the Parish Council, concerning their need, which changed over time) which led to an accusation that the appellant was making up the case as the Inquiry proceeded [108-112, 186-190].
373. That was unfortunate but it has to be remembered that the proposal is made in outline, so it is unrealistic to expect firm detail at this stage. No quantification

of open space or landscaping is included within the description of development or the parameters plans. Both landscaping and layout are reserved matters, details of which are not supplied at this stage. Information within the Environmental Statement suggests that a total of 8.72 ha of green infrastructure will be provided [33, 34, 108 and footnotes 92-95] which was confirmed in evidence [110-112]. The s106 agreement commits to a minimum of 6.19ha [268], which would comply with the Council's Local Plan policies ENV5 and CF5 requirements [187].

374. What is clear is that both main parties are agreed that just over 70% of the site would be covered by urban development [186], leaving just under 30% available for green infrastructure [109]. That should be sufficient to provide adequate green infrastructure in making detailed applications [107, 109] but it is correct to say that it would be a mitigation of the effects of an additional population, not a planning gain [185, 226]. The biodiversity net gain calculated on the basis of the outline application is disappointing but Local Plan policy ENV3 simply requires a net gain where possible and does not specify a minimum quantity, so the proposal would be policy compliant. Again, there should be room for improvement in the submission of detailed matters [184].

Heritage

375. The reason for refusal relating to this issue concerned only a lack of information; no positive harm was alleged. By the end of the Inquiry, sufficient information had been supplied to convince the Council that, in terms of NPPF paragraph 202, any less than substantial harm to the significance of the milestone caused by the development would be outweighed by the public benefits of its restoration [95, 205]. I concur and have recommended condition 10 to secure the milestone's restoration in accordance with Local Plan policy ENV7.

Minerals

376. The proposed development would not itself directly affect any identified minerals deposit but its northern edge would lie within the consultation area of a protected minerals deposit lying to the north of the site. There was concern that, were the site to be developed as proposed, the protection of the new housing from the effects of any minerals working of the identified deposit would stymie the exploitation of the asset. But, in fact, it was shown that existing housing to the north of the site would already have that effect and that approval of the appeal proposal would make no difference to the situation [115]. The proposal would therefore comply with Local Plan policy EP5 and with Oxfordshire Minerals and Waste Local Plan Part 1 policy M8.

Water and sewerage

377. This issue was the focus of concerns by the Parish Council and local residents [225, 246-248]. It can be addressed by recommended condition 14 [305] to ensure compliance with Local Plan policy INF1(4).

Best and Most Versatile Agricultural Land

378. All parties accept that development of the site would result in the loss of approximately 26.25ha Best and Most Versatile agricultural land [44, 206, 221]. Although not a reason for refusal, all parties agree that the loss is a significant effect to be taken into account in the decision [205, 206, 232], in accordance with NPPF paragraph 174 (b) which advises that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the Best and Most Versatile agricultural land. As an agricultural field, it is a carbon sink [237, 252-253]. The difficulties of the present owner in making the land financially viable [43] should not be a consideration, since ownership, tenancy, or occupancy can change, leading to potentially different circumstances of viability [207].
379. I conclude that the loss of the agricultural land would be a significant material harm. Its economic and other benefits should be recognised in accordance with NPPF paragraph 174 (b). Its loss would conflict with Local Plan policy DES7 (vii) which requires new development to avoid the development of the Best and Most Versatile agricultural land, unless it is demonstrated to be the most sustainable choice from reasonable alternatives, by first using areas of poorer quality land in preference to that of a higher quality.

The planning balance

380. In this section of my report, I undertake the analyses required by NPPF paragraphs 11 and 14, referred to in earlier paragraphs (345, 356) of this report to synthesise an overall conclusion.
381. Consideration of NPPF paragraph 176 indicates that the issue of landscape character in terms of effects on the AONBs and their settings has the potential to be a policy in the Framework which would provide a clear reason for refusing the development proposed in accordance with NPPF paragraph 11(d(i)). Many third parties take that view [258, 259]. But, my conclusions reached earlier in paragraphs 320 and 329 (and shared by the landscape experts) are that such would not be the case in this appeal. Consequently, the appropriate parameters for a decision are NPPF paragraphs 11 (d(ii)), 12 and 14.
382. NPPF paragraph 11 (d(ii)) advises that planning permission should be granted by allowing the appeal unless any adverse effects of allowing the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. NPPF paragraph 14 modifies that presumption in circumstances where all of four circumstances apply. In this case, the reviewed neighbourhood plan has become part of the development plan two years or less before the date on which the decision is to be made [13, 22]. The neighbourhood plan contains policies and allocations to meet its identified housing requirement [46, 214, 217, 230]. The local planning authority has at least a three-year supply of deliverable housing sites (my conclusion, paragraph 355, already reached) and the local planning authority's housing delivery was at least 45% of that required over the three previous years [46, 155] (my conclusion, paragraph 346, already reached) and so, all four circumstances apply and so both NPPF paragraphs 11 and 14 are engaged. They require a balance to be struck.
383. The development plan is the starting point for decision taking. The appeal proposal complies with, or can be required to comply with, many of the relevant

