CD6.13

Appeal Decision – Oxford Brookes

Preface:

This appeal decision is important because it deals with why it is important to not to reduce arguments of housing need to a mathematical exercise as each number represents a real person or family in need which is relevant to the consideration of the appeal scheme.

The relevant paragraphs referenced in the Appellant's proof are highlighted yellow.

Ministry of Housing, Communities & Local Government

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

Miss S Eastwood
Avison Young
3 Brindleyplace
Birmingham
B1 2JB

23 April 2020

Dear Madam,

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

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

2. On 12 July 2019 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions except where stated, and agrees with his recommendation. He has decided

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

Environmental Statement

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

Procedural matters

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

Matters arising since the close of the inquiry

7. The Secretary of State received a representation from John Howell MP dated 10 March 2020, sent on behalf of a number of residents of the village of Wheatley subsequent to the issuing of the Wheatley Neighbourhood Plan Examiner's report dated 27 February 2020. A further representation was received by email dated 6 April from South Oxfordshire District Council confirming their decision to accept the modifications recommended by the Examiner and proceed to referendum.

8. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these representations may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

10. In this case the development plan consists of saved policies in the "*South Oxfordshire Local Plan 2011*" (the LP) adopted 2006 and the "*South Oxfordshire Core Strategy 2012*" adopted 2012 (the CS). The Secretary of State considers that relevant development plan policies include those set out at IR3.12-3.15 and in the Planning Statement of Common Ground.

11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Oxfordshire Housing and Growth Deal (OHGD) updated 14 September 2018 and the Written Ministerial Statement "Housing Land Supply in Oxfordshire", published on 12 September 2018. The revised National Planning Policy

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

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

Emerging plan

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

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

    - the development of the site is underpinned by a masterplan addressing infrastructure, access, landscaping, and recreation/open space issues;

    - the layout, design and height of the new buildings take account of the openness of the Oxford Green Belt and as identified generally in national planning policy (NPPF145g);

    - the development of the site should incorporate the provision of affordable housing to the most up-to-date standards of South Oxfordshire District Council;

    - the development of the site should incorporate high quality public realm and open space; and

    - the development of the site should address opportunities to incorporate safe, convenient and attractive pedestrian and cycling access to and from Wheatley

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

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

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

Main issues

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

Most important policies

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

Green Belt

19. The Secretary of State agrees with the Inspector at IR13.18 that, although the site is proposed to be removed from the GB and allocated for development in the eLP, given that Plan has yet to proceed to Examination and attracts only limited weight, the site currently remains in the Green Belt. He also agrees with the Inspector at IR13.18, that, in the absence of up to date Green Belt development management policies, the proposal should be considered against advice in the Framework.

20. For the reasons given in IR13.22-13.24 the Secretary of State considers that the central and eastern sections of the proposal site, together with the sports pitches and circulation areas around them can be considered previously developed land (PDL) and can therefore be considered against para 145g and Annex 2 of the Framework.

21. Further he agrees with the Inspector at IR13.25 that, as no development is proposed in the north-west quadrant, the principle Green Belt objection relates to the south-west quadrant only which accounts for approximately 14% of the site. The Secretary of State agrees with the Inspector for the reasons given at IR13.26 that the south-west quadrant is not curtilage and cannot therefore be considered PDL as defined in the Framework.

22. For those parts of the site that are considered to be PDL, the Secretary of State agrees with the Inspector for the reasons given inIR13.27-13.33 that the development would address an affordable housing need, would have a broadly neutral effect on openness as experienced from within the appeal site, and that there would be a significant net-beneficial effect on the openness of the wider Green Belt through the removal of the tower. He concludes that, save for the south-west quadrant, the development would not

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

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

Character and Appearance

24. The Secretary of State has carefully considered the Inspector's assessment at IR13.35-13.48. He notes at IR13.38 that the site is not a designated or a 'valued' landscape in the terms set out in the Framework, and that it was common ground between the parties that the removal of the tower and other dilapidated structures would be beneficial in landscape terms.

25. For the reasons given in IR13.39-13.41, the Secretary of State agrees with the Inspector that the illustrative masterplan does not necessarily conflict with the requirement to "focus" development on the previously developed area. While Policy STRAT14 of the eLP indicates that development on the western part of the site will not be considered appropriate with the exception of an access route and functional green space, given the progress of the eLP, this is a consideration of only limited weight.

26. For the reasons given in IR13.42-IR13.45 the Secretary of State agrees with the Inspector that the scheme is in general accordance with the recommendations of the Kirkham Study, and that the character of the southwest quadrant is not particularly sensitive in landscape or visual terms such that it should be excluded from development. For the reasons given in IR13.46-13.48 he further agrees with the Inspector that there would be an overall net-gain in landscape and visual terms over the wider area, that the development would not therefore harm the character and appearance of the area, and that there would be no conflict with CS Policy CSEN1 or LP Policies G2, C4 and C9 insofar as they seek to protect the district's countryside and settlements from adverse development.

Heritage assets

27. For the reasons given in IR13.50-13.60 the Secretary of State agrees with the Inspector that while there would be some limited harm to the setting of the Scheduled Monument (SM) arising from the encroachment of housing and from the spine road on its southern flank, this would be towards at the lower end of "less than substantial" harm, and would be clearly outweighed by a combination of the proposed landscape improvements in the north-west quadrant, the SM improvement scheme and also the removal of the existing university buildings which form a stark backdrop in eastward views of the SM. Accordingly, the Secretary of State concludes that there would be an overall heritage benefit to the SM.

28. For the reasons given in IR13.61-13.65 the Secretary of State agrees with the Inspector at IR13.66 that as houses would not encroach into the sensitive open area between Holton Park and the SM , and as the appeal scheme would retain and enhance the

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

29. For the reasons given in IR13.67-13.69, the Secretary of State agrees with the Inspector that the removal of the tower would improve views southwards from the churchyard of St Bartholomew's Church, and would represent a heritage benefit.

30. The Secretary of State therefore concludes, like the Inspector at IR13.73, that no overall heritage harm has been found. He has not therefore found it necessary to undertake the heritage balancing exercise required by paragraph 196 of the Framework. Like the Inspector at IR13.113, he concludes that the heritage benefits arising from the on-site mitigation, the removal of the existing buildings and the opening up of the site and the SM to public appreciation, carries significant weight in favour of the proposal.

Accessibility

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

Housing Land Supply – Housing Need

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

Other considerations

33. In paragraph 23 of this letter, the Secretary of State has concluded that the proposed development in the south-west quadrant would be inappropriate development. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Like the Inspector at IR13.93, the Secretary of State has not identified any other harm in addition to the harm by virtue of inappropriateness.

34. The Secretary of State has concluded in paragraph 22 of this letter that the significant visual benefit to openness over a wide area of the South Oxfordshire Green Belt resulting from the removal of the tower and other large, unsightly structures on the site is a consideration that carries very substantial weight.

35. While he has concluded that the council are able to demonstrate a 5 year supply of housing land, the Secretary of State agrees that, for the reasons given in IR13.97 to 13.102, the proposed development would contribute significantly towards the Council's affordable housing shortfall. Given the seriousness of the affordable housing shortage in South Oxfordshire, described as "acute" by the Council, he agrees with the Inspector at IR13.111, that the delivery of up to 500 houses, 173 of which would be affordable, are considerations that carry very substantial weight.

36. The Secretary of State also agrees with the Inspector's assessment of the economic benefits of the scheme at IR13.103, except in relation to New Homes Bonus revenues, where, as he has seen no evidence of the proposed usage of the Bonus, he does not give them any weight in relation to his decision. He agrees with the Inspector at IR13.112 that the economic benefits of the scheme should be afforded significant weight.

37. At paragraphs 27 to 31 of this letter, the Secretary of State has considered the development in terms of its impact on heritage assets and on accessibility. For the reasons given in IR13.104 and 13.106-13.107, he has concluded, like the Inspector at IR13.113-114 that both issues are benefits which should be afforded significant weight.

38. For the reasons given in IR13.105, the Secretary of State considers, like the Inspector at IR13.115, that the net benefit to biodiversity that would be delivered by the scheme is a consideration of moderate weight in favour of the scheme. He also finds for the reasons given in IR13.108, that the reinvestment of the proceeds arising from the sale of the land into the education sector is a benefit of the proposal which should be afforded significant weight (IR13.115).

39. The Secretary of State agrees with the Inspector at IR13.116 that the overall benefit to the openness of the Green Belt alone would be enough to outweigh the harm by reason of inappropriateness. Like the Inspector at IR13.117, he considers that the 'other considerations' identified above clearly outweigh the 'definitional harm' to the Green Belt by virtue of inappropriateness identified in this case. He therefore concludes that very special circumstances exist, which would justify development in the Green Belt, and that the proposal would not conflict with CS Policy CSEN2, LP Policy GB4 or Green Belt policy in Section 13 of the Framework.

Planning conditions

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

Planning obligations

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

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

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

Planning balance and overall conclusion

42. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with the following policies of the development plan: CS Policy CSEN2, LP Policy GB4. He has identified an overall benefit to heritage assets, so has found no conflict with heritage policies CSEN3, CON5 and CON11. He has found no conflict with CS Policy CSEN1 or LP Policies G2, C4 and C9 insofar as they seek to protect the district's countryside and settlements from adverse development. While he has found conflict with policies CSS1 and CSH1 regarding the amount and spatial distribution of housing, he has found these policies to be out of date. He has therefore concluded that the appeal scheme is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

43. At IR13.118, the Inspector, having concluded that the proposed development would not conflict with the development plan, states that it should be approved without delay in accordance with paragraph 11c) of the Framework. The Secretary of State disagrees. Paragraph 11 c) of the Framework refers to "development proposals that accord with an up-to-date development plan". As the Secretary of State has concluded that the policies which are most important for determining this appeal are out-of-date, he considers that paragraph 11 c) of the Framework does not apply.

44. Paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

45. The Secretary of State considers the harm to the Green Belt on that part of the site where development is considered inappropriate carries substantial weight.

46. The Secretary of State considers that the significant visual benefit to openness over a wide area of the South Oxfordshire Green Belt and the delivery of up to 500 houses, 173 of which would be affordable, are both considerations that carry very substantial weight.

47. The Secretary of State considers that the economic benefits of the scheme should be afforded significant weight.

48. The Secretary of State has considered the development in terms of its impact on heritage assets and on accessibility and considers that both offer benefits that should be afforded significant weight.

49. The net benefit to biodiversity that would be delivered by the scheme is a consideration of moderate weight, and the reinvestment of the proceeds arising from the sale of the land into the education sector should be afforded significant weight.

50. Given his findings in this letter, the Secretary of State considers that the proposal meets the emerging Neighbourhood Plan site-specific development principles in respect of Green Belt, affordable housing and accessibility, and public open space.

51. Having concluded at paragraph 39 of this letter that very special circumstances exist the Secretary of State considers that there are no policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development proposed. He also concludes that any adverse impacts of granting

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

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

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

Formal decision

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

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

Right to challenge the decision

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

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

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

Yours faithfully

Andrew Lynch

Authorised by the Secretary of State to sign in that behalf

Annex A List of representations

General representations

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

Annex B List of conditions

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

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

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

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

Reason: For the avoidance of doubt.

5) No development shall take place until a Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide the following information for each phase or sub phases:

a) The number and mix (bedroom number) of market dwellings;

b) The number and mix (bedroom number) and gross internal floor areas of affordable housing to meet the latest evidence of affordable housing need (the total amount of affordable housing to cumulatively be 34.57% of the total amount of housing across the site);

c) The tenure of each affordable unit;

d) The number of accessible and adaptable homes to be built to Building Regulations Part M4(2) category 2 for both market (which shall be a minimum of 10% overall) and affordable sectors;

e) Location and boundaries of public open space, play areas, green infrastructure, leisure and sports pitches/pavilion, associated parking areas to be provided and a scheme for their future management;

f) Key infrastructure including means of vehicular and pedestrian and cycle access and links to serve each phase;

g) Drainage and landscaping works including future management arrangements;

h) Existing and proposed ground and ridge levels;

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

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

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

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

7) Prior to the commencement of any development (including demolition works), a Construction Method Statement, incorporating a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Statement will have been prepared in the light of Outline Construction and Demolition Environmental Management Plan dated January 2018 and shall include details of the following:

a) Vehicle parking facilities for construction workers, other site operatives and visitors;

b) Site offices and other temporary buildings;

c) Loading and unloading of plant and materials;

d) Storage of plant and materials used during construction;

e) Vehicle wheel washing facilities;

f) Measures to control the emission of dust and dirt;

g) A scheme for recycling and/or disposing of waste materials arising from the demolition and construction works;

h) Installation and maintenance of security hoarding/fencing;

i) Hours of construction

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

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

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

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

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

Following the approval of the Written Scheme of Investigation and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation.

The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

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

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

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

11) Either prior to, or concurrent with the submission of each reserved matters application a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

a) Risk Assessment of potentially damaging construction activities;

b) Identification of biodiversity protection zones;

c) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;

d) A mitigation strategy for all protected species ensuring that each species long term conservation status is protected and enhanced;

e) The location and timing of sensitive works to avoid harm to biodiversity features;

g) The times during construction when specialist ecologists need to be present on site to oversee works;

g) Responsible persons and lines of communication, and

h) Use of protective fences, exclusion barriers and warning signs.

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

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

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

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

a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required;

b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate;

c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species;

d) Selection of specific techniques and practices for establishing vegetation;

e) Sources of habitat materials (e.g. plant stock) or species individuals;

f) Method statement for site preparation and establishment of target features;

g) Extent and location of proposed works, and

h) Details of the biodiversity offsetting metric calculations that clearly demonstrate that the proposals contained in the plan avoid a net loss of biodiversity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Planning Inspectorate EI

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

by D M Young BSc (Hons) MA MRTPI MIHE

An Inspector appointed by the Secretary of State

Date: 27 December 2019

TOWN AND COUNTRY PLANNING ACT 1990

SOUTH OXFORDSHIRE DISTRICT COUNCIL

APPEAL MADE BY

OXFORD BROOKES UNIVERSITY

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

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

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

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Appendices

GLOSSARY

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

Appeal Ref: APP/Q3115/W/19/3230827
Oxford Brookes University, Wheatley Campus, College Close, Wheatley, Oxford OX33 1HX

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

Summary of recommendation: the appeal be allowed

1. Procedural Matters

1.1 The appeal was recovered by the Secretary of State (SoS) for his own determination by means of a Direction dated 12 July 2019[1]. The reasons for the Direction are that the appeal involves proposals for residential development over 150 units or on sites over 5 hectares in the Green Belt, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

1.2 The Inquiry sat for 7 days between 22 and 31 October 2019. The venue was located on the appeal site and therefore I undertook numerous site visits during the course of the Inquiry. In addition, I carried out an unaccompanied visit to the site and surrounding area on 21 October 2019. Having heard all the relevant evidence in relation to landscape, Green Belt and accessibility matters I undertook an accompanied site visit on 28 October.

1.3 Although the application was submitted in outline with only access to be determined, it was accompanied by an illustrative masterplan and set of parameter plans as well as a raft of supporting technical documentation contained in an Environmental Impact Assessment (EIA)[2]. This material is broadly accepted by technical consultees and demonstrates that a number of matters are capable of being satisfactorily dealt with either by condition or planning obligation.

1.4 The application was refused against officer recommendation for 5 reasons. Reason for Refusal (RfR) 1 alleges the development would be inappropriate

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

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

1.5 A signed and dated agreement under s106[3] of the Town and Country Planning Act 1990 (S106) was submitted after the close of the Inquiry. Amongst other things, this contains obligations to both South Oxfordshire District Council (the Council) and Oxfordshire County Council (OCC) in respect of affordable housing, off-site sports facilities and highway works. A draft version of the agreement was discussed at the Inquiry[4]. All the proposed obligations need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later. On the basis of the S106 RfRs 4 and 5 fall away.

1.6 On 9 October 2019, the SoS issued a Holding Direction[5] to prevent the Council taking any further action in relation to the emerging South Oxfordshire Local Plan (the eLP), including its withdrawal, whilst he considers use of his intervention powers, under s21A of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). This direction remains in force until the SoS withdraws it or gives a direction under section 21 of the 2004 Act in relation to the Plan. Section 21A (2) of the 2004 Act indicates that; *"A document to which a direction under this section relates has no effect while the direction is in force".* The eLP therefore has no effect whilst the Holding Direction remains in place and, consequently, policies within the plan are of no effect also. I return to the matter of the evidence base later in my report.

1.7 During the determination period, the scheme was amended to reflect discussions between the Appellant and Council officers. Amongst other things the amendments included the introduction of a retail shop[6]. After the Council issued its decision, the requirement for a retail shop was omitted from the January 2019 version of the eLP. The appeal scheme was hence amended a second time to remove the shop. The Appellant conducted a further round of public consultation between 9 May and 4 June 2019 to give interested persons the opportunity to comment on this amendment. Having regard to the principles set out in the Wheatcroft judgement[7], and bearing in mind the original scheme did not include a shop, I do not consider the post-decision amendment materially alters the substance of the proposal. In any event, given the Appellant's consultation exercise, I am satisfied that local residents as well as the Council have had ample opportunity to comment on the change. In these

[3] See main file
[4] ID26
[5] https://www.gov.uk/government/publications/south-oxfordshire-local-plan-holding-direction-letter-to-council
[6] This was included to reflect the requirements of Policy STRAT10 of the 'Publication Version' of the eLP, dated October 2017.
[7] Bernard Wheatcroft Ltd v SSE (JPL 1982) (CD9.1)

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

1.8 As the proposal is EIA development, the various amendments resulted in the submission of an Environmental Statement (ES) Addendum dated October 2018 and an ES Addendum Review letter dated 6 June 2019[8]. The conclusions of both documents were that the findings of the original ES are unchanged by the amendments. The Council do not disagree. I am therefore satisfied that the ES remains robust and does not require amendment.

