

WEST OXFORDSHIRE DISTRICT COUNCIL

LAND SOUTH OF BURFORD ROAD, MINSTER LOVELL

APP/D3125/W/23/3331279

OPENING STATEMENT ON BEHALF OF THE COUNCIL

1. There is an unhappy sense of *deja vu* with the appeal scheme. The eastern limb of the appeal scheme which sits below (to the south of) the adjacent Bovis scheme at Holloway Lane comprises the very same piece of land that the Inspector who examined the Council's Local Plan in 2018 said was not acceptable for housing development. Though he described what is now the Holloway Lane scheme (125 units) as being a "*relatively modest expansion of the built up part of the village which extends along Burford Road*" he then said at [G4/§143]:

"...However, residential development further south adjacent to Ripley Avenue, as advocated by the site promoter and on the land which the Council states it showed on the policies map as part of the allocation in error, would, in urban form terms, represent a much more substantial addition to the settlement. It is the case that the density and the style of the Ripley Avenue housing has more in common with the Wenrisc Drive/Whitehall Close area than it does with the properties fronting Brize Norton Road. However, its cul-de-sac form, separated from the Wenrisc Drive/Whitehall Close housing by public open space, links it in urban form terms much more with the 'loose knit' housing development which extends along Brize Norton Road. Consequently, housing on the land adjacent to, and to the west of, Ripley Avenue would undesirably consolidate these two distinct areas of the village.

I conclude that the resulting harm to the existing character of Minster Lovell would not be outweighed by the benefit of the additional homes which could be provided. Therefore, it is appropriate for the plan to be based on the reduced-size site.”

2. Notwithstanding these clear comments, and the resulting modification of the proposals map to expressly remove this limb of the proposed WIT4 allocation, i.e. Holloway Lane, the appeal scheme is now seeking to give the kiss of life to development in this area, as well as on land directly to the west of the Holloway Lane site. This would have the result of significantly extending the recently-extended built form of the settlement along Burford Road. Minster Lovell (Charterville) would stand to be increased in household and population terms by c.45%.
3. This would be contrary, in principle, to the development plan for the simple reason that it quite obviously would not amount to “*limited development*” such that it would be contrary to Policy OS2 and, therefore, contrary to the overall spatial strategy which seeks to direct or disperse only “*limited development*” to the district’s villages of which Minster Lovell is one. Taken cumulatively with the Holloway Lane scheme, i.e. taken cumulatively with other post-Local Plan adoption extensions to the village, the appeal scheme would breach this touchstone.
4. It would also be contrary to the development plan because (a) the appeal site is “*undeveloped land adjoining the built up area*” of Minster Lovell and (b) it is not “*necessary to meet identified housing needs*”. As to that matter:
 - a. as the Council will show in evidence – which will be canvassed in the context of an RTD – there is in excess of a 5 yr. HLS at present such that there is no “*identified need for housing*” in terms of a 5yr HLS shortfall; and
 - b. there is no conceivable other “*identified need for housing*” in this case.

5. As to (a) above (**5yr HLS**), the parties disagree on this topic and in opening it is necessary to observe only the following:
- a. Much of the debate concerning deliverability will, as it always does, come back to the question of what kind of evidence is needed to show that a site without full planning permission (a so-called ‘category b’ site) is deliverable?
 - b. The appellant insists on clear documentary evidence in support of each and every assumption relied upon by the Council for each of the disputed sites. While the PPG does call for “*clear evidence*”, there is no reason why this evidence cannot be given at an inquiry by an experienced public official with significant local knowledge and expertise applying a realistic and common sense approach. This is evidence that can (and should) carry much weight and goes well beyond mere impermissible assertion.
 - c. Ultimately, we should stand back and ask: based on what we know about all relevant circumstances at the relevant sites, will they begin to deliver completions in the next five years, and if so how many? It is an abdication of this exercise to simply delete all units in category b sites as opposed to doing one’s best to assess likely delivery rates.
 - d. A nil entry is only appropriate where there is no basis on which it can be said that *any* sites will come forward in the 5 year period.
6. As to (b) above (**other claimed identified housing needs**) the appellant raises a number of arguments, none of which are of merit. In particular:
- a. Though the Council has not delivered the number of homes anticipated by the phasing trajectory in Policy H2, and will not do so by the end of the 2027/2028 period (i.e. the end of the current 5yr cycle), using these figures is inappropriate since they have been superseded by the clear expectation in national policy that Local Housing Need should be assessed by reference to the Standard Method, rather than the plan-derived figures.
 - b. The Standard Method addresses any past under supply;
 - c. It is acknowledged that there has been delay (related to the need to front-load the delivery of strategic infrastructure) bringing forward completions

in the Council's Strategic Growth Location and the Strategic Development Allocations. However, again, that does not equate to an "*identified need for housing*" within the meaning of Policy H2: this is self-evident because it is not possible to "*identify*" how many dwellings are "*needed*" now as a result of the delays bringing these sites forward. Nobody is suggesting that these allocations are simply dormant/stalled and will not deliver any housing at all. They are plainly "developable" and will start yielding completions in due course.

