

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**Proof of Evidence of Chris Wood relating to:  
Housing Land Supply, Landscape and Visual Effects,  
Design, Policy Compliance and the Planning Balance**



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**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

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**Appeal by  
Catesby Strategic Land Ltd**

**Against the Decision of West Oxfordshire District Council  
to Refuse Outline Planning Permission for:**

**Development of up to 134 Dwellings (Use Class C3)**

**including means of access into the site (not internal roads) and associated  
highway works, with all other matters (relating to appearance, landscaping,  
scale and layout) reserved (amended description) (amended plans) at**

**Land South of Burford Road,  
Minster Lovell**

**Appeal ref. APP/D3125/W/23/3331279**

**LPA Application ref. 22/03240/OUT**

**18 January 2024**

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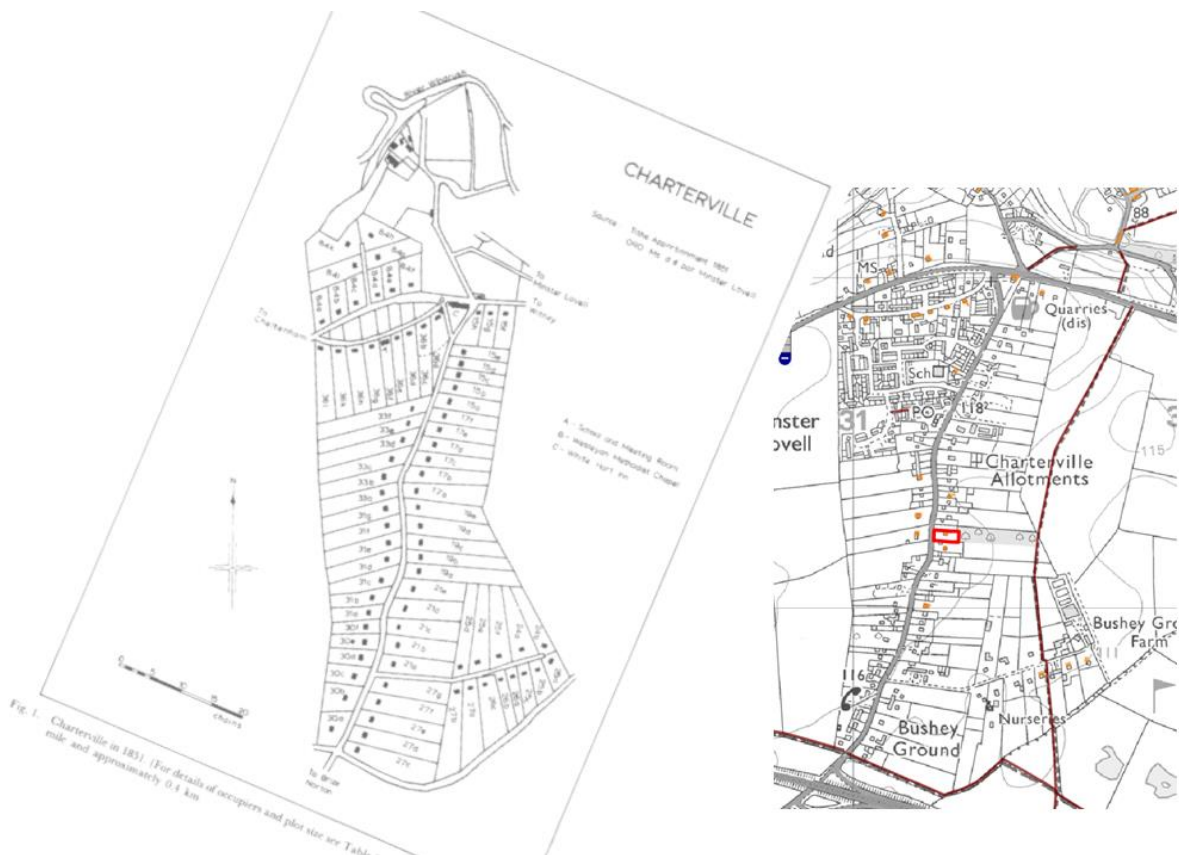
## **1 Introduction The Author of this Proof of Evidence**