1.9 A pre-Inquiry Case Management Conference was held on 14 August 2019 to discuss the arrangements for the Inquiry and deadlines for the submission of various documents. A summary of the conference was subsequently sent to the main parties[9].

2. The Site and Surroundings

2.1 The appeal site covers a total area of 21.5 hectares located immediately north of the A40 dual-carriageway, approximately 3.5km east of Oxford. To the south of the site, beyond the A40 London Road, lies Wheatley which is a relatively large, rural village with a good range of facilities and amenities. Waterperry Road adjoins the eastern site boundary and serves as the main point of vehicular access to the site. To the north, there are agricultural fields which separate the site from the rural settlement of Holton. To the west lies an education and leisure complex comprising the John Watson/Wheatley Park schools and the Park Sport Centre and gym. Holton Park, sometimes referred to as Old House, is a Grade II Listed Building[10] situated at the eastern end of the complex adjacent to the site's western boundary.

2.2 The site itself is currently in use as a university campus although Oxford Brookes University (OBU) intends to vacate the site by 2021/2022. Prior to the current use, the site was used as a military hospital during the Second World War and before that it once formed part of a medieval field system which subsequently became a deer park around the late 18th Century remaining until the early part of the 20th Century.

2.3 As it is today, a range of buildings are located within the eastern and central parts of the site, most of which date from the mid/late 20th Century. The heights of the existing buildings range from single storey to a 12-storey tower block approximately 35m tall. There are 2 residential properties located within the eastern part of the site, and a row of houses located within the centre of the site known as College Close. The campus also includes a range of informal recreational green spaces along with various grass and artificial playing pitches which are predominantly located on the western side of the site. In the north-west quadrant lies a Scheduled Monument[11] (SM) which comprises a circular, ditched, landscape feature. The south-west quadrant is a visually distinct, undeveloped green space that accounts for approximately 13.75% of the site[12].

[8] CD3.2
[9] Summary of Case Conference (CD18.2)
[10] List Entry No. 1369201
[11] Ref: SM1018425
[12] Table 2, Bolger PoE

2.4 The site is generally well vegetated particularly along its site boundaries with a number of existing mature trees, hedgerows and shrubs which are the subject of a Tree Preservation Order[13] (reference 35/2005). The landscaping most of which would be retained along with local topography provides for a degree of visual containment such that the majority of existing buildings are not visible outside the site boundaries.

3. Planning Policy and Guidance

3.1 Section 38(6) of the 2004 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the Framework, which can override development plan policy if it is not consistent with the Framework's provisions. I therefore summarise the national planning policy context first, before turning to look at relevant development plan policies.

3.2 The latest version of the Framework was issued in February 2019. Like earlier versions it emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development, through 3 over-arching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area.

3.3 To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the Framework. Paragraph 11 explains that for decision-taking this means, firstly, approving development proposals that accord with an up-to-date development plan without delay. If there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, then planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

3.4 Of particular relevance in this case are those parts of the Framework which deal with Green Belt, heritage assets and housing provision. Section 13 of the Framework is entitled "Protecting the Green Belt", with paragraph 136 making it clear that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Paragraph 143 reaffirms that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved, except in very special circumstances.

3.5 Paragraph 144 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

[13] Council ref: 35/2005

3.6 With regard to housing, paragraph 59 of the Framework confirms that it is the Government's objective to significantly boost the supply of homes and to ensure that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. In considering ways to boost supply, paragraph 72 advises that the supply of large numbers of new homes can often be best achieved through planning for larger-scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well-located and designed, and supported by the necessary infrastructure and facilities.

3.7 Paragraph 73 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.

3.8 Paragraph 190 states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In those circumstances where less than substantial harm is identified, this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

3.9 Other relevant paragraphs in the Framework are referenced, as appropriate, later in this Report. The Planning Practice Guidance (PPG), initially published in 2014, is also a material consideration in the determination of this appeal.

The Development Plan

3.10 The Development Plan comprises saved policies in the "*South Oxfordshire Local Plan 2011*"[14] (the LP) and the "*South Oxfordshire Core Strategy 2012*"[15] (the CS).

3.11 The LP was adopted in 2006 and covered the relatively short period up to 2011. The housing requirements for the LP were derived from the now defunct Regional Planning Guidance[16] (RPG) for the South East (as amended) which was adopted in 2001 and the Oxfordshire Structure Plan which was adopted in August 1998. Various policies in the LP were saved by the SoS in 2008. Following the adoption of the CS, the LP was reviewed, and those policies found to be superseded by or inconsistent with the CS were 'struck through'.

3.12 The Planning SoCG[17] identifies 36 'relevant' LP policies. Of these, only 7 are referred to in the contested RfRs, these are: GB4 (Visual Amenity of the Green

[14] CD5.1
[15] CD5.2
[16] ID14: RPG Revocation Oder 2013 No. 427
[17] CD16.1

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

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

The Core Strategy

3.14 The CS was adopted in 2012 following the publication of the original version of the Framework. It sets out the vision for South Oxfordshire to 2027. Although the Examining Inspector found the CS to be generally consistent with the provisions of the Framework[18], much of the evidence base underpinning the plan and the Examination hearings themselves pre-dated the March 2012 Framework. The housing requirement of the CS was based upon the constrained supply contained in the RPG which remained in force at the time of adoption and therefore the Examining Inspector (and Council) were obliged to rely on it under the transitional arrangements set out in paragraph 218 of Annex 1 of the 2012 Framework.

3.15 The Planning SoCG includes a list of 19 relevant CS policies of which the following 6 are cited in the RfRs: CSEN2 (Green Belt), CSEN3 (Historic Environment), Policy CSM2 (Transport Assessments and Travel Plans), Policy CSM1 – Transport, CS1 (Presumption in favour of sustainable development) and CSS1 (The overall strategy). As paragraph 1.10 of the CS makes clear, the aforementioned policies are of a strategic nature and are intended to be supplemented by more detailed policies in a Development Management Policies DPD. That document was abandoned at an early stage in favour of a new local plan.

The eLP

3.16 The eLP[19] was submitted for Examination on 29 March 2019. Despite the advanced stage of preparation at the time of the Council's decision, none of the RfRs refer to policies in the eLP. Even before the SoS's Holding Direction, it was common ground that the eLP carries only limited weight in the determination of this appeal.

3.17 Notwithstanding the current status of the eLP, it has been submitted for Examination and the SoS has publicly confirmed his support for it[20]. Although the Cabinet has recommended that the plan is withdrawn[21], the Council's planning witness confirmed that it is still committed to the eLP for plan-making purposes. In these circumstances, I consider the evidence base which has been thoroughly and diligently compiled over several years is a material consideration in this appeal.

[18] Paragraph 144-146, of the Examining Inspector's Report (CD5.3)
[19] CD6.1
[20] CD15.4, CD15.11 & CD15.15
[21] Council Cabinet's decision 3 October 2019

3.18 In relation to housing growth in the district over the plan period, the evidence base supports an annual housing requirement of 775 homes per year or an overall requirement of 17,825 homes between 2011 and 2034. This represents the midpoint in the annualised housing requirement range identified for South Oxfordshire District in the Strategic Housing Market Assessment (SHMA)[22].

3.19 The evidence base also supports Policy STRAT 14 (formerly STRAT10) which proposes to remove the appeal site from the Green Belt and allocate it for a development to deliver at least 300 new homes within the plan period.

The Wheatley Neighbourhood Plan

3.20 Part of the appeal site falls within the emerging Wheatley Neighbourhood Plan[23] (the eWNP) area designated on 31 March 2016. The second draft of the eWNP was published for consultation in May 2019. On 3 September 2019 it was submitted to the Council under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. This document was then the subject of statutory consultation ending on 18 October 2019.

3.21 The eWNP sets out the community's vision for the future of the area during the plan period (2019 - 2033) and provides a land use framework for development in the area. The vision confirms that a main objective of the plan will be to "*provide a range of different types of new houses across all tenures to meet the needs of all income and age ranges, including key workers, within Wheatley and its catchment area using design guidance…*". It identifies that the main housing needs are for affordable housing, starter homes and supported housing for the elderly[24]. It aims to promote the provision of 40% affordable homes, in line with the policy of the eLP.

3.22 The eWNP acknowledges the importance of bus services to Wheatley[25] and seeks to locate new homes within walking distance of the village centre which is described in the following terms:

> "*The retail activities in Wheatley centre are mainly food shops (the Co-op, Costcutter, a well-established baker and butcher) and catering (pub, restaurant, chip shop and take away). Among other High Street services there is the post office, hairdressers, pharmacy, dog grooming, estate agent, a laundrette and a tattooist. Above the High Street on Church Road services include another pub, an architect's business, garage, dentist, the library, the parish church and a further estate agent. A car tyre supplier operates on Holloway Road and a veterinary practice can be found on Roman Road. On the village perimeter, there is a motel complex, an ASDA store and petrol station, a car sales outlet, a coach depot and 2 garden centres. The seven pubs of 1975 have now been reduced to two (and one private club). There are four worshipping congregations: Anglican, Catholic, United Reform and Community Church.*" [26]

3.23 Policy SPOBU-WHE25 supports the release of the appeal site from the Green Belt and its allocation as a strategic housing site. It goes on to advise that

[22] CD10.6 & CD10.7
[23] Chapter 9 (CD6.2)
[24] Paragraph 8.8 (CD6.2)
[25] Paragraph 4.22 (CD 6.2)
[26] Paragraph 4.16 (CD 6.2)

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

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

The Growth Deal

3.25 In 2016 the Government instructed the National Infrastructure Commission (NIC) to undertake a review of the potential for growth in the geographic corridor containing Oxford, Milton Keynes and Cambridge. Sitting at the Western end of the arc, Oxfordshire has a major role to play in delivering on the Government's ambitions for this area, and beyond. The NIC's final report[27] was published in late 2017. It found that Oxford with other cities in the arc is successful and fast-growing. However, a sustained shortfall in housing supply has led to high house prices and low levels of affordability which is having a constraining effect on future growth.

3.26 The Oxfordshire Housing and Growth Deal (OHGD)[28] is a response to those problems and seeks to unlock the growth potential of the area. It requires the Council along with, Oxford City Council, Vale of White Horse, Cherwell and West Oxfordshire District Councils to plan and deliver 100,000 homes by 2031 in exchange for £215m of Government investment. The OHGD requires the constituent authorities to submit and adopt a joint statutory spatial plan (JSSP) covering all 5 district councils in Oxfordshire by 2021.

3.27 In addition to the investment, the Government has committed to certain time-limited planning flexibilities for the relevant authorities. In a Written Ministerial Statement (the WMS), published on 12 September 2018[29], the SoS implemented a temporary change to the Framework's housing land supply policies as they apply in Oxfordshire. It confirmed that:

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

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

[27] Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc (CD20.5)
[28] CD10.4
[29] CD10.3

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

4. The Application Proposal

4.1 The appeal proposal seeks outline planning permission for the development of up to 500 houses. 2 points of vehicular and pedestrian access are proposed from Waterperry Road in the east and Holton Park Drive in the west. In addition to housing, the development includes generous areas of green infrastructure including; a Local Equipped Area of Play (LEAP), bowling green, cricket pitch, sports pavilion, structural landscaping and an ecological area. The green infrastructure would amount to at least 10.69ha, approximately 50% of the site.

4.2 An illustrative layout plan[30] which is to be read alongside 3 parameter plans[31] show how the site might be developed. These plans were supplemented at the appeal stage by a suite of photomontages[32]. The principle components of the layout are a central spine road which links the 2 access points. Areas of housing are interspersed between the areas of landscaping. The majority of existing trees on the site would be retained.

4.3 The central and eastern sections of the site would be dominated by 3 and 4-storey housing. This is where the largest buildings are currently located. Low density 2-storey housing would be confined to the south-west and north-central quadrants. The north-west quadrant which is currently occupied by sports pitches would be kept largely free of development with the SM being incorporated within the proposed green infrastructure.

5. Background

5.1 Following OBU's decision to vacate the appeal site by 2021, the Appellant pursued a housing allocation in the eLP. At the same time and following discussions with Council officers a planning application was submitted for the redevelopment of the site. Pre-application discussions took place between September 2016 through to early 2018. The full details of these discussions are set out in paragraph 7 of the Appellant's Closing Submissions[33] and I need not repeat all of that information here.

5.2 The planning application was submitted on 19 January 2018 and was given the reference number P17/S4254/O. Due to the scale of the development, an EIA was submitted in support of the application. During the determination period, the scheme was amended to reflect discussions that had taken place between the Appellant, the Council and various statutory consultees. These amendments were reflected in amended parameter and layout plans that were subject to re-consultation. Amongst other things, the amendments provided for:

[30] Drawing ref: 7590-L-60
[31] Drawing refs: 7590-L-19 F, 7590-L-20 F & 7590-L-18 G
[32] ID1 & Appendix 6 Holliday PoE
[33] ID28

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

5.3 The application was considered by the Council's Planning Committee at their meeting dated 28 November 2018. In recommending approval, the Committee Report[34] concluded:

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

5.4 According to the Minutes supplied by the Council[35] the Committee expressed concerns about encroachment of the proposed built form to the south-west quadrant, a higher number of dwellings than is provided for in the eWNP, the impact on the setting of Holton Park; and the lack of connectivity with Holton. The Decision Notice[36] was issued on the 13 December 2018.

6. Agreed Facts

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

1) Main Planning SoCG dated 16 August 2019[37]
2) Landscape SoCG including 10 appendices dated 27 September 2019[38]
3) Heritage SoCG dated September 2019[39]
4) Accessibility SoCG dated 30 September 2019[40]

[34] Core Document CD4.1
[35] Page 3, CD4.2
[36] See main file
[37] CD16.1
[38] CD16.2
[39] CD16.3
[40] CD16.4

5) Affordable Housing SoCG October 2019[41]

6.2 The main planning SoCG sets out the application description, the submitted plans and a brief description of the proposal, the site and its surroundings. It confirms that the application was subject to amendment relating to the convenience store during the determination period and then again after the Council's decision. It confirms the RfRs and the date of the Council's decision. Section 5 covers the Development Plan and lists 35 Local Plan and 19 Core Strategy policies that are relevant to the appeal. It confirms that the Framework, PPG, The Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act), the OHGD, the eLP and the eWNP are all material considerations.

6.3 The Landscape SOCG lists all the relevant landscape and Green Belt studies. It goes on to identify 4 agreed matters which are: 1) the Wheatley Campus Map is helpful when discussing the parts of the site; 2) there would be landscape, visual and Green Belt benefits from the removal of the approximately 35m tall tower; 3) there would be landscape and visual benefits from the removal of buildings and structures within the site that have become dilapidated, and 4) the current visibility of buildings within the site is limited and only the tower is visible from the wider landscape.

6.4 The Heritage SoCG confirms the duty under the 1990 Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses[42]. The matters agreed are listed as:

1) The designated heritage assets which are, to a greater or lesser degree, affected by the appeal proposals are the SM on the appeal site; Holton Park 'Old House' at the adjacent Wheatley Park School site, St. Bartholomew's Church, Holton[43], and a Scheduled Monument[44] and listed buildings and structures on the adjacent Wheatley Park School site comprising stretches of listed wall, a bridge, ice house and stable block.

2) There would be an impact on the setting of Holton Park 'Old House' as a result of the appeal proposals. The setting of Holton Park 'Old House' is currently affected by the present situation on the appeal site.

3) The former deer park, of which the appeal site is a part, is neither a designated nor non-designated heritage asset.

6.5 The Accessibility SoCG agrees the distances from the centre of the appeal site to various local destinations[45]. It is also agreed that the Wheatley Park School and sports centre complex, which lies at the far western end of Holton village, is within reasonable walking distance of the site. It is further agreed that distance alone is not the only factor that affects the attractiveness of walking and that the quality of footways and crossings, perceived personal security, quality and the good appearance of routes are also relevant.

[41] CD16.5
[42] The SM is not a listed building and therefore is not covered by the duty under s66 of the 1990 Act
[43] List No. 1047596
[44] SM1018424
[45] Table 2, page 5

6.6 The Affordable Housing SoCG sets out the party's respective position on the housing need and supply in South Oxfordshire. It confirms that the Council is able to demonstrate a 5YHLS against the figure which arises from the standard method which defines a Local Housing Need of 632 dwellings per annum (dpa).

6.7 It is also agreed that the OHGD commits the Oxfordshire authorities to plan for and support the delivery of 100,000 new homes between 2011 and 2031, and to progress their respective local plans to achieve this as well as a JSSP to address longer-term development needs to 2050. The 100,000 homes figure is derived from the 2014 Oxfordshire SHMA which breaks down the need for each of the 5 Oxfordshire authorities. South Oxfordshire's need was assessed at 15,500 homes between 2011-31, equivalent to 775dpa. Oxford's unmet need is 15,000 homes. The Oxfordshire authorities have agreed how this should be distributed through a Memorandum of Understanding, which South Oxfordshire did not sign, and the more recent Statement of Common Ground in support of the Oxford Local Plan 2036 and South Oxfordshire Local Plan 2034, which South Oxfordshire has signed up to. This statement agrees that apportionment of unmet housing need, arising from the Oxfordshire Housing Market Area, must be strategically and cooperatively considered through the Oxfordshire Growth Board, and that the latest agreed apportionment figure is 4,950 for South Oxfordshire.