- development plan policies; H9, H12, H13, INF1, TRANS2, TRANS4, TRANS5, ENV1, ENV3, ENV5, ENV7, EP5, and CF5. It would not comply with STRAT1, EMP2, DES7(vii) and CNP STRAT1. In reporting on the various issues in this appeal, a conclusion has been reached in each section, including a weighting for the degree of harm or benefit identified. But not all issues are created equal; some are inherently more important than others.
384. Landscape is undoubtedly a matter of some import (policy ENV1). But, the overall effect of the proposal on landscape character would be neutral. The fifty or so households who would lose an attractive view across the site does not amount to a matter of public interest.
385. The loss of Best and Most Versatile Agricultural Land (policy DES7(vii)) ought to be a major consideration, even though not a reason for refusal. Its loss is sometimes taken for granted, as though development cannot happen without such a loss. In many cases, that is true. In South Oxfordshire it is a fact that the Council's development strategy includes a considerable amount of agricultural land and that much agricultural land in South Oxfordshire is categorised as Best and Most Versatile [44]. Even so, that should not cause us to overlook the effects on food production and carbon reduction which ensue from its development.
386. Education infrastructure is also a major consideration (policy INF1). There is a technical solution to the provision of school buildings [140]. But, it would be, in planning terms, sub-optimal; imposing travel demands, costs and time on secondary school children who would be housed in the development as well as those displaced by them from Wallingford School. That is a manifestation of its conflict with the spatial development strategy of the Local Plan (policies STRAT1, CNP STRAT1 and EMP2).
387. That conflict would be manifest in other ways too, as residents of the development seek health, employment and other facilities not provided within Cholsey itself [225, 251]. Again, there is a technical solution to the problem; enlarging road capacity to accommodate the demand for increased travel arising from the development identified by the appellant's own transport studies and by the County Highway Authority's objections to the scheme [37, 93] (policies TRANS 2, 4 and 5) but that flies in the face of the advice in NPPF paragraph 105 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
388. The fact of development itself is an economic and social benefit [138, 208] at a time when the national economy is sluggish. The proposal has a critical mass which provides it with a degree of self-sufficiency and an ability to contribute somewhat to public benefits [90-92, 141].
389. Housing is important but the local authority area is not deficient in terms of the allocations within its plan which are well in excess of requirements. [152, 217, not contested by appellant] The dispute is only about the deliverability of what has been identified. Within the next five years it has a calculated deliverability deficiency so marginal that it is barely identifiable and one to remedy which the proposal is unlikely to be up and running in time to make much contribution. So, although the size of the development would make its contribution to housing supply significant, its value is moderate because this

particular development is not really needed at the present time. That may change as the years pass but would be a matter for future iterations of the Local Plan to judge.

390. The same cannot be said for affordable housing or for specialist older person's housing (policies H9 and H12). Although one might expect the former to be delivered in proportion to the local authority's general housing delivery, the prevalence of small sites results in an inadequate delivery of affordable housing. The proposal's contribution to affordable housing supply would be both significant and valuable but cannot be separated from the totality of the development as a whole. The same is true of the extra care older person's housing which forms the lesser part of the scheme overall [142].
391. Other issues are of less import. The proposed employment, retail and community uses do not stand out as particularly beneficial or as particularly harmful, despite being contrary to policy EMP2; they offer some benefits but also some harms. Overall, they make a neutral contribution to the outcome. Green infrastructure is necessary to make a development acceptable (policies ENV5 and CF5). This scheme would not fall short but neither would it offer substantial benefits over and above what might be expected [139, 210]. Water and sewerage would be provided (policy INF1(4)). No minerals assets would be constrained (policy EP5). A small heritage asset would be restored (policy ENV7). That would be a benefit but, in the grand scheme of things, would be a trivial matter.
392. Overall, the matter can be seen to have weighty considerations on both sides. The provision of affordable housing and extra care older person's housing speak volumes in favour of the scheme. But, it's in the wrong place; added to the harm from a loss of agricultural land (policy DES7(vii)) are the harms which flow from the fact that Cholsey is not a well-endowed location, which is probably why the development plan strategy does not allocate to it development of the scale proposed in this appeal. Despite the proposal's compliance with many specific policies of the development plan, it cannot be said to accord with the development plan taken as a whole if it is fundamentally at odds with the plan's strategy.
393. In terms of the issues as originally identified [11], I conclude that the proposal would not represent sustainable development because of its effects on economic matters such as Best and Most Versatile Agricultural Land, sustainable transport and the strategy for the development of land and on social infrastructure in terms of schools. These adverse effects would significantly outweigh its positive effects on social matters such as the supply of affordable housing and of specialist housing for older people or by its neutral or mildly beneficial effects on other components of sustainable development.
394. There is also an elephant in the room which has not been hitherto discussed. That is, the effect on public faith in the plan-led system were this appeal to be allowed. NPPF paragraph 15 advises that the planning system should be genuinely plan-led. South Oxfordshire has an up-to-date Local Plan in which considerable public involvement has been invested. Although complying with some of its policies, the appeal proposal would be contrary to the strategy of that Local Plan as well as to others of its policies. Cholsey has a Neighbourhood Plan which has just been reviewed, which has engaged a considerable proportion of

the local population [211, 213, 214, 231,243-245] and which has preferred other sites for development over the appeal site [30]. It would harm public confidence in that process were this appeal to be allowed.