- 1.1 My name is Chris Wood. I am the Senior Planning Officer (Appeals) for West Oxfordshire District Council, which is the Local Planning Authority in this case (“the LPA”).
- 1.2 In this position, I have since March 2008 dealt with the great majority of all appeals for the LPA. I have also occasionally (several years ago) represented Cherwell and Cotswold District Councils at appeals, including large new residential developments on the edge of settlements (NB all unallocated sites).
- 1.3 I obtained a Post Graduate Diploma in Town Planning from The University for Central England in Birmingham in 1997 (my first degree was a BA in mathematics from Oxford University). I am eligible to join the Royal Town Planning Institute. I have worked in local authority planning since 1994.
- 1.4 My first job was at Birmingham City Council, including spells in development management, conservation, policy and amenity planning (including some tree and landscaping work). In 1997 I was briefly an Area Planning Officer at South Derbyshire District Council (also dealing with all tree work applications); and then spent two years as Reading Borough Council’s planning enforcement officer.
- 1.5 I became the London Borough of Hillingdon’s Planning Enforcement Manager in late 1999 before returning to development control in 2002. I joined the Royal Borough of Windsor and Maidenhead in March 2004 as a Senior Planning Appeals Officer and became the lead officer for its largely formulaic adopted planning obligations policy before taking up my current post in West Oxfordshire in 2008.
- 1.6 I have also done some private sector planning consultancy work, including appeals work and general advice to the public/ small developers, mostly in Slough, Reading or London.
- 1.7 Before becoming a planner, I worked in the private sector for ten years in the financial services industry, including posts as an actuarial trainee, working with mortality rates, an investment analyst in the City of London; an asset planning consultant and a self-employed sales consultant.
- 1.8 This proof relates to appeal ref. APP/D3125/W/23/3331279 (“the current appeal”), which will be heard at a public inquiry due to commence on Tuesday 13 February 2024, relating to the LPA’s refusal of outline application (ref. 19/03317/FUL) for *Development of up to 134 dwellings (Use Class C3), including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved* (“the appeal proposal”) at a site comprising parts of two undeveloped, agricultural field adjoining a very recently built housing estate that now forms the western outskirts of the historic village of Minster Lovell (Charterville).
- 1.9 My evidence addresses housing land supply; landscape and visual (“LV”) effects; and urban design issues; as well as planning policy and the planning balance, all topics on which I have given evidence at previous public inquiries, and on which I have reviewed evidence at many past appeals of all kinds.
- 1.10 The evidence I give represents my true professional opinions.

## 2 The Appeal Site and Surrounding Area

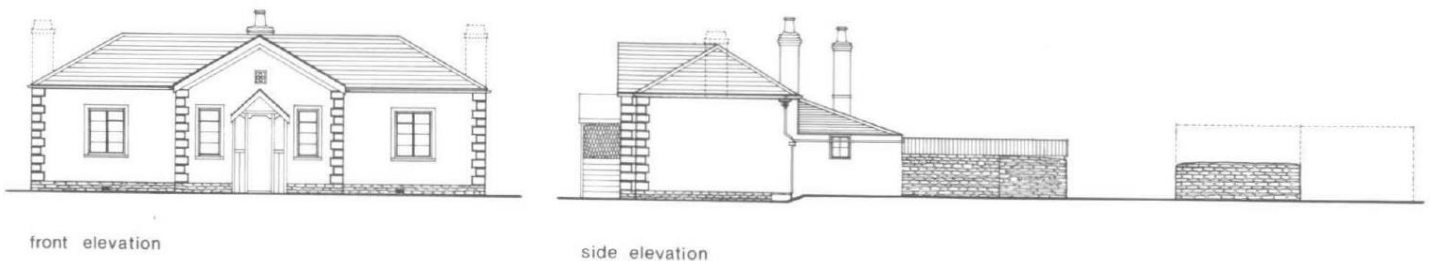
### Minster Lovell (Charterville)