6.8 The Council submitted its Local Plan in March 2019 on the basis of the above. Planning Inspectors at three Oxfordshire local plan Examinations have found the calculations of Oxford's unmet need to be sound, and the SoS himself has drawn the Council's attention to this in a recent letter on 26th August 2019[46].

6.9 It is also agreed that the WMS, which sets out that paragraph 11 d) of the Framework will be engaged where authorities cannot demonstrate a 3-year supply of deliverable land (3YHLS), has been developed within the specific context of the OHGD. It is common ground that the WMS recognises that in the "*short-term this will result in fewer permissions granted under paragraph 11 but that it is important to support ambitious plans that will deliver more housing in the longer term*".

6.10 Other agreed matters include:

- Period of Assessment: housing land supply will be assessed for the period 1st April 2019 to 31st March 2024.
- The 2019 Housing Land Supply Statement[47] (HLSS), has a base date of 1st April 2019;
- Buffer: a 5% buffer is appropriate when calculating the 5YHLS; requirement, and
- There is also agreement on the relevant parts of the Framework and PPG that deal with housing delivery.

[46] CD15.11
[47] CD10.1

7. The Case for South Oxfordshire District Council

The case for the Council is summarised as follows.

Overview

7.1 This appeal scheme is speculative development of a very substantial scale in the Green Belt where national policy is firmly against such an approach. There is an emerging allocation, but the scheme proposed is substantially bigger in terms of dwelling numbers than that proposed in the eLP which supports development of "at least 300 new homes", rather than the 500 proposed. Moreover, the overall spread of development across the site is in stark conflict with the eLP's emphasis on accommodating dwellings in the east and not the sensitive western half of the site.

7.2 The eLP was submitted for Examination by 1st April 2019 in accordance with the OHGD timetable and has been following a similar timetable to Oxford City's emerging plan. It is only since the Holding Direction that progress on the eLP has faltered. Even before the Holding Direction the eLP attracted only limited weight and with the Direction in place it attracts no weight.

7.3 The scheme would result in Green Belt, landscape and heritage harm and is not plan-led, and there is nothing about the benefits that take us into the territory of very special circumstances.

Green Belt – Inappropriate development

7.4 Only the area on the brownfield land register plan[48] is previously developed land (PDL). Consequently, the appeal scheme does not benefit from the exemption in paragraph 145g) of the Framework and is inappropriate development in the Green Belt.

7.5 Curtilage is not defined in the Framework or legislation. Case law provides some assistance, although the cases are very fact sensitive. Curtilage is generally viewed as being limited in scope and applicable to an individual building, not a group of buildings[49]. There are open spaces in and around campus buildings which are within curtilage. But no authority has been provided for the proposition that the buildings can be aggregated in a way that leads to them having a very large curtilage, as contended by the Appellant.

7.6 It is not correct to suggest that the areas of playing fields, which are quite separate in character and function from the developed area of the campus, should be considered curtilage in ordinary language. Having failed the PDL hurdle, the appeal scheme cannot come within paragraph 145g).

7.7 Even if one takes a different view on PDL, the appeal scheme would cause substantial harm to the openness of the Green Belt and therefore fails to satisfy the first indent of paragraph 145g).

[48] Appendix 6, CD16.1

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

Openness

7.8 The Government's commitment to the protection of the Green Belt is unequivocal. The Government attaches "*great importance to Green Belts*"[50] and it is difficult to think of a higher hurdle in policy terms than very special circumstances.

7.9 The rigour with which this site's contribution to the Green Belt is assessed must reflect the importance given to Green Belts. It would not be sufficient to focus on the existing concentration of buildings in the centre of the site. Built development quickly thins out and by far the majority of the site does not contain significant built development[51]. Openness is defined by the absence of built development. The site is predominantly open and therefore serves the fundamental aim of Green Belt policy of keeping land permanently open.

7.10 This contribution to the Green Belt is recognised in the 2015 Kirkham Green Belt Study[52] which drew an inset boundary around the built form and hardstanding on the site, plus the southern recreational area, and excluded the north-west and south-west quadrants. These inset areas are those which do not display essential Green Belt characteristics; the point being, that the rest of the campus outside the proposed inset boundary does display those essential characteristics.

7.11 The Kirkham Study also aligns with the Council's assessment of the contribution of the site to the Green Belt purposes. In respect of purpose 2 (to prevent neighbouring towns merging into one another), the study notes that while the area between Wheatley and Holton does not contribute to the separation of towns, the area does contribute to the separation of Wheatley and Holton and any substantial development would lead to the perception of settlements merging. In respect of purpose 3 (safeguarding the countryside from encroachment), the open areas with a wooded and parkland character in the west plainly safeguard the countryside from encroachment.

7.12 The 2018 LUC Green Belt study[53] downgrades the site's contribution to the Green Belt but still finds that harm could be caused by its release. The study's overall judgement of '*low moderate*' harm needs to be treated with significant caution in light, of conflicts with the earlier Kirkham Study and the evidence of the Council's landscape witness.

7.13 The harm to openness is multi-faceted. On a parcel by parcel analysis of the site, the proposal would result in approximately 70% of the site being dominated by built development, rather than 33% now[54]. In respect of the visual element of openness, the site is currently experienced from within as largely open but for the concentration of development in the centre and east. Visually the site would be radically changed, from an open university campus to a dense residential estate, with the exception of the north-western quadrant only.

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[50] Paragraph 133 of the Framework

[51] Bolger PoE paragraph 4.2.1-15

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

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

[54] Bolger PoE paragraph 8.2.3

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

Volume

7.15 The Appellant's description of "*flattening and dispersing*" is not accurate. The tower's demolition is flattening, but elsewhere currently developed areas see a substantial increase in height. As the PPG states[55], an analysis of existing v proposed volumes are part of the assessment of impact on Green Belt openness even at the outline stage.

7.16 The volume of the existing built form on site is agreed to be around 125,500m^3. By overlaying the illustrative layout and the building heights parameters plan, the Council has calculated[56] a building envelope of around 203,500 m^3. That equates to a 62% increase on the existing volume – a substantial increase.

7.17 Although it is not possible to know the exact volume of development that would come forward in the future, the parameter plans do control the limits of development. A planning permission granted in the terms sought would be for up to 500 dwellings, such that no more dwellings could be built, but dwellings filling the 203,500 m^3 would be consistent with that permission.

7.18 The alternative approach to volume involves a 'bottom up' approach, whereby a SHMA compliant mix of dwellings is used to calculate a volume for 500 dwellings. On this approach, the Council has calculated[57] a volume of approximately 170,000m^3. The Appellant volume figure of 125,563m^3 has been calculated using a higher proportion of 1 and 2 bed flats[58] as requested by the Council during the application stage. However, this is likely to be a significant underestimate for the following reasons:

a. It makes no allowance for storage, communal storage, lifts, lobbies or pitched roofs to any of the 3 or 4 storey flats, and

b. Discussions with local affordable housing providers indicate that the dwellings are unrealistically small in terms of floorspace.

7.19 On either of the Council's approaches to volume, there would be a substantial increase in built volume under the appeal scheme. This further bolsters the conclusions set out above that there would be a significant impact on openness.

[55] Paragraph ID64-001.
[56] Kashdan-Brown Rebuttal PoE Appendix JKB1 paragraph 2.
[57] Kashdan-Brown Rebuttal PoE paragraph 16.
[58] Gardner PoE paragraph 12.36

7.20 The Appellant cites the Wheatley Campus SPD[59] (the SPD) which provided for up to 194,995m^3 of volume. However, the SPD shows a redevelopment scheme which is essentially confined to the area of existing built form.

Character and appearance

7.21 There is a distinction in character between the western and eastern halves of the site. The eastern and central areas are dominated by large scale development whereas the west, is largely open and significant elements of the former historic parkland are retained: the open and expansive grassland, the specimen parkland trees, the wooded area in the south-west quadrant, and the view to the mansion house of Holton Park just set back from its north-western boundary. Despite the use of the term 'relict parkland' in the application documents, there is more than just fragments: the parkland character is quite evident and links in particular to the parkland setting of the school to the west.

7.22 The parkland character is acknowledged in the Oxfordshire Wildlife and Landscape Study 2004[60], the western half of the site falls in the Wooded Estatelands landscape type, while the eastern half is in the Rolling Farmland landscape type. These landscape types can cover quite large swathes of land around Oxford, but the drawing of the line down through the middle of the site evidences the different character of the western half. "Large parklands and mansion houses" are characteristic of the Wooded Estatelands landscape type. The appeal site sits in just such a former park with the mansion house overlooking it, and although the whole is not intact, unlike for instance Shotover Park to the east, the character is still evident.

7.23 The Appellant's use of the term "*institutional*" is unhelpful and various landscape studies[61] have referenced the site's parkland character. The scheme would harm this character with built development dominating the currently wooded south-west quadrant, enclose the southern boundary of the north-western quadrant and advance west some way into the north-west quadrant itself at the north of the site. In doing so not only would areas with parkland character be lost to dense residential development, but the remaining north-western quadrant would be significantly more influenced by the built development on its boundaries.

7.24 The scheme would conflict with the aforementioned landscape studies which advise that development should be focussed on the previously developed parts of the site. These studies form the evidence base that fed into the principle in eLP Policy STRAT14 that "*development on the western, undeveloped part of the site will not be considered appropriate*".

7.25 In visual terms, there would be harm to the visual amenity of the users of the campus (which include the public). On the western side the university buildings do not become prominent until pedestrians and cyclists are well into the site, especially in summer. The change to close views of the edge of residential development would be adverse. The proposed 4-storey development in the

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

[60] Appendix 3, CD16.2

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

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

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

Heritage

7.27 The western half of the site is sensitive in heritage terms with an on-site SM and a strong visual connection to Holton Park beyond which is a further SM and a collection of listed structures. There is no inter-visibility with this off-site SM and listed structures, but setting is not dependent on inter-visibility.

7.28 As the Council's witness explained these heritage assets are part of the same story of the Manor House's shifting locations through the centuries across the site and its surroundings. Holton Park has been orientated and positioned to take advantage of views to the south-east, and despite the intervening fence and vegetation there remain long views from Holton Park over its historic parkland.

7.29 The current open settings of the on-site SM and off-site Holton Park allow their inter-relationship to be understood. Despite the inability to be certain as to the nature of the monument, Historic England (HE) note that the on-site SM's setting has "*good open views in all directions*" and that "*in all of the possible interpretations of this feature, there is a connection with the earthwork and the relatively open and rural space surrounding* it".[62]

7.30 The John Moore report[63] highlights an area (in green) which is "*the area that should be withheld from development to ensure the least impact to these heritage assets".* This "*designed landscape setting implication*" is essentially all of the north and south west quadrants of the site. The figure on page 266 of the same report includes a smaller shaded orange area described as "*Scheduled monument and listed building setting implication*". That shows an area where each heritage asset has a relationship with the other. There are no grounds to suggest that the "*designed landscape setting implication*" in the John Moore report was influenced by the outcome of the decision on the planning application.

7.31 The appeal scheme fails to respect the open context which allows the relevant heritage assets to be understood. The scheme mostly fills the south-west quadrant of the appeal site with residential development, and comes within 50m of the SM. Although the majority of the north-west quadrant is left open there is nonetheless encroachment of development into this area. This would leave the assets heavily influenced by suburban residential development.

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[62] CD20.1

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

7.32 The existing university buildings occupy only 70 degrees of the field of view from the on-site SM. They leave it predominantly open. The proposed development would see this extend to more than 180 degrees, due to the spreading of development to the north and to the south west of the site. This impact would be exacerbated by the new access road which would comprise a double streetway, with kerbing and streetlighting. The illustrative layouts suggest a corridor could be kept open to the south of the on-site SM, but this would be a channelled view through residential development. By reducing openness in this way, the effect of the proposed development would be to significantly diminish the context of the SM and Holton Park that enables them to be understood and tell the Holton Park manorial story.

7.33 In terms of Holton Park, only 40 of the 130-degree view cone from the rear windows of the building comprise built development. This would increase to 93 degrees. Presently, the closest 2 storey buildings on the appeal site are 265m away, but the proposed development would be as close as 180m, with the access road being closer still.[64]

7.34 Based on changes to the setting of the SM, the Council considers the proposal would result in less than substantial harm of a moderate extent. There would be noticeable changes to the setting of Holton Park, which supports a conclusion of less than substantial harm of minor extent. The same extent of adverse impact would be seen in respect of the off-site SM and associated listed structures. It is striking that HE, the Council's Conservation Officer and the authors of the John Moore report come to similar conclusions.

7.35 The removal of the tower would have a minor positive effect upon the significance of the heritage assets. In respect of the SM and Holton Park, the tower is several hundred metres away and well screened by parkland trees. The view of the tower from the churchyard is a seasonal, filtered, distant and incidental one. Although there may be some limited heritage benefit in redesign and tree planting in the north-west quadrant, it falls well short of counterbalancing the harm that would be caused by the encroachment of built form into the settings of the heritage assets and the reduction of the north-west open area itself by 0.8ha.

7.36 Paragraph 196 of the Framework requires harm to be identified. It is only then that benefits can come into play in determining whether any harm is outweighed. This approach is supported by paragraph 193 and the requirement to give "great weight" to an asset's conservation. This must require a separate consideration of harms from benefits.

Accessibility

7.37 There is a good range of facilities and services in Wheatley but to comply with the Development Plan and national policy and guidance those facilities and services need to be accessible by sustainable modes of transport.

7.38 The distances to the facilities and services in Wheatley are significant. With the exception of the Wheatley Park Secondary School and the Park Sports Centre (both of which are on the Holton side of the A40) and the doctor's surgery at

[64] ID12

Morland House, all of the facilities are over 1km away, with the primary school 1,407m and the Asda 1,739m[65].

7.39 The IHT's Guidelines for Providing for Journeys on Foot 2000[66], gives a '*desirable*' walking distance of 400m, an '*acceptable*' walking distance of 800m, and a '*preferred maximum'* distance of 1,200m. All the facilities exceed the acceptable distance, and many exceed the preferred maximum. Paragraph 4.4.1 of Manual for Streets[67] states:

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

7.40 Two other factors emphasise the need for sustainability improvements to be very effective if the appeal scheme is to be sustainable. First, the A40 adds to the perception of separation. Walking through an underpass or on an overbridge to get across 4 lanes of trunk road is unattractive and a deterrent. Secondly, the scale of the appeal scheme is strategic. When so many people are affected, it is particularly important that the scheme is a sustainable one.

7.41 The eLP recognises this. STRAT14 notes that provision is likely to be needed for "*cycling and walking links into the centres of Holton and Wheatley and to the primary school*". The cycle and pedestrian provision across the bridge is unsatisfactory. The scope for further cycle lanes to, from and around Wheatley could also be explored; the narrowness of some historic streets may mean there are limits to what can be achieved, but the Council is not satisfied that all avenues have been explored.

7.42 The Appellant has proposed accessibility and connectivity improvements from the site to Wheatley, which have been sufficient to satisfy the Highway Authority. The Council have had regard to that view but have reached a different judgement that in light of all the above factors.

7.43 In the direction of Holton, the shortcomings of the scheme are particularly stark. There are no existing adequate footpath or safe cycle links with Holton. The scheme does nothing to improve this, providing no connectivity improvements with Holton. Being divorced from Holton in this way despite lying in its parish is unsatisfactory in social and sustainability terms.

Housing requirement

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

[65] Accessibility SOCG table 5.1 (CD16.4)
[66] CD14.17
[67] CD14.3

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

7.45 The October 2018 Technical Consultation explains that these amendments to footnote 37 and Annex 2 were introduced to remove any ambiguity on this issue[68]. The PPG is to the same effect: ID68-005 and other paragraphs provide that the standard method is to be used in these circumstances. The Appellant's reliance on ID21-010 regarding alternative, higher housing requirements than that derived from the standard method fails to have regard to the fact that that paragraph is clearly talking about plan-making.

7.46 The Appellant has sought to argue that the Framework permits a different approach, by reference to: (i) the WMS, (ii) the OHGD, and (iii) the Government's response to the 'Partnering for Prosperity' NIC report[69]. For the following reasons, it is considered the Appellant's approach is wrong in relation to all 3 documents.

7.47 Paragraph 6 of the Framework provides that Written Ministerial Statements may, as statements of government policy, be material. The WMS does not however, change the housing requirement for the Oxfordshire authorities. Its actual effect is to implement one specific change to national policy. This is found in the fourth paragraph of the WMS: "*For the purposes of decision taking under paragraph 11(d), footnote 7 of the Framework will apply where authorities in Oxfordshire cannot demonstrate a 3-year supply of deliverable housing sites (with appropriate buffer, as set out in paragraph 73)".* That amends footnote 7 as it applies in Oxfordshire. Nowhere does the WMS amend paragraph 73 or Annex 2 so as to provide that the Oxfordshire authorities should calculate housing supply by reference to a requirement other than that derived from the standard method.

7.48 The actual words of the WMS must be respected. It is not possible to read in to the WMS, as the Appellant would like to do, an obligation on the Oxfordshire authorities to calculate supply for decision-taking purposes by reference to a housing requirement derived from the SHMA, including a sizeable chunk of Oxford City's unmet need. Nor does the OHGD amend national policy so as to mean that South Oxfordshire is obliged to use a non-standard method housing requirement. The OHGD is all about planned growth[70]. The 100,000 homes should not therefore be delivered through speculative applications and appeals outside the plan-led system, such as the present one.