Recommendation

File Ref: APP/Q3115/W/22/3296251

395. I recommend that the appeal be dismissed.

P. W. Clark

Inspector

SCHEDULE OF CONDITIONS

- 1) Details of the access (other than those shown on drawings IPD-16-386-132 revision C and IPD-16-386-133 revision C), appearance, landscaping, layout, and scale for each phase of the development hereby permitted, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of the relevant phase takes place and the development shall be carried out and thereafter retained as approved.
- 2) Application for approval of the reserved matters for the first phase of development shall be made to the local planning authority not later than eighteen months from the date of this permission and for other phases of development not later than three years from the date of this permission.
- 3) The commencement of each phase of the development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved relating to the phase concerned.
- 4) The development hereby permitted shall comprise no more than 350 dwellings in C3 use and 80 units in C2 use (extra care) and no more than the following non-residential floor space:
 - 3,000sqm of employment floor space in Class E(g) (i) or (ii) use
 - 250sqm of convenience retail and 200sqm comparison retail in class E(a) use
 - 500sqm children's day nursery in Class E(e) use
 - A Community building serving the C2 use but including communal space suitable for group activities and events for the community

The creation of any additional floorspace within the non-residential approved buildings shall not be undertaken without the prior written consent of the local planning authority, by way of a further application for planning permission.

The buildings/premises approved for the uses specified shall not be used for any purposes other than the specified Classes of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order).

- 5) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - IPD-16-386-132C Northern Access-Layout1
 - IPD-16-386-133C Southern Access-Layout1
 - Parameter Plan - Land Use and Density (5775 4.2 SK-005 Rev C)
- 6) The development hereby permitted shall reinforce the existing hedgerow, retain the existing woodland belt and provide new woodland belt and public open space in the fixed locations shown on Parameter Plan - Landscape and Open Space (5775 4.2 SK-004 Rev C) and shall provide public open space, public urban open space and new hedgerow and tree planting approximately in the indicative locations shown on that Parameter Plan.

- 7) The development hereby permitted shall be laid out to include a principal street, vehicular access, pedestrian and cycle connection point and bus route in the locations shown on Parameter Plan - Movement (5775 4.2 SK-003 Rev C) and shall provide a pedestrian and cycle route, the potential for a pedestrian and cycle connection to Agatha Christie Way and bus stops approximately in the locations shown indicatively on that Parameter plan.
- 8) Prior to the submission of any Reserved Matters or details required by other conditions, a Phasing Plan for the site shall be submitted for approval in writing by the local planning authority. The Phasing Plan shall include a spatial illustration of the quantities of development, phasing and timescales in each phase for the delivery of the following:
- Numbers of dwellings and density, to include C2 extra care units where relevant
 - Open space including play areas
 - Park and open space relative to the delivery of number of dwellings
 - Non-residential elements of the development

The development shall be implemented in accordance with the approved Phasing Plan.

- 9) No development shall take place on any phase until the following information shall have been submitted to and approved in writing by the local planning authority:
- The results of a targeted Phase 2 intrusive site investigation as recommended in paragraph 8.5 of report Land Quality Assessment: Phase 1 Geo-environmental Desk Study dated November 2018 by Wardell Armstrong (Job number ST15372, report number 008) and, if contaminated land is identified by that investigation, details of measures to remediate the contamination.
 - An Archaeological Written Scheme of Investigation and a programme of archaeological mitigation.
 - A full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings.
 - Full details of the proposed finished floor levels of all buildings and hard landscaped surfaces.
 - Details of parking provision for vehicles and bicycles
 - Details of both surface water and foul drainage
 - Details of refuse and recycling storage
 - Details of utilities and services layout and runs, including broadband
 - Details of street and amenity lighting
 - Details of dwelling mix and of the 15% of market housing designed to meet the standards of Part M(4) Category 2 of the Building Regulations

- Details of energy efficiency measures and measures to reduce carbon emissions to accord with Local Plan policies DES7 (1(iii)), DES8 and DES10

The development shall be carried out and subsequently retained in accordance with the approved details. No phase of development shall be occupied until any remediation of contaminated land required by this condition has been carried out and a validation report confirming completion of remediation has been submitted to and approved in writing by the local planning authority. No building shall be occupied until provided with its approved parking provision, drainage, refuse and recycling storage, utilities and services and measures to secure energy efficiency and to reduce carbon emissions.

- 10) No works to construct the accesses to the development shall take place until the listed milestone within the site, on the verge of Reading Road, has been relocated and restored in accordance with the fourth bullet point of paragraph 6.1.4 of the Heritage Statement dated March 2021 prepared by Wardell Armstrong (Job number ST15372, report number 005, version v1.0) submitted with the application.
- 11) No development shall take place on any phase until the recommendations of paragraph 5.1.7 of the Arboricultural Impact Assessment by Wardell Armstrong dated March 2021 (Job number ST15372, report number 012 version V1.0) have been applied in accordance with the Tree Protection Plan, drawing number ST15372-009 revision B appended to that Assessment. The tree protection shall remain in place until the completion of development on the relevant phase.
- 12) No development shall take place on any phase until details of the thinning to the existing woodland on site, recommended in paragraph 5.1.6 of the Arboricultural Impact Assessment by Wardell Armstrong dated March 2021 (Job number ST15372, report number 012 version V1.0), have been submitted to and approved in writing by the local planning authority. The development shall be carried out and subsequently retained in accordance with the approved details.
- 13) No development shall take place on any phase, including any works of demolition, until a Construction Method Statement for that phase has been submitted to, and approved in writing by the local planning authority. The Statement shall provide (amongst other matters) for:
 - i) the protection of biodiversity features, habitats and species during construction;
 - ii) the stripping and storage of topsoil during construction;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vii) wheel washing facilities;
 - viii) measures to control the emission of dust and dirt during construction;
 - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;

x) delivery, demolition and construction working hours.