- d. As to the suggestion that there would be a housing shortfall in the Witney sub-area, note: first, that the indicative figure for the sub-area is not based on the Standard Method; and second, that because Witney is not a micro-HMA in respect of which there is a ring-fenced "*housing need*" properly so-called, there is no phased trajectory for the sub-area.
- e. Though there is a need for more affordable housing in the district, the appellant does not suggest that the market housing component of the scheme is the maximum required to viably support the delivery of the affordable units - or that the AH component of the appeal scheme is "*specific to*" Minster Lovell as required by para.5.38 of the Local Plan.
- f. To the extent that it is claimed that Oxford City Council's putative unmet need arising in the context of its next local plan comprises an "*identified housing need*", that is wrong because that need has not yet been identified. Oxford does not have an "unmet need" as such since: (i) the HENA/draft plan has not been examined and (ii) OCC has not yet determined what their capacity is how much unmet need will be exported to its neighbouring authorities of which the Council is only one.

- 7. It is material that, as the SOCG records, the Council's housing delivery test results since first publication have been strong: 153% of its target completions in 2019-2020, 114% of target in 2018-2019, 103% in 2017-2018, 195% in 2020-2021 and 187% (2021-2022), with no consequences applying in any of these years. Moreover – and as recorded in the AH SOCG – AH need in the district is also starting to fall. These are all relevant considerations.

8. Though it is acknowledged that the appeal scheme would bring a range of benefits, these benefits could not be delivered without causing a wide range of other harms and conflict with other provisions of the development plan. In particular the appeal scheme would:
- a. *inter alia* fail to protect or enhance the local landscape and the setting of the settlement and involve the loss of an area of open space that makes an important contribution to the character or appearance of the area (contrary to OS2 and EH2), i.e. it would cause landscape and visual harm;
 - b. fail to respect the village character and local distinctiveness (no ‘Chartist’ bungalows proposed) contrary to OS2 and OS4;
 - c. cause moderate harm to the historic character of Minster Lovell (Charterville) by making its significance (original linear layout) more difficult to appreciate and understand which is a non-designated heritage asset in its own right (contrary to OS2 and OS4);
 - d. not help to maintain the vitality of Minster Lovell (the appellant produces no evidence on this matter) contrary to OS2; and
 - e. be car-dependent, and would not minimise the need to travel by private car, contrary to Policies T1 and T3;
9. As to this last matter, though there is a range of facilities within Minster Lovell as well as a bus service, plainly residents of the appeal scheme would depend on vehicles to access the wider (normal) range of facilities that people depend on for living/recreation/work. Minster Lovell is well located in respect of the Local Road Network. It is an attractive place to have a car. It cannot seriously be contended by the appellant that this is a location that will not be car-dependent. The walking/cycling distances ought to be capable of agreement; but note that in many cases they exceed, sometimes considerably, the 800m threshold (20 minute neighbourhoods, MFS, IHT) beyond which some will walk and others will take a car.

10. Note also for present purposes that the weighting of the appeal scheme's claimed benefits is not agreed by the Council and has in many cases been significantly over exaggerated by the appellant – who suggests, for example, that every single one of the scheme benefits that are not 'moderate' are in fact 'substantial', i.e. sitting right at the very top of the range of weight.
11. The appeal scheme is not in accordance with the development plan's most important policies OS2 and H2, and therefore not in accordance as a whole, and permission should be refused because no material considerations indicate that, notwithstanding that conflict, consent should be granted. This is conflict to which significant weight should be attached because the basket of most important policies is still up to date and consistent with the Framework. This last point is agreed with the appellant who argues only that the Local Plan is out of date "due to the lack of a five year housing land supply" and for no other reason (Duvall para. 8.7).
12. For the avoidance of doubt, the landscape harm, harm to the non-designated heritage asset comprising Charterville and the appeal scheme's locational credentials (or lack thereof), and the fact (and it must, in reality, be a fact) that it would be largely car-reliant, of this scheme are such that even applying the tilted balance permission should be refused.
13. Naturally, more issues than discussed in opening will be dealt with in RTD, formal evidence and submissions. The Council will in due course invite you to dismiss the appeal for the above reasons as well as the detailed reasons which the inquiry will explore.

GEORGE MACKENZIE

**FTB Chambers
Inner Temple
London EC4Y 7BY**

13 February 2024