7.49 The Government response to the NIC report became a key plank of the Appellant's case, despite it only featuring in a single footnote in Mr Ireland's PoE. Paragraph 6 of the Framework also provides that "*endorsed*

[68] Appendix 7 paragraphs 30-34 (PoE/NI)
[69] CD 20.6
[70] Paragraph 1.2.3 of the OHGD Delivery Agreement (CD15.7)

recommendations of National Infrastructure Commission" are statements of government policy which may be material. However, recommendation 6 which states, that agreements between central and local government must not lead to a drop-in supply[71], is not an endorsed recommendation. Rather the response explains that it has negotiated a bespoke agreement with the Oxfordshire authorities. That obviously implies that one must look at the precise terms of the bespoke agreement itself to understand its implications.

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

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

Housing land supply

7.52 As set out above, the Council is required to demonstrate a 3YHLS against a housing requirement derived from the Standard Method. This it can do very comfortably with a supply of 9.71 years[73]. Even on the Appellant's supply figures, the Council can demonstrate a 3YHLS of 5.4 years.

7.53 The figure only drops below 3 years in Table 3[74] if: (i) the housing requirement is made to match the housing numbers in the OHGD, i.e. 775pa and 495pa from 2021; and (ii) the Appellant's supply figures are used.

7.54 For the reasons set out above, the OHGD housing numbers cannot possibly be the appropriate housing requirement for decision making in advance of plan adoption. Accordingly, whether the Council's or Appellant's deliverable supply figures are used, the Council has requisite supply and paragraph 11(d) of the Framework is not engaged. As observed in the Lower Shiplake decision[75], there is no point in examining the supply figures.

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

[71] Final paragraph page 16 (CD20.6)
[72] Page 17 (CD20.6)
[73] Table 2, Housing SOCG (CD16.5) reproduced in Appendix E
[74] Appendix E to this report
[75] PINS Ref: APP/Q3115/W/19/3220425 Paragraph 48 (ID4)

The starting point is to have close regard to the definition of deliverable in Annex 2 of the Framework. As the SoS made clear in the recent North Worcestershire Golf Club decision[76] "'*realistic prospect' remains the central test against which the deliverability of all sites must be measured*".

7.56 On several of the disputed sites specific SoCGs have been signed by the Council and the developer. These are important because they are evidence direct from the developer, i.e. the person who is in the best position to assess deliverability. The Appellant warns against developer's 'talking up' delivery to curry favour with the Council. However, as the Appellant's witness accepted, there is no real basis to approach the developer's statements on that disbelieving basis. The information listed in the SoCGs is carefully aligned to the categories of evidence suggested in the PPG[77].

7.57 The Appellant's approach to supply is essentially to identify where more information particularly around the status of reserved matters applications could be provided. But discussing the progress of every reserved matters application would be disproportionate and excessive. Unless there has been some significant delay in the determination of a reserved matters application, the submission of a reserved matters can of itself contribute to 'clear evidence'.

7.58 The Appellant has raised concerns about the dates of some of the SoCGs. However, there is no requirement for evidence to pre-date the base date. Neither the Framework nor PPG support that and the Inspector in the North Worcestershire Golf Club appeal expressly recognised that evidence could legitimately post-date the base date[78].

7.59 A proper understanding of the nature of the exercise means that evidence is likely to post-date the base date. The base date is a fixed point in time for monitoring and data collection. All completions must be collected up to that date. All outline and detailed permissions issued up to that date, along with all allocations (e.g. in a Neighbourhood Plan) and resolutions to grant need to be taken into account. Given that completions / permissions / allocations / resolutions will still be happening up to the end of 31st March, collection of evidence as to the deliverability of those permissions / allocations / resolutions will necessarily be a retrospective exercise after 31st March. Even if a permission has been issued well before 31st March, deliverability needs to be assessed around the base date. The Appellant suggested the Council should collect all the evidence in January / February. But in addition to missing permissions / allocations / resolutions from after that date, the Council would miss any change of circumstances up to the base date.

7.60 The Council's evidence of lead in times and build out rates, contained in Appendices B and C of the HLSS is also important in contributing to the clear evidence required. Its robustness derives from the fact that it is both recent and derived from the local area. The Appellant was critical that one of the averages was derived from 4 sites, which was asserted not to be sufficient. But there is no reason why an average from 4 recent and local sites should not give a reasonable idea of future rates.

[76] PINS Ref: APP/P4605/W/18/3192918 (Duffy Rebuttal PoE Appendix N)
[77] ID68-007
[78] Paragraph 14.48

7.61 On windfalls and non-implementation rate, the Appellant appears to have misunderstood the Council's approach. The Council includes 666 small site permissions for years 1 – 3 because they have got permission, not because they are windfalls. For years 4 – 5, the Council does include a windfall allowance of 100pa, because past windfall rates provide the compelling evidence that paragraph 70 of the Framework requires. The Appellant's attempt to apply a windfall rate across all of years 1 – 5 fails to appreciate that for years 1–3 the existence of actual permissions means that there is no need to apply a windfall rate.

7.62 Finally, on supply, the Appellant was critical of the inclusion of allocations and resolutions to grant in the supply. But the Framework expressly lists allocations as a category for which clear evidence may be sufficient to show deliverability. If allocations can be deliverable, if must follow that resolutions to grant can be deliverable, given that a resolution shows a site more advanced than if it only has an allocation. The Councils housing supply figures are set out in Appendix E to this report.

Affordable housing

7.63 The affordable housing proposed is a significant benefit of the scheme. Affordability is an issue in the district and there is need for affordable housing.

7.64 That said, the extent of the benefit should not be overstated. The Government does not impose any separate policy requirement in respect of affordable housing supply or delivery. The Council is meeting the two key policies in respect of housing supply and delivery, of which affordable housing supply and delivery will form part: 5YHLS and the Housing Delivery Test.

7.65 The Appellant criticises the Council for not having met the affordable housing need in full. The SHMA identifies a full need of 331pa and the Council's average over the last 7 years or so is 201pa. But the trend is upwards, and last year the 331pa was exceeded. Further, the difficulties of delivering affordable housing to meet the need in full are well recognised in the SHMA[79].

7.66 The Standard Method is the Government's default methodology for arriving at a housing requirement and while it incorporates an uplift for affordability, it does not attempt to impose a requirement which incorporates full affordable housing need.

Very special circumstances and the planning balance

7.67 The scheme is inappropriate development in the Green Belt. Very special circumstances are required for permission to be granted. On the harm side, there is the definitional harm by reason of inappropriateness, along with the other Green Belt harm, i.e. to openness and conflict with Green Belt purposes. Substantial weight must be given to all that harm.

7.68 There is also non-Green Belt harm. This includes the overall landscape and visual harm, the harm by reason of poorly connected and inaccessible development, and heritage harm. In accordance with paragraph 193 of the Framework great weight must be given to the heritage harm.

[79] Paragraph 6.82 (CD10.6)

7.69 On the benefits side of the balance, significant weight is to be given to the affordable housing. The market housing does not attract significant weight, given the Council has a comfortable 5YHLS. The removal of the tower is a benefit. This is so in landscape, visual and Green Belt openness terms, but the Council's evidence concludes that it does not outweigh the harm caused in respect of those matters. It is less of a heritage benefit: any heritage harm that is being caused by the tower is minor and any benefit by its removal is correspondingly minor. Other heritage benefits, for example some parkland tree planting in the north-west quadrant, are also minor. There would be some sustainability benefits to residents of Wheatley as a result of the package of accessibility improvements, benefits as a result of reinvestment of funds in other OBU campuses, and some short-term construction benefits, but none of these are in the 'significant' category.

7.70 The 2 Green Belt Ministerial Statements[80] are highly relevant in the very special circumstances balance. The Government has made clear that unmet need is "*unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development in the Green Belt*". The effect of the ministerial statements is that, when an Appellant relies on meeting housing need as the principal benefit of a scheme, as the Appellant is clearly doing in the present case, they are unlikely to be able to establish very special circumstances.

7.71 Paragraph 11(d) of the Framework requires it to be asked whether the policies which "*are most important for determining the application are out of date*". The most important policies are those in the RfRs. The Core Strategy policies relied on are clearly not out of date, having been adopted after the Framework and having been tested for consistency with it. The tilted balance is therefore not engaged. Even if it was, the application of Green Belt and / or heritage policies would provide a clear reason for refusing the appeal scheme in the present case.

7.72 There is conflict with the adopted development plan as a whole. There is conflict with the eLP, insofar as any weight can be given to it. There is conflict with national policy and therefore the appeal should be dismissed.

8. The Case for Oxford Brookes University

The case for the Appellant is summarised as follows.

Overview

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

[80] CD11.1 & 11.2

8.2 The proposal was recommended for approval by the professional planning officers of the Council. The site is wholly owned and promoted for development by OBU. The receipts from the land sale would be used to improve and expand the University's main Headington campus in Oxford, which would deliver a much better experience for the students who go to study there. The relocation from the appeal site has already commenced and is due to be completed by 2020/2021. After this, the site would become a large vacant and abandoned site, containing a huge mass of vacant and abandoned buildings.

8.3 The appeal is to be determined by the SoS who is known to support the eLP, which includes this allocation to progress and be adopted as soon as possible. The actions of the new political administration in South Oxfordshire has led directly to the SoS's intervention in the plan-making process and his expressly stated view that the plan as proposed should progress as soon as possible.

8.4 When OBU first notified the Council of its intention to vacate the appeal site, Officers immediately recognised its potential. The Appellant was encouraged to both pursue an allocation in the eLP and to prepare and submit a planning application for its redevelopment. Extensive pre-application discussions took place between 2016 and early 2019, which followed precisely the approach advocated in paragraphs 39-42 of the Framework. After the planning application was submitted, it was subject to detailed discussion with officers and various amendments were made including a reduction of development in the western part of the site and a reduction in volume, which the Appellant achieved not through a reduction in numbers but through a move from houses to apartments as the main form of housing. Apartments which would, of course, be much more affordable than houses. The Appellant has been on a long journey with this proposal. Always seeking to achieve a planning permission without recourse to an appeal. It has fully engaged in public consultation. Indeed, as the Council accepted at the Inquiry, there is not much more the Appellant, nor its consultants could have done in terms of seeking to positively engage and promote the proposal.

8.5 The Council's decision to refuse planning permission is based largely on the view that only the central and eastern parts of the site should be developed. However, that is inconsistent with the decision to remove the whole site from the Green Belt in the eLP and policy in the Framework that planning authorities should "*make as much use as possible of suitable brownfield land and underutilised land*."

8.6 Once the development of the site begins, the remaining parts of the campus would self-evidently be underutilised, as indeed is the case at the moment. The north-west quadrant is not proposed for development, save originally on the south western edge of it, because of the proximity of designated heritage assets. These issues do not however apply to the south-western quadrant of the site which is currently unused and contains no heritage assets. Development in this area makes sense in order to ensure the new community is well connected, not isolated from the rest of Wheatley and that pedestrians are well overlooked in that area.

8.7 It is critically important to note that the concept plan in eLP Policy STRAT14 which seeks now to limit the allocation to the central and eastern parts of the site, was only issued to the Appellant and wider public on 7 January 2019, well

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

Policy context

8.8 The Council has cited conflict with various saved policies with the LP adopted in 2006. This was a complete local plan, as was normal before the 2004 Act. It was adopted 6 years before the Framework was published and only covered the period to 2011, meaning it was adopted in only the last 5 years of the plan period.

8.9 The whole planning regime in 2006 was very different to the post Framework era. The housing requirement, the key component of the plan, was based on RPG and structure plan targets from household projections which are now about two decades out of date. There was no requirement to boost significantly the supply of housing, no requirement for identifying an Objectively Assessed Need (OAN) and no presumption in favour of sustainable development. Heritage and Green Belt policy was also different.

8.10 When the Council failed to adopt an LDF by 2007, the policies in the LP had to be saved by the SoS. This plan does not meet the requirement for the Council to have an up-to-date local plan. The LP is a plan which is now painfully out of date both in terms of its purpose, its strategy, its content, and its policies and is not a strong foundation upon which to refuse planning permission.

8.11 The CS is more recent, having been adopted in 2012. Although the Examining Inspector expressly stated that he had consideration to the Framework, the Examination hearings took place mostly in 2011, with just a few days in May and June 2012[81]. The CS is constrained by the need to use the housing requirement in the RPG which remained in place until 25 March 2013. Paragraph 218 of Annex 1 of the 2012 Framework allowed Councils and Inspectors to give full weight to relevant policies adopted since 2004, even if there was a limited degree of conflict with the Framework. Moreover, the Examining Inspector had to rely on RPG housing requirements because he had not been presented with an OAN figure at that stage. The guidance on how to calculate OAN was not published by the Government until March 2014. The consequence of all this, is that the Council do not have an OAN figure and therefore their housing requirement is not, and never has been, compliant with the Framework.

8.12 The policies contained in the CS were drafted, evolved and largely examined under the previous national guidance save for some modifications in 2012. Some of the policies relied upon by the Council such as Policies CSEN2 and CSEN3, are worded to be high-level strategic policies rather than development management policies. The Council should not really be relying upon them for development management purposes. This problem with the CS stems from the

[81] CD5.3

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

8.13 In a recent s78 appeal decision[82], the Inspector found that the CS' plan strategy and a series of landscape and countryside protection policies were out of date. The eLP is designed to overcome all of the problems with the existing plans. It is intended to be Framework compliant. A brief review of its proposed policies reveals a suite of policies which seek to address the OAN for housing in South Oxfordshire, meet unmet need from Oxford, allocate the sites needed to meet these housing needs and offer development management policies which are consistent and aligned with the Framework

8.14 The problem is the Council is now looking to withdraw the eLP as is made clear from the resolution made by the Council's Cabinet in September. So, having finally prepared a Framework compliant, up-to-date development plan, and having submitted it to the SoS, the Council are now looking to abandon it. The Council's position is untenable. Their claim that their existing plan is not out of date is completely lacking in credibility, as evidenced by their own eLP. The eLP should have been Examined by now. Instead there is no up-to-date plan at all. That is important when considering whether this proposal should be allowed because the appeal site is a key housing allocation in the eLP.

8.15 The Council has referred to this as "*speculative development*". It is the antithesis of speculative development. It is a proposal on an allocation in a draft plan.

8.16 The Appellant has carefully considered the issue of datedness[83] following the Wavendon[84] approach. The Appellant's conclusions on the matter are closely aligned with those of the professional officers[85] as expressed through the Committee Report. The recommendation to approve the appeal scheme was not taken on the basis of compliance with the eLP but rather the existing development plan.

8.17 This is not a conclusion that was taken lightly by the professional planning officers of the Council. They know how their policies are designed to operate and the significance of compliance with the Framework and its requirements. It is not credible to suggest that Members of the Planning Committee, have the same level of understanding of planning policy as professional officers. The Council's Members who took the decision in this case were not present to give evidence at the Inquiry.

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

[83] Section 5, Gardner PoE

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

[85] Paragraph 7.1vii (CD4.1)

The eLP

8.18 The eLP proposes that the whole campus should be removed from the Green Belt and allocated for a minimum of 300 houses. The policy wording suggests the development should be focussed on the previously and eastern part of the site and that is what the appeal scheme seeks to do with the overwhelming majority of the development and the units focussed in this way.

8.19 The sensitive north-west quadrant would not be developed for houses, whilst the housing proposed in the south west quadrant is very much lower density, with numerous green areas proposed, as is clear from the land use parameters plan. The plan also shows that nearly half the site is proposed for green infrastructure, the overwhelming majority of which would be on the western part of the site.

8.20 The SoS, who is known to have reservations about the Council's intention to withdraw the eLP, will make the decision in this case. Withdrawing the plan has profound implications not just for the Council, but also for the Growth Deal which has been signed by all the local authorities in Oxfordshire. It also has profound implications for the future progress of housing in this country, as this is by far the highest profile Growth Deal, forming the first part of the Arc of Growth proposed between Oxford and Cambridge, a matter which the SoS himself has invested a huge amount of his time and effort before he was elevated to the position of SoS in July of this year.

8.21 On 29 March 2019, the eLP was submitted to the SoS for Examination. Following local Council elections in May, the new political administration sought to abandon the eLP, in doing so, to turn its back on the pressing need for more housing in the district and the county and significant investment which was to be made in infrastructure.

8.22 There was at this inquiry, a rare opportunity to cross-examine both the previous head of the planning committee who promoted the eLP and one of the new Councillors. The contrast in their approach could not be more evident. The former member spoke passionately about the plan and the Growth Deal, the need for the investment in South Oxfordshire and the county as a whole.

8.23 The new elected Councillor was, by contrast, concerned primarily with seeking to question the housing growth under the guise of a concern for climate change. The climate change agenda is not a sound basis for refusing to provide people with homes and the homes they can afford. In fact, it does the exact opposite. It causes such people to have to live further and further away from where they work, adding to travel distances, congestion and air pollution.

8.24 This is a Council where many of the new local councillors were elected on a NIMBY stop-the-plan ticket, with no sense of any wider responsibility for addressing the housing crisis in South Oxfordshire. During July and August 2019, the Council indicated their intention to review previous commitments to the eLP and OHGD. On 20 September 2019, the Ministry of Housing, Communities and Local Government's Director General for Decentralisation and Growth wrote to the Council making clear that any withdrawal "*would not be without consequences"* including putting at risk further Government investment which was dependent on providing "*certainty that the full number of houses will*

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

8.25 The Council's proposed withdrawal of the plan is a seriously retrograde step, flatly contrary to Government policy nationally and jeopardizing the position of the other Oxfordshire local planning authorities. In the prevailing development plan-led and OHGD context, the Council cannot avoid the clear national policy imperative of boosting the supply of housing, by abandoning their plan.