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

- 14) No part of the development shall be occupied until confirmation has been provided to the local planning authority that either: - all off-site water network upgrades and all off-site wastewater network upgrades required to accommodate the additional flows to serve the development have been completed; or - a development and off-site infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and off-site infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.
- 15) No phase of the development shall be occupied until Framework, Residential (including Travel Information Pack) Retail, Nursery and Workplace Travel Plans applicable to the phase concerned have been submitted to and approved in writing by the local planning authority. Thereafter, upon occupation, the agreed Travel Plans shall be fully implemented and the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.
- 16) No non-residential premises shall be occupied until details of its operating hours and the extent to which noise-generating activities would occur or food would be prepared on the premises have been submitted to and approved in writing by the local planning authority. No occupation shall occur other than in accordance with the approved details.
- 17) No more than 150 dwellings shall be occupied before the route and infrastructure for a bus service indicated on Parameter Plan - Movement (drawing number 5775 4.2 SK-003 Rev C) is made available within the site.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert Of Counsel

She called

Thomas Rice BA Msc MRTPI Principal Planning Policy Officer, South Oxfordshire District Council

Barbara Chillman BSc PGCE MA Pupil Place Planning Service Manager, Oxfordshire County Council

Tracy M Smith BA BTCP MRTPI Principal Appeals Officer, South Oxfordshire and Vale of White Horse District Councils

Peter Radmall MA BPhil CMLI Principal, Peter Radmall Associates Ltd

Michael Spence BA(Hons), MLD, CMLI, REIA, FRGS Founder, MS Environmental

Nichola Smith (SODC), Sarah Commins (SODC), Geoff Arnold (OCC) and Judith Cope (OCC) took part in round table discussions on conditions and planning obligations

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He called

Beryl Guiver BSc MSc DipTP MRTPI Cholsey Neighbourhood Plan Steering Group

Daniel Leaver BSc(Hons) BLD CMLI Landscape Planning Associate Director, Stephenson Halliday

Kyn Pomlett took part in round table discussions on planning obligations

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Chair, CPRE Oxfordshire and Chair, Cholsey
Community Development Trust

Liz Nixon

Local resident

Ginnie Herbert

Chair, Climate and Environmental Emergency
Working Group, Cholsey Parish Council

Sam Park

Local businessperson

Judy Collins

Local resident

Dr Duncan Reed

Local resident and retired member of Chartered
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Val Bolt BEM

Chair, Cholsey Community Development Trust,
Vice-chair of Cholsey Parish Council

Cllr Dr Sue Roberts

South Oxfordshire District Councillor

Charles Lambert

Local resident

Joanne Baker

Moulsford resident and Parish Councillor

DOCUMENTS submitted during the Inquiry

INQ1	Summary of recent updates on major sites
INQ2	Letter dated 31 January 2022 from Leaders of Oxfordshire Councils to the Rt Hon Michael Gove MP
INQ3	Petition; No to Leavesley housing development
INQ4	The objections of Cholsey children
INQ5	Covenant on Cholsey Meadows properties restricting display of posters
INQ6	Appellant's written response on the provision of green infrastructure and public open space

CORE DOCUMENTS referred to during the Inquiry

(NB, not all documents referred to during the Inquiry are listed as Core Documents. Those not listed are referenced in footnotes to the text.)

1. Application Documents and Plans

CD 1.1	Site Location Plan (IPD-16-386-104)
CD 1.2	Illustrative Masterplan (5775 4.2 SK-002 Rev C)
CD 1.3	Parameter Plan - Movement (5775 4.2 SK-003 Rev C)
CD 1.4	Parameter Plan - Landscape and Open Space (5775 4.2 SK-004 Rev C)
CD 1.5	Parameter Plan - Land Use and Density (5775 4.2 SK-005 Rev C)
CD 1.6	Phasing Plan (IPD-16-386-150)
CD 1.7	Environmental Statement
CD 1.8	ES Non-Technical Summary
CD 1.9	ES Appendix 1.1 - Location plan – As CD1.1
CD 1.10	ES Appendix 1.2 - Parameter Plans – As CD1.3 to CD1.5
CD 1.11	ES Appendix 1.3 - Illustrative Masterplan – As CD1.2
CD 1.12	ES Appendix 2.1 - Screening Request
CD 1.13	ES Appendix 2.2 - Screening Opinion Decision Notice (PART A)
CD 1.14	ES Appendix 2.2 - Screening Opinion Letter (PART B)
CD 1.15	ES Appendix 2.2 - EIA ANALYSIS Report (PART C)
CD 1.16	ES Appendix 2.3 - EIA Scoping Report
CD 1.17	ES Appendix 2.4 - EIA Scoping Opinion
CD 1.18	ES Appendix 2.5 - Mineral Resource Assessment
CD 1.19	ES Appendix 2.6 - Circular Economy Statement
CD 1.20	ES Appendix 2.7 - Correspondence with OCC (Minerals and Waste)
CD 1.21	ES Appendix 4.1 - Phasing Plan @A1
CD 1.22	ES Appendix 6.1 - Copies of Relevant Correspondence
CD 1.23	ES Appendix 7.1 - Legislation Policy and Guidance
CD 1.24	ES Appendix 7.2 - Copies of Relevant Correspondence
CD 1.25	ES Appendix 7.3 - Methodology
CD 1.26	ES Appendix 7.4 - Construction Mitigation Measures
CD 1.27	ES Appendix 8.1 - Construction Dust Assessment Methodology
CD 1.28	ES Appendix 8.2 - Dispersion Model Inputs - Verification and Performance
CD 1.29	ES Appendix 8.3 - Emissions Impact Calculation
CD 1.30	ES Appendix 8.4 - Construction Phase Mitigation
CD 1.31	ES Appendix 8.5 - Operational Phase Dispersion Modelling Results
CD 1.32	ES Appendix 9.1 - Legislation Policy and Guidance