8.26 Should the SoS conduct his own examination, it is submitted that there is no prospect of the removal of Policy STRAT14. In their correspondence with him, the Council have highlighted the fact that the SoS has made clear he supports the plan. In the unlikely scenario that the plan is permitted to be withdrawn, a development plan vacuum would open in which the presumption must apply with particular force to support the grant of permission on previously allocated sites.

8.27 As such, in the short term, at least, those in need of housing in South Oxfordshire must again rely on the development industry and the planning appeal system to deliver new homes because as recent events testify, that is not something which this Council is well equipped to do. The University did not take the decision to appeal this proposal lightly. It spent a long time considering whether to do that in the first half of this year. But now it has, recent events suggest it was absolutely the right decision to make, as the plan may be years away, if indeed it is not abandoned.

8.28 Although no weight can be given to the eLP in the current circumstances, the same cannot be said for the evidence base. It is this evidence which lies behind the decision to select this site for large scale housing development and to release the site from the Green Belt. That is contained in the various reports which the Council commissioned into suitable Green Belt sites and which are set out in the SoCG on landscape.

8.29 This evidence base supports the development of the site for significant housing. The only real consequence for decision making at this stage is that the appeal must be approached on the basis that the site remains for now in the Green Belt, which means the policies relating to sites in the Green Belt must be addressed. That is how the Council officers approached the matter. In so doing, they reached the conclusion that the proposal met the Framework 11 c) test and therefore it was unnecessary to consider the tilted balance in paragraph 11 d).

Green Belt - Inappropriate development

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

[86] CD15.15

8.31 'Curtilage' is not a term defined in legislation or the Framework. There is case law but it is vague in the extreme. Most of the case law relates to individual houses and the land around it. In that sense it has little currency in respect of this site. There is no case law relating to the definition of curtilage in respect of a university campus.

8.32 Where the case law does exist, it makes clear it is a matter of fact[87] and a matter of fact and degree[88]. That makes a challenge to any decision on what is the curtilage by the decision maker very difficult to challenge.

8.33 A university campus is not a single house or building. In this case most of the buildings on the campus are not houses but large buildings located in close proximity together. With little space between the buildings, the open land is as much a part of the campus as the buildings. The open land around the buildings form part of the campus. The two plainly work together to create the campus and the open fields are very obviously necessary to the buildings and used in a reasonably useful way, because the open spaces and playing pitches are part and parcel of the whole composition that is a purpose build 1970s campus.

8.34 It is in the nature of a campus, properly understood, that the land and the buildings are intricately and inextricably linked to form the whole. The dictionary definition of campus is "*the buildings of a college or university and the land that surrounds them*"[89]. That sits comfortably with the way in which the word curtilage is approached in the case law cited above.

8.35 On the basis that the land within the campus is PDL then its full redevelopment is to be judged not in appropriate development in the Green Belt if either of the two requirements in paragraph 145g) of the Framework are met. The first test requires the decision maker to consider whether the development would have a greater impact on the openness of the Green Belt than the existing development. The Appellant believes this test is met. The new second, and more permissive test, requires the decision maker to consider whether the development would cause substantial harm to the openness of the Green Belt, where the development would re-use PDL and contribute to meeting an identified affordable housing need within the area of the local planning authority.

8.36 The second test which allows the opening up of more opportunities for development in the Green Belt must be seen as a significant development, especially in the face of such strong political pressure to protect the Green Belt at a national level.

8.37 There is no dispute that the appeal proposal contributes to meeting an identified affordable housing need. The Council also accepts[90], that Framework paragraph 145g) applies to a significant amount of the site. The Appellant is plainly not seeking to develop any of the north-west quadrant, which is given over to sporting and recreational use, with the opportunity to enhance the area close to

[87] Methuen-Campbell v Walters [29179] QB 525. (CD19.2)
[88] Skerrits of Nottingham Ltd v SSETR [2000] 2 PLR 102 (CD19.3)
[89] Gardner PoE, paragraph 12.14
[90] Landscape SOCG (CD16.2)

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

Openness

8.38 Whether the proposal causes harm to openness is a matter of planning judgement. The courts and now the PPG make clear that it is a matter to be looked out in both spatial and visual terms, and where volume is not the only measure.

8.39 The Appellant's approach to openness is two-fold. It relies on a volume analysis to demonstrate that the proposal falls within 145g) and if that fails, it seeks to demonstrate that very special circumstances exist. In Turner v SSCLG[91] the Court of Appeal was keen to go out of its way to hold that openness is not solely about a volumetric issue but is more "*open-textured*". The Court was keen to emphasise the implicit nature of the visual amenity aspect of the issue of openness. This case was pre-dated the new second test in paragraph 145g)ii). Yet the importance and consideration of visual aspect surely lends itself more to the new test of considering whether the proposal would cause "*substantial harm to openness*".

8.40 The volume of the existing buildings has been calculated as 125,500 sqm and is not disputed. It is accepted by the Council that the tower has an impact on openness which is greater than merely its volume. At 35m in height that is plainly so. It has a significant impact on openness. The removal of the tower, as proposed with this scheme, is a significant benefit to improving the openness of the Green Belt in this area. There is another significant benefit associated with the removal of the other large institutional buildings around the tower, which are appropriately described as an agglomeration of buildings. The removal of all the buildings is plainly beneficial to openness.

8.41 It is the net effect of the proposal with this removal and its replacement by the proposed development which is important. The appeal scheme proposes a development of up to 500 homes. As this is an outline scheme the Council's professional officers accepted that "*a precise volume calculation of the proposed buildings is not available*"[92]. The parameters plans do however indicate the maximum height of the development. On the basis of that information, the officers were happy to conclude the proposal could be built so that it had no greater volume. It is of course, entirely in the gift of the Council at the reserved matters stage, to ensure the development does not result in a material increase in volume.

8.42 The volume is therefore assumed to be similar. The Council's volume calculation is based on unsubstantiated assumptions that the proposal would have to come forward in accordance with a SHMA compliant mix of house types. In practice the site would come forward with a proposal suitable to this site. If the Council want the volume to match that of the existing development, it would be within

[91] Paragraph 14 (CD9.7)

[92] Page 19 of Committee Report (CD4.1)

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

8.43 The Council's evidence also relies on a volume calculation which assumes the maximum heights used in the parameters plan for the whole site. Similarly, control over building heights would be entirely within the gift of the Council at the reserved matters stage. They control that process and can make such decisions at that stage. The Council's arguments about needing to include lifts and extra storage space are not based on any market evidence. The Appellant has approached a major housebuilder and established that lifts would not be required for apartments which are 3 and 4 storeys in height.

8.44 The national space standards are not required here as there is no adopted development plan policy which requires them, and the delay in the progress in the eLP is plainly the reason that now becomes a very bad point for the Council.

8.45 Overall, the development would simply lower and flatten built development across the eastern and central parts of the site. The Council officers accepted this approach as is clear from the last paragraph of the conclusion[93]. The development would cause no harm (let alone any "substantial harm") to the spatial openness of the Green Belt.

8.46 The eastern and central part of the site is very institutional in character and has a clear visual bulk. The removal of the 35m tower would amount to a particular positive benefit in terms of openness, which by virtue of its significant height can be observed from outside the appeal site in numerous locations. It is completely incongruous with the local landscape being unashamedly urban and modern in design. It has no place within the rural character of the local landscape, being both discordant and inappropriate. It sits uncomfortably on the edge of the village of Wheatley undermining the role played by the local church. To simply take the volume of this building as the sum total of the harm it causes to openness is to completely miss the point.

8.47 As clarified at the Inquiry the Council's only real dispute is in respect of impacts on openness in the south-western quadrant, in the area between the A40 and the central spine road. As the Appellant's Planning and Landscape PoEs have set out, this area does not itself serve any Green Belt purpose. In terms of the visual impact, this corner of the site is very well contained which has a significant impact on the ability to contain the visual impact on openness. Consequently, the visual impact of the low-density housing would be inconspicuous outside the site's boundaries. Overall the proposal would have a neutral effect on the visual openness within the site and a beneficial effect over a wider area. That would satisfy 145g)i) of the Framework.

8.48 The Council may disagree, but their evidence is predicated on erroneous assumptions about SHMA mix, the applicability of the national space standards and the need for lifts. Added to which there is an SPD which allows the University to achieve nearly 200,000m^2 of built development. That is an

[93] Paragraph 7.1vi (CD4.1)

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

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

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

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

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

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

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

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

Character and appearance

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

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

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

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

8.55 The north-west quadrant, currently in use as pitches, has very clearly been re-profiled for sports use and has an engineered character. The character and appearance of this north western part of the site would be significantly enhanced by smoothing the engineered slopes and converting back to parkland with additional tree planting.

8.56 In this context, there would only be limited and localised harmful residual effects on landscape character and identifiable positive effects. There would be no material effect on the character of the wider landscape.

8.57 The Council's case is centred on the claim that the site is part of a historic parkland landscape and that to build upon it would degrade it. However, this is not a parkland. What dominates the site is the agglomeration of institutional scale buildings, including the 35-metre tall concrete tower. The site has already been completely compromised as a historic parkland. And that has been a long, on-going and continually evolving process. The parkland to which the Council refers has, as the John Moore report makes clear, been "*largely degraded following development in the Second World War and after*". However, the Appellant's arboricultural assessment[94] confirms that many of the trees on site are not from the historic parkland. In any event only 2 mature trees are to be lost, as the proposal has sought to design around them.

8.58 The distinction between historic parkland and education campus is plain and obvious. It was brought sharply into focus by the Council's landscape character assessments of 2003 and 2017[95]. These documents locate the appeal site within the Semi-enclosed Farmed Hills and Valley's Character Type within the Mid-vale ridge landscapes. That is in direct contrast to the Parkland and Estate Farmlands character area which lies very clearly on the other side of the A40.

8.59 There can be no doubt that the Semi-enclosed Farmed Hills and Valley's Character Type is most appropriate to the appeal site: it specifically describes as part of this character type the area around Wheatley. It does so in these terms "*landscape typically fragmented and intruded upon by roads and built development*." That description could be written for the appeal site and the area to the west. The A40, the new road system and roundabout by the school and the sheer extent of built development in the area are plain to see. What remains undeveloped land is largely in the form of playing pitches on engineered terraces. 'Terracing' being the word used by the Council's heritage consultants to describe the character and nature of the sports pitches.

8.60 This is a University campus and there will be no harm to the character and appearance of the area arising from this development, when one looks at the fact it largely replaces the extent of the built development on site, but with far less height than the tower and no institutional scale buildings.

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[94] CD1.9

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

Heritage

8.61 There is one listed building, variously known as Holton Hall, Old Hall, Holton Park which is Grade II and faces directly onto the appeal site, and other such buildings located behind. There is also an on-site SM, which is designated under the Scheduled Ancient Monuments and Archaeological Areas Act 1979.

8.62 The appeal scheme does not involve any change to the listed buildings themselves nor the SM. There is however no disagreement that the appeal site falls within the setting of both Holton Park and the SM. The setting of heritage asset is defined in the Framework which makes clear it can change over time as has happened here.

8.63 The appeal site, in its current state, reflects the development of the campus from the 1960s onwards. The western part of the site retains little evidence today of its former character as historic parkland associated with the early 19th Century Holton Park. This is due to:

(a) the extensive groundworks carried out to provide the existing sports pitches and tennis courts on the western part of the site; and

(b) its relationship with the developed central & eastern parts of the site, including the tower.

8.64 The park is not included on the HE Register of Parks & Gardens and does not have any other form of national or local heritage protection. As a result of the extensive alterations made to the landscape of the campus site in the late 20th Century, the contribution that it makes to the designated heritage assets most affected (Holton Park and the SM) is of a minimal nature.

8.65 The John Moore report identifies a brown area which is concerned with the setting of the heritage assets. The proposal does not seek to place development in that area and instead would return much of that area and more to a parkland setting as it has previously been. That is relevant to the listed buildings. It has less relevance to the SM because no one really knows what the SM is and therefore judging what its setting is relies largely on guess work. Nonetheless the Appellant acknowledges the designation and has carefully designed the scheme to leave an open area around the SM so that it can be appreciated by the public who will enjoy full access to the site.

8.66 The 2017 Heritage Impact Assessment[96], seeks to ensure no development takes place "*at the north-western boundary of the site, as this would visually separate the earlier moated settlement site from its successor*" right next to where Holton Park was located. It was not a concern about building on any of the western part of the appeal site.

8.67 The SM on the appeal site is almost certainly of post-medieval date, rather than being the site of an early medieval manor. Its setting is fairly described as "bleak and forlorn". Nothing has been done to celebrate it or to interpret it to the public. Again, the area to the south makes a minimal contribution to its setting.

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

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

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

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

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

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

8.71 The public benefits of the proposal outweigh any possible heritage harm. The Council's approach to consider heritage benefits as public benefits rather than reduce the heritage harm seems erroneous when one is tasked with assessing the impact of the proposal on the significance of the heritage asset. The correct approach is to look at the impact on the significance of the asset in terms of the effect of the scheme. Even if the Council is right that simply means there are more public benefits even if there is a degree of heritage harm and it makes no real difference either way. The proposal is said to have no harm on the Grade I listed church. But the heritage benefit is surely taken into account anyway even if that is not the case. Failing that the benefit of removing the tower from the view through the lychgate is a real public benefit[97].

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

[97] Plate 20 Doggett PoE

Accessibility

8.73 The appeal site's proposed allocation in the eLP is a direct acknowledgment by the Council that the site is sustainably located. The evidence base undertaken as part of the eLP process further acknowledges "*Wheatley provides a number of services and facilities within walking distance from the site*".[98]

8.74 LP Policy T7 states that the District Council will seek to encourage walking as the predominant mode of transport for journeys up to 1 mile, as they recognise that walking and cycling has the potential to replace car use for short trips. The former Planning Policy Guidance Note 13 advised that "*walking is the most important mode of transport at the local level and offers the greatest potential to replace short car trips, particularly those under 2km*". Whilst the PPG has been withdrawn, the advice is retained in paragraph 4.41 of the Department for Transport's Manual for Streets. The eLP evidence base concludes that "*over one third of all journeys to work originating in Wheatley are between 0-5km – a distance which could be made on foot or cycle by most residents*", therefore the site is already well placed for travel by sustainable modes.

8.75 There is a very good range of day-to-day facilities nearby, including both primary and secondary schools. Almost all lie within 1-mile walking distance of the site, including the primary and secondary schools, local shops (such as the Co-op foodstore, butchers, bakers), doctors, dentist, pharmacy, leisure facilities, library and post office. These walk distances have been agreed by the Council. Therefore, walk distances accord with local and national policy.

8.76 The appeal site has comparable or better accessibility when compared against 2 preferred residential sites in the eWNP. The site is also better located in terms of accessibility when compared to other residential developments which have either been granted planning permission or allowed at appeal. Many of these sites are located a considerable distance from secondary schools[99].

8.77 The Appellant has worked with OCC to develop improvements to the key facilities for pedestrians and cyclists and this demonstrates that the Highway Authority consider that walking and cycling is a realistic transport mode for future residents of the development. A package of improvements to the walk and cycle network have subsequently been agreed with the Highway Authority. These measures include provision of new footways, widening existing footways, provision of cycle lanes, provision of dropped kerbs and tactile paving, provision of formal crossing points, signage and resurfacing of 2 cycle crossing points/ cycleways along the A40. These improvements would benefit future residents of the development as well as existing residents in the village.

8.78 The development would also fund a new bus service, serving the site and Wheatley. A financial contribution of £720,000 is to be provided which would fund an additional bus in the commercial fleet for eight years, with a frequency of 30 minutes; this is the highway authority's desired position for this scheme. This has a significant potential to reduce car journeys, by providing an alternative and sustainable means of transport for future residents of the appeal site. The service would also be routed so that it would serve Wheatley village to

[98] Page 9 South Oxfordshire Local Plan 2034: Strategic Site Selection Background Paper Part 2 (CD 6.3)
[99] Section 6, Ubhi PoE

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

8.79 A Travel Plan[100] has been prepared as part of the planning application and agreed by the Highway Authority. Travel Plans are strongly encouraged in both national and local transport policies and seek to change people's travel behaviour.

8.80 OCC did not ask for access improvements between the site and Holton. There are evidently very few destinations in Holton and therefore that calls in question why improvements are necessary to make the development acceptable. The Council's case is limited to the church and the village hall. It is also said that because this is a strategic-scale development then one needs to put some infrastructure there.

8.81 The Council's case rests to some extent on the fact that the site is in Holton parish. However, the site was selected because it is on the edge of Wheatley. The schools might be in Holton parish but they function as schools for Wheatley.

8.82 The Council's case on the footbridge remains unclear and unconvincing. It is said that the bridge road serves as a barrier. However, the site and pathway are at grade. Roads are entirely normal features. Schoolchildren regularly use the bridge without any obvious issue. There is no evidence of pedestrian accidents in this area.

8.83 The real nub of the issue is the allocation. The Council have agreed that the south-west quadrant is their main cause of objection. The balance of all destinations is close to that end of the site, and those houses would have the shortest walk, save for Asda. The Council's planning witness accepted that the western end of the village is better located.

8.84 Context is everything. This is not an urban area, it is a rural area. Therefore, what might be achieved in London is not applicable in rural Oxfordshire. Paragraph 77 of the Framework states that decisions should be responsive to local areas whilst paragraph 78 emphasises that development may support the vitality of rural communities and services. The Council accept that the development would support these services.

8.85 Accessibility is a factor which weighs significantly in favour of this scheme, notably at the south-west quadrant. It is not a proper basis for refusal.

Affordable Housing

8.86 The SHMA identifies an annual requirement of 331 dwellings pa between 2013-2031. The Sedgefield method seeks to address the backlog of 713 dwellings in the next 5 years. This equates to an annual figure of 474 affordable homes between 2019/20 and 2023/24[101]. The Sedgefield approach was endorsed by the Inspector in the Davenham appeal[102] in 2016 who concluded:

[100] CD1.14
[101] Pages 57-60, Stacey PoE
[102] PINS ref: APP/A0655/W/15/3005148 (Appendix JS30)

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

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

Housing requirement

8.88 The Appellant puts forward 4 possible scenarios:

1) Scenario A (the Council's position) the Standard Method (632dpa from 2019)[103];

2) Scenario B based on the Growth Deal (Oxfordshire SHMA OAN plus South Oxfordshire's contribution to meeting Oxford City's unmet need (775dpa from 2011 plus 495 homes per year from 2021))[104];

3) Scenario C the Oxfordshire SHMA OAN (775dpa from 2011)[105], and

4) Scenario D the South Oxfordshire Local Housing Need (1,035dpa from 2019)[106].

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

i. Paragraph 73 of the Framework and Footnote 37 have been amended by the Written Ministerial Statement, following agreement of the OHGD;

ii. The Council's acceptance of the OHGD expressly entails acceptance of a higher requirement, and

iii. Application of the standard methodology would cause the Council to fall significantly behind the necessary growth figures.

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

[103] Table 2, Appendix E
[104] Table 3, Appendix E
[105] Table 4, Appendix E
[106] Table 5, Appendix E

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

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

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

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

8.93 The 12 September 2018 WMS altered the wording of paragraph 11d of the Framework, by reference to the then provisions of paragraph 73. It was clearly the intention of both the Oxfordshire authorities and the Government that the 100,000 homes figure would form the basis for all calculations of housing land supply in Oxfordshire. The Technical Consultation on Updates to National Policy and Guidance did not alter the effect of the WMS, as it was intended to relate to the use of the standard methodology in general: i.e. outside the Growth Deal authorities. Furthermore, the Government had expressly endorsed the NIC Recommendation[107].

8.94 Scenario B is the housing requirement figure which is most consistent with national planning policy as expressed in the WMS. As set out in the Appellant's evidence[108], the OHGD[109] links the time-limited planning flexibilities which support a 3YHLS threshold to the delivery of 100,000 homes across Oxfordshire between 2011-31, stating: "*any potential flexibility would be granted specifically to support delivery of the ambitious Oxfordshire housing deal to plan for and support the delivery of 100,000 new homes by 2031, and to submit and adopt a joint statutory spatial plan*."

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

[107] See CD20.5 & CD20.6
[108] Ireland PoE
[109] CD10.4

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

8.96 The Government's mechanism for achieving this was, and remains, through Housing and Growth Deals of which that with Oxfordshire is the first within the Arc. Recommendation 6 in the NIC Report was that the Government should consider the need for extending flexibilities in the application of 5YHLS requirements but "*only in cases where local authorities agree deals to accommodate significantly higher levels of housing growth*." Such agreements, the NIC said, should be kept under review and "*subject to local areas demonstrating progress in the delivery of major housing growth*." It set out that "*in all cases, agreement must preserve the requirement for local authorities to maintain a supply of land sufficient to enable house building at a rate that would have been required in the absence of any deal to support additional housing growth*."

8.97 These recommendations were expressly endorsed by the Government in its response, which in respect of flexibilities in the application of 5YHLS requirements which stated that "*Government would work with local areas on a case by case basis to negotiate bespoke arrangements in exchange for commitment to substantial housing growth, which will ensure that overall land supply will increase despite flexibilities applied to the application of the 5YHLS requirement. The government has done this through the Oxfordshire Housing and Growth Deal, where local authorities are planning for significantly greater levels of housing growth than their Local Housing Need Assessment*."[110]

8.98 This therefore constituted a clear endorsement of the NIC recommendations that would thus be material to deciding planning applications. Indeed, the Government were not merely endorsing the recommendation, they were and remain in the process of actually implementing it in Oxfordshire. As examined in evidence, the application of the 3YHLS together with the standard method would result in a threshold deliverable supply of just 1,896 dwellings above which the tilted balance is not engaged. This falls substantially below the position in which a standard method is used with a 5-year threshold[111] clearly showing that the Council's position is not consistent with the statements above.

8.99 The rationale for the OHGD figure is set out across a series of documents. Each point to particular factors which ensure that the actual housing need is far higher in Oxfordshire than could be provided for under the standard method.

8.100 The Oxfordshire Baseline Economic Review[112] identified that Oxfordshire is one of the strongest economies in the UK. It is in a strategic location, forming an integral part of the Golden Triangle. It has a series of keystone assets in addition to the globally recognised universities, including two high-level research facilities and major funds of this ensures strong growth. Recent economic performance has been very robust: jobs growth has been 1,400 jobs

[110] Pages 16-17, CD20.6
[111] Table 2, CD16.5
[112] CD10.12

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

8.101 At the same time, there has been a major affordability problem. House prices are well above regional and national averages. South Oxfordshire's house price stand at 63% above national average. The National Housing Federation report[113] finds that the average house prices in South Oxfordshire stand at 14 times average income. Between 2013 and 2018 average house prices increased in South Oxfordshire by 41%. There is a stronger relative supply/demand imbalance in South Oxfordshire which is already leading to a significant long-term strategic imbalance. Households on lower-quartile earnings are spending 44% gross earnings on rent such that affordability issues exist in both rental and sales market. Poor housing affordability acts as a deterrent to young professionals hoping to live in Oxfordshire. Without these workers the area's ability to fill positions in high tech and innovative business sectors would be hampered weakening Oxfordshire's competitiveness: Businesses already say that housing affordability is having a material impact, impacting upon innovation, research and productivity and threatening growth potential[114].

8.102 The OHGD therefore commits Oxfordshire to planning for and support the delivery of 100,000 homes based upon the SHMA to a figure which was recognised as significantly in excess of the Local Housing Need. It is pertinent to consider the implications of South Oxfordshire's withdrawal from the OHGD.

8.103 The SHMA was identified as the only evidenced approach for the 100,000 target and accordingly it has been treated by the Council as a sound justification for an uplift consistent with the PPG[115]. The Scenario C figure does not make provision for the unmet need, it would fall short of meeting the Growth Deal target. However, it is a useful illustration of the extent of the housing need and the inadequacy of the standard method in this context.

8.104 Chapter 6 of Mr Ireland's PoE sets out the wider housing needs evidence in the context of the PPG's recognition that the standard method is merely a baseline and the Oxford authorities have recognised the need to plan for a higher growth figure. It considers more recent evidence than was available to the authors of the SHMA. Having adjusted for migration and household formation rates in younger households, it considers the severe affordability issues. It then considers the economic position and identifies that there is abundant supporting evidence of the need to accommodate employment growth. This identifies an incremental growth rate of 1.1% pa in jobs and transformational growth at 1.3 – 1.4% pa. The Appellant has modelled 1.3% in line with Transformational Growth. On this basis, it identifies the realistic Assessment of Local Housing Need as 1035dpa from 2019 onwards[116].

8.105 The Appellant's housing supply scenarios are set out in Appendix E to this report.

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[113] National Housing Federation Press Release: 'England Short of Four Million Homes' (18 May 2018) – (Appendix 22 PoE/JS)
[114] Section 6 (PoE/NI)
[115] See paras 4.18-4.26 of the eLP (CD6.1)
[116] Ireland PoE page 42

Planning balance and Green Belt balance

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

8.107 There is clearly a general need for housing given the shortage and affordability problems which is directly impacting on the economy and the social dimension of sustainable development in Oxfordshire and the acute need for affordable housing. The Ministerial statement from Greg Clark[118] and Brandon Lewis[119] make clear that housing need will not normally or usually be sufficient to demonstrate very special circumstances. These statements are acknowledged, and the Appellant's case is not predicated solely on the basis of just housing need. The Appellant has sought to focus on 6 key factors, which is a list similar in extent to that adopted by the Inspectors in Effingham[120] and West Malling[121]. They are in summary:

1) the shortage of housing in the area and serious affordability problems affecting the local economy and the delivery of to 327 market houses;

2) the acute need for affordable housing and the delivery of 173 units with this scheme;

3) the use of an extensive area of PDL in the Green Belt;

4) removal of a huge quantum unsightly buildings which are agreed to measure 125,500m^3 which is the same volume as what is proposed. And replace it with a similar volume of built development, with in particular without the tall 35m tower and the agglomeration of institutional scale buildings which are completely alien in the Green Belt;

5) OBU is a charity and therefore the revenues from the land sale would fund the improvements to the University which is recognised to be a major contributing or part of the economy of Oxford, and

6) the fact the site has been identified in the evidence base to the eLP as a suitable location for at least 300 houses and removal of the site from the Green Belt.

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

8.109 The purpose of including land in the Green Belt are concerned with designation of the site. The various Green Belt studies in the Landscape SoCG[122] show that the degree of harm to the purpose of including land in the Green Belt is limited.

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[117] Wychavon DC v SSCLG and Butler [2008] EWCA Civ 692 & Brentwood BC v SSE [1996] 72 P&CR 61
[118] CD11.01
[119] 11.02
[120] CD8.6
[121] CD7.35
[122] CD16.2

One needs to be careful with the unit of analysis in these cases as sometimes it is an area larger than the site and sometimes it is not entirely clear where the area extends to. In the 2014 study[123] the site scored poorly against the purposes and only gave a high score on the assumption that Wheatley and Holton were settlements, but as they are not towns that is not consistent with paragraph 134b) of the Framework. The purposes were again examined in both the 2015 Kirkham Study in 2015 and the LUC report. With the removal of the tower the site is given a low moderate rating in terms of the harm, which was the lowest category applied to any of the sites in the study. This is entirely supportive of the Appellant's case. It followed on from the Kirkham Study in 2015 and is clear that the LUC report "*builds on the 2015 study and takes it to the next level of detail in terms of assessing the harm to the Green belt from the potential release of sites*".

8.110 To show very special circumstances the benefits need to outweigh the harm by reason of inappropriateness and any other harm. The Council say this includes harm to the purpose of including land in the Green Belt and harm to openness.

8.111 The Appellant's position is that there is no other harm here. There is no harm to openness, no harm to the purpose of including land in the Green Belt, no harm to heritage assets, the local character of the area or landscape harm and no harm in terms of accessibility. The Appellant says there is no harm but if there is harm then the 'other considerations' are so significant that such harm would be outweighed thus amounting to the very special circumstances.

8.112 Inspectors in other Green Belt cases have not felt the need to explore the issue of the tilted balance in their decisions when they have found there are very special circumstances. That is because all the harm will have been considered in the very special circumstances test: And if it passes that high hurdle, then surely planning permission should be granted.

8.113 But those were Inspectors' own decisions and this is a SoS case, so there is a basis for needing to explore this in case the SoS wishes to go on to consider the case against the tilted balance. The tilted balance here could be triggered by 2 events. The first is the shortfall in the 5YHLS, which is addressed in the evidence above. The second is if the policies most important for determining the application are out-of-date. The University argues both, but either is sufficient. As noted above the shortfall in the 5YHLS would also amount to an additional part of the University's case on very special circumstances.

8.114 On the assumption that the most important policies are out of date, then in this case one must turn to paragraph 11d(i) of the Framework because the site is affected by 2 of the policies identified in Footnote 6. The approach to take to this is set out in Monkhill[124]. Sites in the Green Belt and affecting heritage assets are not automatically excluded from the tilted balance. It is just that such sites must pass the policy tests in those parts of the Framework, such that there is not a clear reason for refusing permission. In this case that requires the proposals to pass the test of being not inappropriate development in the Green Belt or that very special circumstances are proven, and that the test in

[123] OCC Investigation into the potential to accommodate urban extensions in Oxford's Green Belt: Informal Assessment 2014 (Appendix 8 CD16.2)
[124] Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin) (CD9.16)

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

8.115 Even if the tilted balance does not apply, planning permission should be granted here under the conventional statutory test of Section 38(6) of the 2004 Act because other material considerations plainly outweigh the development plan, which is out-of-date and inconsistent with the Framework such that its policies should be given reduced weight. This was the approach taken by the Inspector at paragraph 81 of the Lower Shiplake decision[125].

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

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

9. The Case for Interested Persons

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

Cllr Sarah Gray

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

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

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

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

[125] ID4

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

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

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

Mr Kevin Heritage

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

Mr John Fox

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

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

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

Mr Roy Gordon

9.10 Mr Gordon is Vice-Chair of the eWNP Committee. Policy STRAT14 of the eLP is reflected in the eWNP. OBU has made representations on the eWNP that Policy SPOBU – WHE25 attempts to deal with matters outside the eWNP designated area. The wording in the latest draft has been amended to reflect this.

9.11 The walk into Wheatley from the appeal site is a lengthy one and takes approximately 25 minutes from the bus terminus. Such a distance will be a barrier to integration. This will lead to car dependency.

9.12 Previous development proposals on the appeal site have only been supported on the basis that they do not exceed 10% of the existing built form. The removal of the tower is welcomed as it is detrimental to many views in the area. However, this should not be used to justify volume dispersal across the site which simply transfers the negative vertical features into horizontal ones. Development should be contained to the existing built-up area.

Mr Robert Barter

9.13 Mr Barter is Chair of Holton Parish Council and states that less than half of the site is PDL. The development is therefore inappropriate development in the Green Belt. There are no very special circumstances.

9.14 The allocation in the eLP offers no help as that plan has caused so much uproar that it will not be allowed to proceed in its current form. An additional 500 dwellings would adversely transform the rural character of the village and the whole area. Because of its location it would be an isolated settlement where almost all journeys would be made by car.

9.15 In the words of the Council "*additional school capacity will be difficult if not impossible in the early years*". An influx of 1500 new patients would overload the doctors' surgery.

9.16 The status of the Appellant is irrelevant and any benefits to the education sector carry no weight.

Mr Smith

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

10. Witten Representations

10.1 The officer report[126] does not record the number of representations received but does summarise the issues raised:

Objections

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

[126] CD4.1

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

In support

- Building on a previously developed site is supported, over greenfield development, subject to the relevant infrastructure being provided;
- Affordable housing is needed and being provided as part of the proposal; thereby meeting the housing needs of young people and providing local families the opportunity to stay in the village;
- The buildings are in poor repair, and housing is needed in the local area;
- It is closer to city than other proposed sites, as well as facilities such as the hospital, employment and leisure;
- Oxford Brookes are already planning to relocate, so if the site isn't developed it would leave a vacant site as an eyesore;
- The location is close to good services and the site has easy access to theA40/M40 and the Oxford park and ride, and
- The development is located close to Wheatley and will therefore support the local economy, business and trade.

11. Conditions

11.1 A schedule of conditions[127] to be imposed should planning permission be granted, was discussed at the Inquiry. These are generally agreed between the parties. I raised the possibility of an additional condition relating to the SM and subsequently wrote to the main parties after the close of the Inquiry seeking their views. I have taken the responses into account[128].

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

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

[127] ID25
[128] See ID30

view of the advice in the PPG[129] and the complexity of the development including the amount of site clearance, I do not consider that would be appropriate in this instance. Condition 4 is imposed for the avoidance of doubt and to ensure that the development is carried out in general accordance with the approved plans and details.

11.4 A site-wide phasing plan is necessary to ensure the development comes forward in a coherent and planned manner (Condition 5). I have amended some of the wording around affordable housing to ensure sufficient flexibility to enable the development to respond to changing market conditions and housing needs. I have also incorporated the requirements of other suggested conditions into Condition 5 to avoid the need for multiple phasing plans and other strategies. Condition 6 is necessary in the interests of highway safety. A construction method statement (Condition 7) is necessary to protect the amenity of nearby residents. A drainage condition is necessary to ensure satisfactory drainage of the site in the interests of flood prevention (Condition 8). An archaeology condition is necessary to protect any archaeological assets that may be present (Condition 9). A land contamination condition is necessary to ensure the land is suitable for a residential use (Condition 10).

11.5 A significant amount of ecological information was submitted with the EIA[130]. The scope of the various wildlife surveys was agreed with the Council's Countryside Officer beforehand. Those surveys confirm that some parts of the site support protected species including bats, great crested newts, reptiles, badger and nesting birds. These habitats would be retained, recreated and enhanced through management delivered through measures set out in a Construction and Demolition Environmental Management Plan (CEMP) (Condition 11). As the presence of protected species on the site has already been established and given that there is no suggestion from the Council that the surveys are out of date or deficient in any other way, I have omitted the requirement for updated surveys to be submitted. A biodiversity enhancement plan is necessary to avoid a net-loss to biodiversity (Condition 12).

11.6 A condition relating to tree protection measures is necessary to ensure trees are not damaged during the construction period (Condition 13). A condition is necessary to ensure the requisite parking and access arrangements for each dwelling are provided prior to occupation (Condition 14). A Travel Plan condition is necessary to promote sustainable travel habits (Condition 15). To assist the move to a low carbon future, conditions regarding electric vehicle charging points and super-fast broadband are necessary (Conditions 16 and 17). A noise mitigation strategy is necessary to protect future occupiers from road noise (Condition 18). Finally, to secure the heritage mitigation, a condition relating to the SM is necessary (Condition 19).

11.7 A condition restricting the development to no more than 500 dwellings is unnecessary as this development concerns operational development rather than a change of use and the application description explicitly limits the permission to '*up to 500 dwellings'*. The suggested condition relating to gas boilers is not supported by a development plan policy. Moreover, I am not aware there is a

[129] Paragraph: 027 Reference ID: 21a-027-20140306
[130] CD1.15

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

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

12. Planning Obligations

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

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

12.2 Although the obligations are not in dispute, the agreement[131] provides that if the decision letter concludes that any provision of the agreement is incompatible with any one of the statutory tests then the relevant obligation shall cease to have effect. The obligations contained in Schedules 1-4 relate to SODC and those in Schedule 5-7 to OCC.