CD 1.33	ES Appendix 9.2 - Landscape and Visual Impact Assessment Methodology
CD 1.34	ES Appendix 9.3 - (Part 1) OWLs Extracts
CD 1.35	ES Appendix 9.3 - (Part 2) SODC Landscape Capacity Assessment 2015
CD 1.36	ES Appendix 9.4 - Landscape Character Plan
CD 1.37	ES Appendix 9.5 - Landscape Designations Plan
CD 1.38	ES Appendix 9.6 - Photoview Location Plan
CD 1.39	ES Appendix 9.7 - Photoview Tables
CD 1.40	ES Appendix 9.8 - Photomontage Viewpoint Location Plan
CD 1.41	ES Appendix 9.9 - Photomontages_Part1
CD 1.42	ES Appendix 9.9 - Photomontages_Part2
CD 1.43	ES Appendix 9.10 - Night time Views
CD 1.44	ES Appendix 9.11 - Green Infrastructure and Recreation Strategy
CD 1.45	ES Appendix 10.1 - Heritage Statement
CD 1.46	ES Appendix 10.2 - Historic Maps
CD 1.47	ES Appendix 10.3 - Geophysical Survey Report
CD 1.48	ES Appendix 10.4 - Archaeological Evaluation
CD 1.49	ES Appendix 10.5 - Legislation and National Planning Policy and Guidance
CD 1.50	ES Appendix 11.1 - Soils and Agricultural Land Policy and Guidance
CD 1.51	ES Appendix 11.2 - Soils and Agricultural Land Assessment Methodology
CD 1.52	ES Appendix 11.3 - Soil and Agricultural Land Classification (November 2018)
CD 1.53	ES Appendix 12.1 - Flood Risk Assessment (Part 1 & 2)
CD 1.54	ES Appendix 12.2 - Water Related Legislation Policy and Guidance
CD 1.55	ES Appendix 12.3 - Consultee Correspondence
CD 1.56	ES Appendix 12.4 - Good Practice Guide and Guidance Documents to Protect the Water
CD 1.57	ES Appendix 13.1 - Relevant Policy
CD 1.58	ES Appendix 13.2 - Consultation Extract
CD 1.59	ES Appendix 13.3 - Methodology
CD 1.60	ES Appendix 14.1 - Relevant Climate Change Policy
CD 1.61	ES Appendix 14.2 - Climate Change Assessment Methodology
CD 1.62	ES Appendix 14.3 - Energy Strategy
CD 1.63	ES Appendix 15.1 - Relevant Legislation Policy and Guidance
CD 1.64	ES Appendix 15.2 - Land Quality Assessment Phase 1 Geo-Environmental Desk Study (2018) Pts 1 to 3
CD 1.65	ES Appendix 15.3 - Relevant Correspondence
CD 1.66	ES Appendix 16.1 - Updated Preliminary Ecological Appraisal
CD 1.67	ES Appendix 16.2 - Bat Survey Report
CD 1.68	ES Appendix 16.3 - Biodiversity Offsetting Report
CD 1.69	ES Drawing ST15372 006 - Agricultural Land Classification
CD 1.70	ES Figure 7.1 - Sensitive Receptor Locations
CD 1.71	ES Figure 7.2 - Predicted 2020 External Daytime Noise Levels_dB LAeq_16 hours
CD 1.72	ES Figure 7.3 - Predicted 2020 Internal Night-time Noise Levels_dB LAeq_8 hours
CD 1.73	ES Figure 7.4 - Predicted Internal Night-time Noise Levels dB LAm _{ax}
CD 1.74	ES Figure 7.5 - Predicted 2035 External Daytime Noise Levels_dB LAeq_16 hours

- CD 1.75 ES Figure 7.6 - Predicted 2035 Internal Night-time Noise Levels_dB LAeq_8 hours
- CD 1.76 ES Figure 7.7 - Predicted 2035 External Daytime Noise Levels (With Development) dB LAeq_16 hours
- CD 1.77 ES Figure 7.8 - Predicted 2035 Internal Night-time Noise Levels (With Development) dB LAeq_8 hours
- CD 1.78 ES Figure 7.9 - Predicted Internal Night-time Noise Levels (With Development) dB LAmax
- CD 1.79 ES Figure 7.10 - Predicted LAeq_16hr dB_Sound Levels Across the Proposed Development - With Mitigation
- CD 1.80 ES Figure 8.1 - Monitoring Locations
- CD 1.81 ES Figure 8.2 - Construction Dust Buffers
- CD 1.82 ES Figure 8.3 - Modelled Road Network and Human Receptors
- CD 1.83 ES Figure 10.1 - Prehistoric Roman Early Medieval and Medieval Heritage Assets
- CD 1.84 ES Figure 10.2 - Designated Heritage Assets
- CD 1.85 Cholsey AHS v3
- CD 1.86 AIA Cholsey FINAL v1.0 05_03_21
- CD 1.87 Circular Economy Statement
- CD 1.88 5775 Cholsey Fields DAS V7 200820 (Design & Access Statement)
- CD 1.89 Mineral Resource Assessment
- CD 1.90 Planning Statement
- CD 1.91 IPD-16-386 T.002c TRANSPORT ASSESSMENT Pts 1 to 12
- CD 1.92 IPD-16-386 R.001a TRAVEL PLAN 2021-03-01 Pts 1 & 2
- CD 1.93 Land off Papist Way Affordable Housing Statement

2. Additional/Amended reports and/or Plans submitted after validation

- CD 2.1 IPD-16-386 OUTLINE CTMP PROFORMA 10.07.2020
- CD 2.2 IPD-16-386-R010-RSA Stage 1 Response Report
- CD 2.3 IPD-16-386-R011- Offsite Jct RSA Stage 1 Response Report
- CD 2.4 IPD-16-386-R020-Cholsey Safer Routes Study Response Report
- CD 2.5 SA2942 Leavesley Reading Road Cholsey Safe Routes Study Report
- CD 2.6 SA2943 Leavesley Reading Road Cholsey S278 RSA1
- CD 2.7 SA2985 J T Leavesley, Reading Road, Cholsey, S278 RSA1 Report Offsite
- CD 2.8 Cholsey Fields Crime Prevention Statement FINAL
- CD 2.9 Air Quality Report Update
- CD 2.10 Biodiversity Offsetting Report Update
- CD 2.11 Drainage Response - IPaD Technical Note
- CD 2.12 Forestry Response - IPaD Technical Note
- CD 2.13 IPD-16-386-132b Northern Access-Layout1
- CD 2.14 IPD-16-386-133b Southern Access-Layout1
- CD 2.15 Transport-Highway Response - IPaD Technical Note
- CD 2.16 Education Mitigation, Papist Way, Cholsey (P21/S/503/O)
- CD 2.17 WA Response to LVIA-DAS comments re: P21/S/1503/O
- CD 2.18 Education at Cholsey Fields Oxfordshire.pdf

3. Committee Report and Decision Notice

- CD 3.1 Delegated Report
- CD 3.2 Decision Notice

4. The Development Plan

South Oxfordshire District Council

- CD 4.1 South Oxfordshire Local Plan 2035
- CD 4.2 SODC Local Plan Inspector's Report
- CD 4.3 SHMA Report 2014
- CD 4.4 Cholsey Neighbourhood Plan (spring 2019 V3 (Made))
- CD 4.4.1 Cholsey-Examiners-Report-19-12-2018
- CD 4.5 Cholsey Neighbourhood Plan (submission version)
- CD 4.6 Appellant's representations to the submission version CNP
- CD 4.7 Cholsey Neighbourhood Plan Review – Modification Statement
- CD 4.8 South Oxfordshire CIL Spending Strategy April 2021
- CD 4.9 South Oxfordshire Regulation 123 List August 2017
- CD 4.10 South Oxfordshire District Council developer contributions SPD Draft February 2022
- CD 4.11 South Oxfordshire District Council Draft CIL Charging Schedule, Submission Version (June 2022)
- CD 4.12 South Oxfordshire District Council Draft Community Infrastructure Levy (CIL) Infrastructure Funding Gap Statement (February 2022)
- CD 4.13 S106 Planning Obligations SPD April 2016
- CD 4.14 South Oxfordshire District Council CIL Charging Schedule April 2016

Oxfordshire County Council

- CD 4.15 Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy – policy M8
- CD 4.16 OCC Cycling Design Standards 2017
- CD 4.17 OCC Walking Design Standards 2017

5. Additional material submitted after determination of the application

- CD 5.1 Non-Technical Summary - July 2022 update
- CD 5.2 ES Update Summary Statement - July 2022

6. Relevant Appeal Decision/Judgements

- CD 6.1 Land at Crowell Road, Chinnor APP/Q3115/W/21/3289271 appeal decision
- CD 6.2 Land at Wheatley Campus APP/Q3115/W/19/3230827 appeal decision
- CD 6.3 Land at Lady Grove APP/Q3115/W/21/3272377 appeal decision
- CD 6.4 Little Sparrows Sonning Common Appeal decision APP/Q3115/W/20/3265861 appeal decision
- CD 6.5 Dancing Lane Wincanton Decision APP/R3325/A/12/2170082
- CD 6.6 Picket Piece Andover Decision (determined by the Secretary of State under recovery powers) (appeal APP/X3025/A/10/2140962)
- CD 6.7 Land at Caddywell Lane appeal (ref. W1145/W/19/3238460)
- CD 6.8 Land off Popes Lane, Sturry, Kent appeal (ref. APP/J2210/W/18/3216104)
- CD 6.9 Land to the south of Cox Green Road Rudgwick, Surrey appeal (ref. APP/R3650/W/19/3227970)