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

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

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

[131] Paragraph 6.12, Page 9 (ID26)

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

12.5 I am satisfied that the football pitch, tennis court, public art, recycling and monitoring contributions all meet the statutory tests. However, I have concerns in respect of the 'active communities' contribution. According to the Council's Compliance Statement[132] the contribution would fund a 2-year post at SODC the purpose of which would be to "*secure the provision and management of sports facilities both on and off site. The replacement sports facilities are required directly as a result of the loss of sports facilities on this site*". However, it is not clear on the evidence before me what actual work would be involved.

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

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

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

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

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

[132] Page 10, ID29

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

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

12.12 The obligations to OCC in Schedule 5 comprise:

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

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

12.14 A request was made by the NHS Oxfordshire Clinical Commissioning Group for a developer contribution of £432,000 to support the improvement of local health care infrastructure. The Council has confirmed that 'increasing capacity at existing health services/local surgeries' is covered by its CIL Regulation 123 list[133].

13. Inspector's Conclusions

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

Main issues

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

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

[133] See Page 10, CD4.1

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

Most Important Policies

13.3 Section 38(6) of the 2004 Act requires that this application be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the Framework, which can override development plan policy if it is not consistent with the Framework's provisions. I therefore summarise the national planning policy context first, before turning to look at relevant development plan policies.

13.4 Section 3 of the Framework stresses the desirability of local planning authorities having up to date development plans, paragraph 213 states that the weight to be given to relevant policies will depend on the degree of consistency with the Framework. The closer the policies in the plan to those in the Framework, the greater the weight that may be given.

13.5 Paragraph 11 of the Framework explains that there is a presumption in favour of sustainable development which comprises economic, social and environmental objectives. It goes on to indicate that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole; or unless specific policies in the Framework indicate that development should be restricted. [3.3]

13.6 There are differing views on which are the most important policies for determining the application. Whilst I have had regard to the list of relevant policies contained in the SoCG, I have exercised my own judgement following the approach set out in Wavendon which confirms that "*an overall judgment must be formed as to whether or not taken as a whole these policies are to be regarded as out-of-date for the purpose of the decision.*" [3.13,6.2,7.12,8.16,8.115]

13.7 The first point to make is that the LP is now of some vintage as the Council accepted at the Inquiry. [3.10-2.13,8.8-8.10] However, as paragraph 213 makes clear, policies should not be considered out of date simply because they were adopted prior to the publication of the Framework. The CS contains policies that are high-level and strategic in nature. Accordingly, they lack the kind of detail one would normally expect to see in development management policies. This is because the CS was always intended to be supplemented by a DPD containing

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

13.8 The appeal site lies within the parish of Holton and is washed over by the Oxfordshire Green Belt. CS Policies CSS1 and CSH1 set out the overall amount and spatial distribution of housing for the district to deliver the CS housing target. They seek, among other things, to support and enhance the larger villages as local service centres, while focusing major development at Didcot and the market towns. The appeal site is located outside the built limits of Wheatley and Holton where large-scale development would not normally be appropriate.

13.9 However, the housing target identified in the CS is manifestly out of date being based on a constrained supply set out in the revoked RPG. [3.11-3.14,8.11] Existing settlement boundaries across the district reflect the need to deliver this constrained supply. The CS does not accord with the objectives of the Framework to meet a full OAN for housing. [8.9-8.11] Therefore, whilst the overall strategy and settlement boundaries may have been appropriate to guide the quantum of development envisaged in the CS back in 2006, they are clearly not appropriate today. I therefore consider that Policies CSH1 and CSS1 are out of date where they are used to restrict development outside settlement boundaries.

13.10 Although CS Policy CSEN1 is not referred to in the RfRs it is relevant inasmuch as it refers to the protection of landscapes against inappropriate development. Whilst its broad aims are agreeable with those of Section 15 of the Framework, it runs into the same problem as LP Policy G2 in seeking blanket protection for the natural environment. Apart from 'valued landscapes', paragraph 170 of the Framework entertains no such protection instead referring only to the need to recognise the intrinsic character and beauty of the countryside. In my view '*recognition*' and '*protection*' are not the same. They are clearly distinguishable terms and accordingly I consider that Policies CSEN1 and G2 are inconsistent with the Framework and cannot be seen as being up to date. I note the Lower Shiplake Inspector came to a similar view in paragraph 77 of his decision in relation to Policy G2. [8.13]

13.11 CS Policy CSEN2 is a strategic Green Belt policy that recognises the OBU campus as a key previously developed site but defers to the Framework in terms of decision taking. Whilst the policy is not technically out of date, it offers little assistance to the assessment of the appeal scheme and instead it is the Framework that becomes the determinative document. To that end, I conclude that Policy CSEN2 is not one of the 'most important' policies for determining the application.

13.12 LP Policy GB4 is a more detailed Green Belt policy that reflects the wording in Planning Policy Guidance Note 2 revoked in 2012. It refers to "*rural character or visual amenity*" and applies a design test to development all of which are inconsistent with the Framework. Its language is also couched in very different terms to the Framework and does not refer to inappropriate development or very special circumstances. I therefore conclude that Policy GB4 is out of date.

13.13 CS Policy CSEN3 is a strategic heritage policy that states that historic heritage assets will be conserved and enhanced for their historic significance. However,

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

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

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

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

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

Inappropriate development in the Green Belt

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

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

a. to check the unrestricted sprawl of large built-up areas;

b. to prevent neighbouring towns merging into one another;

c. to assist in safeguarding the countryside from encroachment;

d. to preserve the setting and special character of historic towns; and

e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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

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

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority"

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

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

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

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

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

boundary comprises the university's sport pitches. [2.3,4.3,8.33,8.53,8.55,8.59] These pitches and the circulation areas around them clearly perform an important functional purpose related to the campus buildings. [8.34] Cognisant of the Sinclair-Lockhart judgement[134]and the dictionary definition of a "*campus*", I am satisfied that these areas fall within the curtilage of the university buildings.[8.34] Whilst the Council has drawn my attention to the brownfield register plan, there are very few details before me as to how or when this plan was drawn up. [7.4] On its face, the plan that simply reflects those parts of the site that are occupied by permanent structures. It does not proport to be a detailed examination of the site under the Framework definition of PDL.

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

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

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

13.28 To answer that question, much time was spent at the Inquiry discussing the possible implications of the appeal scheme on building volumes. Other than agreeing that the existing buildings total 125,500m^3, there is little common ground on the issue. [7.16, 8.40, 8.107] What can be deduced from the competing calculations is that any approach relies on a large amount of guesswork as to what would come forward at the reserved matters stage. This was expressly acknowledged in the Officer's committee report. [8.41] Therefore, trying to determine the exact impact on volume now is a somewhat futile task.

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

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

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

13.30 Even if the maximum permissible volumes were to be pursued and one prefers the Council's 203,500m^3 figure, the Appellant rightly points out that the increase in volume would be broadly consistent with the 195,995m^3 contained in the Council's SPD. [7.20,8.48]. The Council's 'bottom-up' calculation of 170,000m^3 would result in a generous reduction of volume compared to the SPD allowance. [7.18]

13.31 The Appellant amended the scheme during the determination period to reduce its potential volume. That indicates to me a willingness to work with the Council on this matter. [1.7,5.2,5.3,7.18,8.4,8.16] It is of course possible that a different developer might pursue a different agenda. If that did happen, I am satisfied that it would be within the Council's gift to control these matters at the reserved matters stage. [8.41-8.43]

13.32 Of course, as the PPG acknowledges, openness is multi-faceted and there is clearly a visual aspect also. [7.13,8.38,8.39] There would undoubtedly be significant benefits associated with the removal of the existing agglomeration of large educational buildings including the tower, which is visible over a large swathe of the surrounding Green Belt. [6.3,7.14,7.26,7.35,7.69,8.1,8.40,8.46,8.57,8.69,8.71,8.107,9.13] Although some 4-storey development is proposed in the eastern/central part of the site, I am not persuaded that this would be readily visible from vantage points outside the site. [2.4,7.35] The Council point to the possibility of glimpses from the A40 at night. [7.25] However, I find that unlikely given that the existing boundary landscaping is to be retained and strengthened particularly along the A40 frontage. Even if the occasional glimpse were possible, I do not consider this can reasonably be described as harmful given the current situation where there are floodlit pitches very close to the A40 boundary.

13.33 Beyond the 4-storey development in the south-east quadrant, there is no suggestion from the Council that any other parts of the development would be visible outside the site's boundaries. This is because the site undoubtedly has a very high level of visual containment. [2.4,6.3,7.35,8.47] Overall, I consider the development would have a broadly neutral effect on openness as experienced from within the appeal site. However, there would be a significant net-beneficial effect on the openness of the wider Green Belt through the removal of the tower. In conclusion, save for the south-west quadrant, the development would not be inappropriate development in the Green Belt. In view of the wording in paragraph 145g) of the Framework, there is no need to undertake a separate assessment in relation to the 5 Green Belt purposes.

13.34 The proposed development in the south-west quadrant would be inappropriate development. The Framework states that such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I will return to this matter in due course. Should the SoS take the view that the whole of the site can be considered PDL then it will not be necessary to consider whether very special circumstances exist.

Character and appearance

13.35 Most of the appeal site was formerly part of the historic parkland of Holton Park which survived intact until the early part of the 20th Century. The western part of the site was used as a military hospital during the Second World War and the historical maps provided show a proliferation of roads and buildings during that time. In the 1960s the A40 was constructed along the southern edge of the park. At the same time the site began to be developed for educational purposes and has grown and evolved incrementally ever since.

13.36 The site is considered in national, regional, county and local landscape character assessments. However, owing to the site's level of containment and its specific landscape characteristics, these broad-brush studies are of little assistance as the site does not readily conform strongly to any of the key characteristics of the various landscape types. [6.3,7.22,8.58,8.59]

13.37 The application was accompanied by a detailed Landscape and Visual Impact Assessment which assesses the likely landscape and visual effects of the development. [8.68] This was supplemented at the appeal stage by a suite of photomontages. Whilst I have had regard to these documents, my assessment is primarily informed by my observations on the numerous site visits undertaken before and during the Inquiry, the latter with the benefit of having heard the evidence of the relevant landscape witnesses.

13.38 The site is well contained behind modern fencing and substantial belts of landscaping such that its current visibility within the wider landscape is limited. The site is not a designated or a 'valued' landscape in the terms set out in the Framework. It is common ground that the removal of the tower and other dilapidated structures would be beneficial in landscape terms. [6.3,7.14,7.26,7.35,7.69,8.1,8.40,8.46,8.57,8.69,8.71,8.107,9.13]

13.39 The appeal site, although in the countryside for planning purposes, does not possess a strong rural character. The existing buildings including parking areas, footpaths, lighting, engineered sports pitches and the A40 dual-carriageway exert an urbanising influence which extends over most of the site including those undeveloped areas. Given the extensive landscape changes that have taken place over the last 80 years, the 'historic/relic parkland' argument has little resonance to what is seen on the ground today. [7.21-7.23,7.35,8.57-8.58,8.63] That is supported by the John Moore report which found that the former parkland is now "*degraded and* "*truncated*". Consequently, even from those open, western areas there is an ever-present feeling of being on a university campus. I therefore consider that the Appellant's description of the site as "institutional" is apt. [7.23,8.1,8.40,8.46,8.60]

13.40 The main parties concur that the appeal site is of medium landscape value. In addition to the evidence submitted as part of this appeal, the site has also been considered in a range of reports that form the evidence base to the eLP. The Kirkham Study found that the landscape has overall medium/low landscape sensitivity and that the site should be considered further as a Potential Strategic Allocation on landscape and visual grounds, focussing development around the previously developed area. [7.10,7.12,8.109] A number of recommendations were subsequently made:

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

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

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

13.43 The Kirkham Study was followed by the SODC-Landscape Assessment Update which reviewed the findings of the Kirkham Study. [7.23] It found that the site (with the exception of the existing tower block) is well contained and inward looking and has no discernible connection to the wider landscape. The conclusion was that the site could accommodate development in landscape terms.

13.44 It should be borne in mind that the Council's landscape objections, as clarified at the Inquiry, relate only to the south-west quadrant. I therefore turn to look solely at this area, which the Council describes as "*relict parkland containing trees and shrubs*" with an attractive wooded character. [7.21] The area accounts for approximately 14% of the appeal site and abuts the A40 to the south and the Wheatley Park school site to the west. [2.1-2.4] It appears to have little or no current use beyond an informal footpath across its northern portion. Much of the land is inaccessible and covered in a thick scrub interspersed by a range of deciduous and evergreen trees. The site is well screened from within and outside the appeal site. [2.4,7.35,8.47] Unlike other southern areas, the south-west quadrant sits at a higher level than the A40 and therefore has very little visual exposure from it.

13.45 The south-west quadrant has a character that is distinct from the rest of the campus. Nonetheless, I would be hard pushed to describe in quite the same terms as the Council's landscape witness. Whilst it undoubtedly has some landscape and visual value as a parcel of undeveloped green land, that is about as far as it goes. Traffic noise and the modern housing development on the south side of the A40 are both readily apparent. Despite it forming the highest part of the site, outward views are restricted by the mature landscaping both within and along the site boundaries. The trees, some of which might loosely be described as "parkland trees", have some amenity value particularly the "*spreading oak tree*". However, most of these specimens would be retained. The majority of the trees in this area are self-seeded and of little amenity value. There is currently no formal public access and therefore it is difficult to argue that the wider public derive any significant value from this part of the site. Overall, I do not consider the south-west quadrant is particularly sensitive in landscape or visual terms such that it should be excluded from development. The Council's own Landscape Architect concluded that the proposed homes in the south-west part of the site would result in a minor impact to the landscape character and visual quality of that area of the site.

13.46 I have noted the Council's view that regard should be had to the "*designed landscape setting*" in the John Moore report. [7.30] This encompasses a wide area that includes most of the north and south-west quadrants of the site. However, the report offers no meaningful explanation as to what the term actually means or how the authors arrived at the area drawn in Figure 4.7.4 which is both excessively large and bears no relationship to the distinct parcels of land that make up the campus. [6.3] Moreover, when assessing how much weight should be given to this and other reports forming the evidence base of the eLP, it needs to be remembered that these are high-level assessments forming the evidence base for the eLP. Their purpose is therefore to highlight heritage and landscape issues rather than to determine what response should be made to those issues. I do not believe the John Moore report was ever intended to be treated as a determining factor in development management decisions without a further, detailed landscape/heritage assessment, which the Appellant has

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

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

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

Heritage assets

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

The SM

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

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

13.52 The setting of a heritage asset is defined in the Framework as "*the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral*". [8.62] There is no dispute that the SM currently has a fairly open setting and as much as possible this should be retained. [7.29,8.65] The appeal scheme was amended at the application stage to provide additional breathing space for the SM with HE recognising the improvements made [5.2,8.68] The Council point out based on the illustrative masterplan, that the nearest houses would come within 50m of the SM resulting in a high degree of "*less than substantial harm of moderate extent".* [7.31,7.34]

13.53 The uncertainty over exactly what the SM is or was, makes the task of assessing its setting all the more difficult. Nonetheless, it is apparent that its setting has changed dramatically over the last 80 years or so. The deer park and "*open parkland setting*" referred to by the Council are all but gone and all that remains are a few parkland trees dotted around the site, nearly all of which would be retained. [2.4,4.2] The immediate context of the SM are the levelled sports pitches and a bank of mature trees to the south beyond which the land falls away to the footpath and tennis courts. [8.55,8.59]

13.54 Adding credence to that view is the John Moore report which states: "*Much of the site has been considerably damaged as a result of modern development and the archaeological remains, if any, presumably considerably degraded. There are one or two areas where the ground surface survives in its pre-20th century level, which includes the scheduled monument and the surrounding features*".

13.55 Insofar as it can be said that the SM derives any of its significance from its setting, I consider that the immediate open area to the north, west and north-west has a moderately positive contribution. This area performs the important role of maintaining indivisibility between the SM and Holton Park and also corresponds to the "*SM and listed building setting implication"* area shown in Figure 4.7.4 of the John Moore report. [7.29-7.30] However, no built development is proposed in this area and on the contrary, the area would be subject to a detailed landscaping scheme intended to restore the original parkland character and appearance. [4.3,7.31,8.6,8.19,8.37,8.69]

13.56 I have noted the Council's view that regard should be had to the '*designed landscape setting*' in the same report. [7.30] This encompasses a much wider area than the '*SM and listed building setting implication*' that includes most of the north and south-west quadrants of the site. However, the report offers no meaningful explanation as to what the term actually means or how the authors arrived at the area drawn in Figure 4.7.4 which is both excessively large and bears no relationship to the distinct parcels of land that make up the campus. [6.3]

13.57 Moreover, when assessing how much weight should be given to this and other reports forming the evidence base of the eLP, it needs to be remembered that these are high-level assessments forming the evidence base for the eLP. Their purpose is therefore to highlight heritage and landscape issues rather than to determine what response should be made to those issues. I do not believe the John Moore report was ever intended to be treated as a determining factor in development management decisions without a further, detailed

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

13.58 Although the Council's Heritage witness did not retreat from his view that there would be overall harm to the SM, it was accepted that a carefully designed landscaping scheme could be beneficial. [7.35,8.55,8.65] Moreover, and perhaps more significantly, it would also be possible to secure a comprehensive improvement scheme for the SM by condition. The wording of the condition agreed by the parties would include maintenance and the provision of features such as public seating, an information board and research into the SM's origins. Given the current state of the SM, I consider this to be a significant heritage benefit which would enable the general public to appreciate and understand the asset in a way that is far removed from today's underwhelming experience.