- CD 6.10 Burston Nurseries Ltd, North Orbital Road, Chiswell Green, St. Albans AL2 2DS Appeal Ref: APP/B1930/W/21/3279463
- CD 6.11 Epsom General Hospital, Dorking Road, Epsom KT18 7EG APP/P3610/W/21/3276483
- CD 6.12 Land to the west of Leamington Road, Broadway, Worcestershire APP/H1840/A/14/2224292
- CD 6.13 Land to the rear of 237-259 London Road, West Malling, Kent ME19 5AD APP/H2265/W/18/3202040
- CD 6.14 The Knowle, Station Road, Sidmouth, Devon, EX10 8HL APP/U1105/W/17/3177340
- CD 6.15 Appeal Decision APP-Q3115-19-3220425 Lower Shiplake
- CD 6.16 PC Building Supplies, 2 South Street, Hythe SO45 6EB APP/B1740/W/18/3198347
- CD 6.17 The Bailey, Branksomewood Road, Fleet GU51 4JU APP/N1730/W/18/31997972
- CD 6.18 Land at The Elms, Upper High Street, Thame OX9 2DN APP/Q3115/W/19/3228431
- CD.6.19 Beechmoor Garden Centre, Whitchurch Road, Great Boughton, Chester CH3 5QD APP/A0665/W/18/3203413
- CD 6.20 Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL APP/D3830/W/19/3241644
- CD 6.21 Kent and Surrey Golf and Country Club, Crouch House Road, Edenbridge APP/G2245/W/21/3271595
- CD 6.22 Homebase, New Zealand Avenue, Walton-on-Thames Surrey APP/K3605/W/20/3263347
- CD 6.23 Land to the North of Bath Road, Pickwick, Corsham APP/Y3940/W/21/3276908
- CD 6.24 Epsom General Hospital, Dorking Road, Epsom APP/P3610/W/21/3272074 and APP/P3610/W/21/3276483
- CD 6.25 Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and anor (Respondents) Richborough Estates Partnership LLP and anor (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37
- CD 6.26 Wavendon Properties Ltd v Secretary of State for Housing, Communities and Local Government 14 Jun 2019 [2019] WLR(D) 379, QBD
- CD 6.27 Wavendon Properties Ltd v Secretary of State for Housing, Communities and Local Government - Viewing document - ICLR
- CD 6.28 Cawrey Limited v SOSLG and others [2016] EWHC 1198 (Admin
- CD 6.29 18-04-26_DL_IR_Land at Mansfield Road, Farnsfield, Newark NG22 8JH
- CD 6.30 St Modwen Judicial Appeal Decision
- CD 6.31 East Bergholt Parish Council v Babergh DC
- CD 6.32 Hallam Land Management Ltd v SoS for Communities and Local Government
- CD 6.33 Crane v Secretary of State for Communities and Local Government
- CD 6.34 Monkhill Ltd v Secretary of State for Housing Communities and Local Government
- CD 6.35 Solo Retail Ltd v Torridge DC
- CD 6.36 Land at Sandown Park, Royal Tunbridge Wells

7. Education Core Documents

- CD 7.1 Oxfordshire County Council Education Consultation Response 13th January 2022
- CD 7.2 Education Act 1996
- CD 7.3 Securing developer contributions for education November 2019 Dept for Education
- CD 7.4 Basic Need Allocations 2023-24 and 2024-25: Explanatory Note on Methodology
- CD 7.5 National School Delivery Cost Benchmarking for Primary, Secondary & SEN Schools May 2021
- CD 7.6 MHGLG - Government response to [the consultation on] reforming developer contributions (June 2019)
- CD 7.7 Building Bulletin 103 - Area Guidelines for Mainstream Schools

8. Landscape Core Documents

- CD 8.1 Chilterns AONB Management Plan 2019-2024
- CD 8.2 North Wessex Downs Management Plan 2019-2024
- CD 8.3 Landscape Architect (South and Vale) Comments May 2021
- CD 8.4 Landscape Architect (South and Vale) Comments Sept 2021.
- CD 8.5 Chilterns Conservation Board Comments April 2021
- CD 8.6 Response to LVIA-DAS Comments September 2022
- CD 8.7 Guidelines for Landscape and Visual Impact Assessment (GLVIA3), LI/IEMA, 2013
- CD 8.8 South Oxfordshire Landscape Assessment – November 2017: Landscape Character Area 7, Wessex Downs and Western Vale Fringes
- CD 8.9 TGN06/19: Visual Representation of Development Proposals
- CD 8.10 CA108 Upper Thames Clay Vales.
- CD 8.11 South Oxfordshire Landscape Character Assessment (SOLCA)

9. Housing Land Supply and C2 Documents as referred to by the Appellants and SODC

National

- CD 9.1 Housing in Later Life
- CD 9.2 Older Persons Housing Need Model
- CD 9.3 Putting people at the heart of care
- CD 9.4 The House of Commons publication "Housing an ageing population: a reading list"
- CD 9.5 "Future of an Ageing Population" Government Office for Science 2016
- CD 9.6 Fixing our broken housing market. February 2017
- CD 9.7 "Housing our aging population" The Local Government Association 2017
- CD 9.8 "Healthier and Happier - An analysis of the fiscal and wellbeing benefits of building more homes for later living WPI Strategy 2019"
- CD 9.9 Senior Living Survey – Senior Living Research, Knight Frank 2019
- CD 9.10 House Of Lords Built Environment Committee 1st Report of Session 2021–22 HL Paper 132 Meeting housing demand
- CD 9.11 Top of the Ladder.
- CD 9.12 Housing Our Aging Population HAPPI3_Report_2016
- CD 9.13 Valuing Retirement Housing

- CD 9.14 Unlocking the Market Report - Demos
- CD 9.15 Last Time Buyers 2015 Legal and General
- CD 9.16 Too little too late June 2020
- CD 9.17 Chain Reaction Report
- CD 9.18 Start-to-finish what factors affect the build out rates of large-scale housing sites.