13.59 The area to the south which includes the south-west quadrant has been remodelled over the last 80 years. Beyond the bank of trees, the land drops away to a parking area and a timber building beyond which is a lit footpath and tennis courts. Evidently the setting to the south has changed significantly over the years and now contains those urbanising influences. Although the south-west quadrant is undeveloped, views over the area from the SM are obscured by the bank of trees and the tennis courts. There is hence little visual relationship between the SM and the south-west quadrant. Whilst the houses would be visible from the SM, based on the distance of separation, the potential for additional landscaping and the careful placement of the dwellings, I do not consider they would be unduly prominent.

13.60 Nonetheless, there would be some limited harm arising from the encroachment of housing and the spine road to the SM's southern flank. [7.32] However, for the reasons given above, this would be towards the bottom end of the 'less than substantial' range and would be clearly outweighed by a combination of the proposed landscape improvements in the north-west quadrant, the SM improvement scheme and also the removal of the existing university buildings which form a stark backdrop in eastward views of the SM. Accordingly, there would be an overall heritage benefit to the SM.

Holton Park

13.61 This is the other heritage asset cited to in the Council's RfR. The Council's Heritage witness alleges that there would be noticeable changes to its setting through the introduction of housing on the appeal site. The level of harm is hence judged to be "*less than substantial of minor extent*". [7.34]

13.62 Holton Park is located just beyond the north-western site boundary but nonetheless visible from a variety of vantage points within the appeal site. Holton Park also known as 'Old House', was the replacement manor house for Holton Park constructed around 1815. Bearing in mind the history of the appeal site there can be little doubt that Holton Park was located for a direct visual, physical and historical connection with the surrounding deer park setting. [7.28,7.29]

13.63 Despite the amount of change that has occurred over the last century including its physical severance from the appeal site, a visual connection is still evident and important to understanding the history and evolution of Holton Park. Whilst

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

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

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

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

St Bartholomew's Church

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

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

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

Heritage conclusions

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

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

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

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

13.73 As I have found no overall heritage harm, it is not necessary to undertake the heritage balancing exercise required by paragraph 196 of the Framework. I have considered the Council's submissions that heritage benefits should properly be considered as 'public benefits' and only introduced at the paragraph 196 balancing stage. [7.36,8.71] However, I can find no explicit support for that approach in the Framework and as the Palmer Judgement makes clear[135], the decision maker may legitimately conclude that although each of the effects has an impact, taken together there is no overall adverse effect on the listed building or its setting. In effect the exercise to be undertaken is to weigh the positive and negative aspects of the scheme and to come to an overall judgement as to whether the development would harm, preserve or enhance the asset.

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

Accessibility

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Housing land supply – Housing need

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

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

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

13.88 Annex 2 of the Framework provides further clarification that local housing need is "*The number of homes identified as being needed through the application of the standard method set out in national planning guidance*". Beyond that for plan-making, the Framework simply does not entertain exceptional circumstances for decision-taking. The national policy context is therefore different to the Bamber Bridge appeal decision[136] which pre-dated the February 2019 changes to the Framework. [7.44,7.45,8.91]

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

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

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

Other Considerations

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

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

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

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

13.95 The most recent report to have considered the site is the 2018 LUC report which built upon the 2015 Kirkham Study. This assessed the Green Belt harm that would arise from the potential release of various sites across the district against the 5 purposes. [7.12,8.109] The LUC report concluded that the appeal site is the only one of 5 sites that would result in "*low-moderate*" Green Belt harm. The conclusion of the LUC report and others clearly informed the Council's decision to remove the site from the Green Belt in the eLP.

13.96 Notwithstanding the findings of the LUC report, I have found that the development would result in an overall benefit to the visual openness of the Green Belt arising principally from the removal of the 12-storey tower, the urban scale and institutional appearance of which is unlike anything else in the locality. It is seen from public viewpoints far and wide, drawing the eye in the most grievous manner. It is difficult to envisage a building that could be more insensitive and incongruous to its surroundings. Accordingly, and even though I accept there would be a 'spreading' of development across the site, the removal of the existing buildings would have a clear and demonstrable Green Belt and landscape benefit. In my view, the openness benefits, are on their own, sufficient to 'clearly outweigh' the 'definitional' harm arising in the south-west quadrant.

13.97 Secondly, the development would make a significant contribution towards the Council's stock of market and affordable housing. [7.63-7.66,8.86,8.87] I heard much at the Inquiry about the eye-watering levels of affordability in South Oxfordshire. [3.24,7.63,8.101,8.104,8.107,9.4] This has put the aspiration of owning a home out of reach for many and is the very embodiment of the national housing crisis. The Council itself accepts the need is "*acute and pressing*". [8.107]

13.98 For South Oxfordshire, the SHMA identifies a need for 331 net affordable homes per annum to deal with the backlog using the Sedgefield approach for the period between 2013 and 2031. [8.87] In the 6-year period since this annual need figure was calculated in the SHMA, a shortfall of -713 affordable homes has accrued as a result of delivery falling substantially short of meeting identified needs. In order to address this backlog, the Council would need to deliver 2,370 net affordable homes over the course of the next 5 years.

13.99 Whilst I accept the Council can demonstrate a 5/3YHLS as required by the Framework and WMS, this is not a ceiling on the number of houses that can be provided. Moreover, there a number of forceful arguments as to why the use of the standard method is not appropriate in a district that has signed up to the OHGD and committed itself, with others, to the delivery of 100,000 homes across Oxfordshire by 2031. [3.24,3.27,6.7,7.48,8.93,8.94,8.102] The Council confirmed at the Inquiry that it is still committed to the eLP, by extension that must mean it accepts that the higher housing requirement therein is still appropriate for plan-making purposes. [3.17]

13.100 Whilst I acknowledge an uplift in the Council's delivery figures over the 2018-19 period, it is too early to say with any confidence whether this is part of a sustained upward trend. [7.65] Even if it is, there is evidently much work still to be done in view of past rates of affordable housing delivery in South Oxfordshire. It seems to me that there is little prospect of the backlog being

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

13.101 There are some 2,421 households on the Housing Register in South Oxfordshire at the present time. Of that total, 126 have an identified need for affordable housing in Wheatley Parish. It is sometimes easy to reduce arguments of housing need to a mathematical exercise, but each one of those households represents a real person or family in urgent need who have been let down by a persistent failure to deliver enough affordable houses in South Oxfordshire. It is also evident that the seriousness of the affordable housing shortage in South Oxfordshire is having wider consequences for economic growth in the area. [3.27,8.100,8101]

13.102 Although affordable housing need is not unique to this district, that argument is of little comfort to those on the waiting list. The proposed development would provide 173 affordable homes. [8.87,8.107] This would contribute significantly towards the Council's affordable housing shortfall. Given the importance attached to housing delivery that meets the needs of groups with specific housing requirements and economic growth in paragraphs 59 and 80 of the Framework, these benefits are considerations of substantial weight.

13.103 Third, there would be a range of economic benefits from the purchase of materials and services in connection with the construction of the dwellings, local employment during the construction period, an increase in local household expenditure and revenues to the Council from the New Homes Bonus. [7.69]

13.104 Fourth, as the eLP evidence base confirms, the appeal site is located in an accessible and sustainable location on the edge of a larger village which CS Policy CSS1 states will be supported and enhanced as a local service centre. Future residents, particularly those in the south-west quadrant would have good access to local services and facilities in Wheatley, and with sustainable transport choices that would provide access to higher order services in Oxford. There would be material benefits to the local community from the off-site highway works, increased bus frequencies and new routes across the site. The eWNP acknowledges the importance of bus services to Wheatley. [3.22]

13.105 Fifth, there would be an overall net-benefit to biodiversity, which would be consistent with the Framework and the requirements of the Development Plan.

13.106 Sixth, there is currently no formal public access to the appeal site and therefore the opportunity for the local community to use and enjoy the extensive areas of open space, heritage assets and enhanced sports facilities created by the development on and off-site would be a benefit of the scheme.

13.107 Seventh, I have identified benefits to all 3 heritage assets on or close to the appeal site arising from on-site mitigation and the removal of the existing buildings.

13.108 Finally, the Appellant (OBU) is not a housebuilder but rather a charity. Accordingly, the proceeds arising from the sale of the land would be reinvested

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

Planning balance

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

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

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

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

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

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

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

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

13.117 Even if one takes a contrary view on that matter, collectively the 'other considerations' are of such number and force, that they clearly outweigh the 'definitional harm' identified in this case. As such, I conclude that very special circumstances exist, which would justify development in the Green Belt. Accordingly, the proposal would not conflict with CS Policy CSEN2, LP Policy GB4 or Green Belt policy in Section 13 of the Framework.

13.118 As the proposed development would not conflict with the development plan it passes the section 38(6) test and should be approved without delay in accordance with paragraph 11c) of the Framework. Consequently, and notwithstanding that I have found that the 'tilted balance' in paragraph 11d) does apply, it is not necessary for me to consider the proposal against that lower test.

13.119 Should the SoS take a contrary view on the matter of very special circumstances, then the tilted balance would be disapplied by virtue of footnote 6 to paragraph 11d)i) with protective policies providing a "*clear reason for refusing the development proposed*". The consequence of that would be that the appeal should be dismissed.

14. Recommendation

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

D. M. Young

Inspector

Appendix A

APPERANCES

FOR THE APPELLANT

Christopher Young QC instructed by the Appellant

He called:

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

FOR THE LOCAL PLANNING AUTHORITY

Mr Hugh Flanagan Barrister Instructed by the Council

He called:

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

INTERESTED PERSONS

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

Appendix B

DOCUMENTS SUBMITTED AT THE INQUIRY

ID1	Additional Photomontages (18 October 2019)
ID2	Visual Appraisal – Figure 11.2 – No. UK18-24423 Issue 2
ID3	Photomontage Locations – Figure 1B – 7590-L-51 – 30 September 2019
ID4	Appeal Decision APP/Q3115/W/19/3220425 dated14 October 2019
ID5	Opening Statement on behalf of the Appellant
ID6	Opening Submissions on behalf of South Oxfordshire District Council
ID7	Statement of Councillor Sarah Gray, Ward Councillor
ID8	Kevin Heritage, Wheatley Park School
ID9	Statement of John Fox, Wheatley Neighbourhood Plan Chairman
ID10	Statement of Roy Gordon, Wheatley Neighbourhood Plan Vice-Chairman
ID11	SODC Landscape Architect's Comments (20 February 2018)
ID12	Illustrative Masterplan showing distances from Holton Park to development
ID13	Richard Barton Errata Sheet (25 October 2019)
ID14	The Regional Strategy for the South East (Partial Revocation) Order 2013
ID15	Ben Duffy – Proof of Evidence – Appendix J
ID16	Luton Borough Council, R (on the application of) v Central Bedfordshire Council & Ors [2015] EWCA Civ 537, [2015] WLR(D) 226
ID17	APP/Q3115/W/15/3228431 - The Elms, Thame (21 October 2019)
ID18	Letter from Mark Stone Chief Executive of SODC to SSHCLG (16.10.19)
ID19	Timeline for Oxfordshire Plan 2050
ID20	Mr Robert Gardner - Addendum Sheet to Proof of Evidence
ID21	Wheatley Masterplan SPD Note on Increased Volumes
ID22	Appeal Decision APP/C2741/W/19/3227359 dated 23 October 2019
ID23	National Planning Policy Framework (2012) Chapter 9 – Green Belt
ID24	Signed Statement of Common Ground Between Oxford Brookes University and Oxfordshire County Council Re: The Western Access (28 October 2019)
ID25	List of Draft Planning Conditions (30 October 2019)
ID26	Draft Section 106 Agreement (31 October 2019) superseded by the Signed agreement dated 15 November 2019
ID27	Council's Closing Submissions
ID28	Appellant's Closing Submissions
ID29	Council's CIL Compliance Statement
ID30	Correspondence relating to Condition 19

Appendix C

CORE DOCUMENTS

CD1 Application Documents and Plans

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

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

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

CD3 Appeal Documents

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

CD4 Committee Report and Decision Notice

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

CD5 The Development Plan and Inspector's Reports

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

CD6 Emerging Development Plan and Evidence Base

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

CD7 OBU Relevant Appeal Decisions

Affordable Housing

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

Housing Need & Housing Land Supply

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

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

Heritage

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

Accessibility

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

Planning and Green Belt

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

CD8 OBU Relevant Secretary of State Decisions

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

CD9 OBU Relevant Judgements

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

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

CD10 Housing Need, Land Supply & Affordable Housing

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

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

CD 11 Green Belt Documents

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

CD 12 Landscape Documents

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

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

National Character Area 109 Midvale Ridge

National Character Area 108 Upper Thames Clay Vales

Oxfordshire Wildlife and Landscape Study

South Oxfordshire Landscape Assessment (2003)

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

Landscape Sensitivity Assessment Potential Strategic allocations Jan 2018 (KLP)

South Oxfordshire District Council - Landscape Assessment Update HAD October 2018

CD 13 Heritage Documents

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

CD14 Accessibility

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

CD15 Supplementary Planning Documents and Other Documents

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

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

CD16: Statements of Common Ground

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

CD18: Case Management documents (PINS)

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

CD19: SODC Relevant Judgements

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

CD20: New Inquiry Documents

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

Proofs of Evidence

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

Appendix D

CONDITIONS TO BE IMPOSED IF PLANNING PERMISSION IS GRANTED

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

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

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

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

Reason: For the avoidance of doubt.

5) No development shall take place until a Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide the following information for each phase or sub phases:

a) The number and mix (bedroom number) of market dwellings;

b) The number and mix (bedroom number) and gross internal floor areas of affordable housing to meet the latest evidence of affordable housing need (the total amount of affordable housing to cumulatively be 34.57% of the total amount of housing across the site);

c) The tenure of each affordable unit;

d) The number of accessible and adaptable homes to be built to Building Regulations Part M4(2) category 2 for both market (which shall be a minimum of 10% overall) and affordable sectors;

e) Location and boundaries of public open space, play areas, green infrastructure, leisure and sports pitches/pavilion, associated parking areas to be provided and a scheme for their future management;

f) Key infrastructure including means of vehicular and pedestrian and cycle access and links to serve each phase;

g) Drainage and landscaping works including future management arrangements;

h) Existing and proposed ground and ridge levels;

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

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

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

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

7) Prior to the commencement of any development (including demolition works), a Construction Method Statement, incorporating a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Statement will have been prepared in the light of Outline Construction and Demolition Environmental Management Plan dated January 2018 and shall include details of the following:

a) Vehicle parking facilities for construction workers, other site operatives and visitors;

b) Site offices and other temporary buildings;

c) Loading and unloading of plant and materials;

d) Storage of plant and materials used during construction;

e) Vehicle wheel washing facilities;

f) Measures to control the emission of dust and dirt;

g) A scheme for recycling and/or disposing of waste materials arising from the demolition and construction works;

h) Installation and maintenance of security hoarding/fencing;

i) Hours of construction

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

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

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

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

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

Following the approval of the Written Scheme of Investigation and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of

archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation.

The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

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

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

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

11) Either prior to, or concurrent with the submission of each reserved matters application a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

a) Risk Assessment of potentially damaging construction activities;

b) Identification of biodiversity protection zones;

c) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;

d) A mitigation strategy for all protected species ensuring that each species long term conservation status is protected and enhanced;

e) The location and timing of sensitive works to avoid harm to biodiversity features;

g) The times during construction when specialist ecologists need to be present on site to oversee works;

g) Responsible persons and lines of communication, and

h) Use of protective fences, exclusion barriers and warning signs.

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

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

12) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The plan should demonstrate how the development can achieve a no net loss of biodiversity overall compared to the biodiversity value of the site prior to development. The plan should include both habitat and species enhancements and should use a suitable form of biodiversity accounting to prove that no net loss can be achieved. The BEP should include:

    a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required;

    b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate;

    c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species;

    d) Selection of specific techniques and practices for establishing vegetation;

    e) Sources of habitat materials (e.g. plant stock) or species individuals;

    f) Method statement for site preparation and establishment of target features;

    g) Extent and location of proposed works, and

    h) Details of the biodiversity offsetting metric calculations that clearly demonstrate that the proposals contained in the plan avoid a net loss of biodiversity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19) Prior to the occupation of the first dwelling, details of a scheme for the enhancement and protection of the on-site Scheduled Ancient Monument on the site shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall include details of the following;

a) strimming / mowing and removal of scrub vegetation and self-set trees from the monument;
b) a management plan for the preservation / maintenance of the monument in the future, prepared with the objective of removing the need to secure scheduled monument consent to carry out future maintenance of the monument;
c) consultation with Historic England and the Local Planning Authority Archaeology Officer in respect of research into the history and the origins of the monument;
d) Design and location of an interpretation and information board in respect of the monument. The board shall include information in respect of the monument. It shall also include details of the statutory

protection and security measures that the monument benefits from and the repercussions for any individuals who damage the monument through illegal or unauthorised activities, such as metal detecting, and

e) Design and location of a seating area, comprising at least one bench and associated hard standing, adjacent to, but outside, the perimeter of the monument. The perimeter of the monument is defined as the extremities of ditch, plus an additional two metre buffer zone.

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

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

Appendix E

THE RESPECTIVE POSITIONS OF THE PARTIES ON HOUSING LAND SUPPLY

Table 1: The deliverable supply of each party

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

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

TOTAL	**6472**	**3583**	**6,443**	**3583**

Table 2: The five-year land supply position of each party against the standard method

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

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

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

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

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

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

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

Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

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.