Local

- CD 9.19 Oxfordshire Market Position Statement 2019 – 2022
- CD 9.20 Oxfordshire Market Position Statement 2019 – 2022 – Extra Care Housing Supplement
- CD 9.21 Joint Housing Delivery Strategy for South Oxfordshire and Vale of White Horse 2018-2028
- CD 9.22 Housing Delivery Strategy for SODC and VoWH Background Paper 1
- CD 9.23 Housing Delivery Strategy for SODC and VoWH Background Paper 4 Five year land supply-local
- CD 9.24 Interim post adoption of Local Plan Five-year housing land supply statement – March 2021
- CD 9.25 Housing Land Supply Statement for South Oxfordshire District Council June 2021
- CD 9.26 Housing Land Supply Statement for South Oxfordshire District Council July 2022
DLP Report
- CD 9.27 Economic Impact Assessment
Department for Levelling Up, Housing & Communities Report
- CD 9.28 English Housing Survey Headline Report 2020-21
Elderly Accommodation Counsel
- CD 9.29 EAC Data Products Guide July 2020
- CD 9.30 EAC email 2022 Q2 data
- CD 9.31 More Choice Greater Voice (MCGV)

10. Planning Proof

- CD 10.1 Bidwells Commercial Strategy Report
- CD 10.2 Schedule of Proposed Main Modifications 2020 (Modification MM30 extract)
- CD 10.3 Appellant Planning Statement of Case
- CD 10.4 Pre-app Officer Response P18/S2460/PEJ
- CD 10.5 Pre-app Officer Response P20/S0828/PEJ

11. Rule 6 Miscellaneous Docs

- CD 11.1 NPPF
- CD 11.2 (NPPG extracts Not used)
- CD 11.3 Cholsey Neighbourhood Plan Sustainability Appraisal
- CD 11.4 Cholsey Neighbourhood Plan Site Assessment Evidence Document
- CD 11.5 Cycling Standards
- CD 11.6 Oxfordshire Strategic Water Cycle Study Phase 1 Scoping JBA Consulting 2021
- CD 11.7 Chilterns Conservation Board Position Statement – Development affecting the setting of the Chilterns AONB June 2011

CD 11.8 Landscape character and capacity assessment Kirkham Landscape Planning Ltd 2017 page 31

12. LPA/SODC Proofs of evidence

CD 12.1 South Oxfordshire District Council Statement of Case
CD 12.2 South Oxfordshire District Council SoC Appendix 1 H1
CD 12.3 South Oxfordshire District Council SoC Appendix 2 CF5
CD 12.4 Biodiversity Net Gain - Vivid Economics
CD 12.5 SODC Tracy Smith Planning and 5YHLS roof of Evidence
CD 12.5A Tracy Smith Planning & 5YHLS Appendices 1-6
CD 12.6 OCC Barbara Chillman Education Proof of Evidence
CD 12.7 SODC Peter Radmall Proof of Evidence
CD 12.8 SODC Tom Rice 5YHLS Rebuttal Evidence
CD 12.9 OCC Barbara Chillman Education Rebuttal Evidence
CD 12.10 SODC Tracy Smith Planning and Older Persons C2 Rebuttal Evidence

13. Rule 6 Party proofs of evidence

CD 13.1 Cholsey Parish Council Proof of Evidence June 2022
CD 13.2 Cholsey Parish Landscape Proof of Evidence
CD 13.3 Cholsey Parish Council Statement of Case August 2022

14. Heritage

CD 14.1 Milestone Historic England Listing Entry

15. National policy and guidance

CD 15.1 Housing needs of different groups: 24 May 2021
CD 15.2 Housing supply and delivery: 22 July 2019
CD 15.3 Housing for older and disabled people: 26 June 2019
CD 15.4 Natural Environment – Agricultural land, soil...; Landscape – 21 July 2019
CD 15.5 Planning Obligations September 2019

16. Inquiry documents

CD 16.2 Highways and Transport SoCG
CD 16.2.1 Transport Assessment Addendum 2022
CD 16.3 Landscape SoCG
CD 16.4 Older Persons Housing Need & Supply SoCG
CD 16.5 Education SoCG
CD 16.6 Draft Conditions
CD 16.7 SODC CIL Statement
CD 16.8 5 Years Housing Land Supply SoCG
CD 16.9 OCC CIL Statement

17. Miscellaneous documents

CD 17.1 Sonning Common – Design & Access Statement
CD 17.2 Sonning Common – Illustrative masterplan/layout

- CD 17.3 Sonning Common – Proposed Site Block Plan
- CD 17.4 Manual for Streets (DfT 2007)
- CD 17.5 Manual for Street 2 (CIHT 2010)
- CD 17.6 Inclusive Mobility (DfT 2005)
- CD 17.7 Sub National Population Projections 2018 South Oxfordshire

18. Case Management Conference Documents

- CD 18.1 Pre-Inquiry Conference Agenda
- CD 18.2 Inspector's Pre-Conference Note
- CD 18.3 Note of Case Conference

19. Appellant Proofs of Evidence

- CD 19.1 Appellant Planning Proof of Evidence Stephen Stoney
- CD 19.2 Appellant Landscape Proof of Evidence Katharine Schofield
- CD 19.3 Appellant Education Proof of Evidence Ben Hunter
- CD 19.3A Education Proof Appendices 7-16
- CD 19.3B Guide To Developer Contributions
- CD 19.4 Appellant 5YHLS Proof of Evidence Roland Bolton
- CD 19.4A 5YHLS Appendix 3 State of Market and need for Family Housing
- CD 19.5 Appellant Older Persons Need Proof of Evidence Roland Bolton
- CD 19.6 Appellant Errata Older Persons Housing Need and Supply PoE Roland Bolton
- CD 19.7 5 Year HLS Scott Schedule



Department for Levelling Up, Housing & Communities

www.gov.uk/dluhc

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.