- 2.1 Minster Lovell (Charterville) is defined as a historic rural village located broadly centrally within the district of West Oxfordshire (“the District”) alongside and at the junction of the B4047, which was historically the main route east-west Witney to Burford; and the B4477 Brize Norton Road, which runs south from the B4047 past the A40 (which is an elevated dual carriageway) towards the town of Carterton.
- 2.2 It is defined as a *village* in the settlement hierarchy set out in the West Oxfordshire Local Plan 2031 (“the Local Plan”); and is classified as a linear and nucleated hill terrace/ spur settlement in the Thames Vale Architectural Character Area in the *West Oxfordshire Design Guide* (“the Design Guide”).
- 2.3 The 2016 Design Guide also contains the following slightly more detailed description of “Charterville”:
- Village located in the centre of the District, on an elevated ridge above the 115m contour.*
- Charterville comprises a C19 planned utopian settlement of dispersed linear form.***
- To the north of this, adjacent to the B4047, is a sizable block of C20 development***
- 2.4 It was originally founded by Feargus O'Connor) as a late 19<sup>th</sup> century Chartist utopian settlement
- 2.5 In the original plan of the Chartist settlement, small, low bungalows with wide but shallow plans were located within deep, wide plots that gave their occupiers an opportunity to grow their own food and perhaps to earn a living, with Brize Norton Road forming the main route north-south through the village that might be described as the “spine” of the development:



2.6 The settlement is thus of significant historic interest and has been the subject of a range of research, including articles in various academic publications, including “Oxoniensia”, two of which are at Appendices 2a and 2b, for ease of reference, with the Kate Tiller Extracts *inter alia* containing the plan of the original layout of Charterville seen on the left above, with its clearly linear form, its deep, wide plots and the Brize Norton Road as its “spine”; but with additional “spurs” on the northern side of Burford Road and the southern side of Upper Crescent to the west of the northern end of Brize Norton Road.

2.7 The Crispin Paine extracts show *inter alia* the typical appearance of an original bungalow:



2.8 Many of these bungalows survive and some of the better preserved examples are statutorily listed (including Nos. 35 and 37 on the southern side of Upper Crescent, effectively at the western edge of the historic settlement; and Japonica and Windrush on the northern side of Burford Road).

2.9 The village has subsequently expanded over time, with many bungalows replaced and various infill dwellings, as well as larger housing developments in depth, mainly to the west of Brize Norton Road, including development between Upper Crescent and Burford Road (including the cul-de-sac Wychwood View); and Wenrisc Drive, which runs from a point near the western end of Upper Crescent and Brize Norton Road, passing St Kenelms Church of England primary school and Whitehall Close to the west of Wenrisc Drive that until recently formed the western edge of the northern part of the village.

2.10 These estates, together with Drylands Road and Charterville Close between Wenrisc Drive and Upper Crescent; and Cotswolds Close (running west directly from Brize Norton Road to the south of Wenrisc Drive) together form the **sizable block of C20 development** described in the Design Guide above.

NB in addition, Ripley Avenue is a multi-armed, late 1980s *cul-de-sac* running southwest from Wenrisc Drive and separated from it and Whitehall Close by a recreation ground containing an equipped play area and football pitch (“the Ripley Avenue play area/ playing fields”) is not seen as part of this block.

2.11 However, this block has very recently been expanded considerably by the addition of 125 dwellings in a new multi-armed cul-de-sac, in most of the field directly west of Whitehall Close and Upper Crescent.

2.12 The main access road into this large, very new housing estate is Holloway Lane, with that has very recently been built out by Bovis Homes and it is referred to as the Holloway Lane/ Bovis Homes estate.

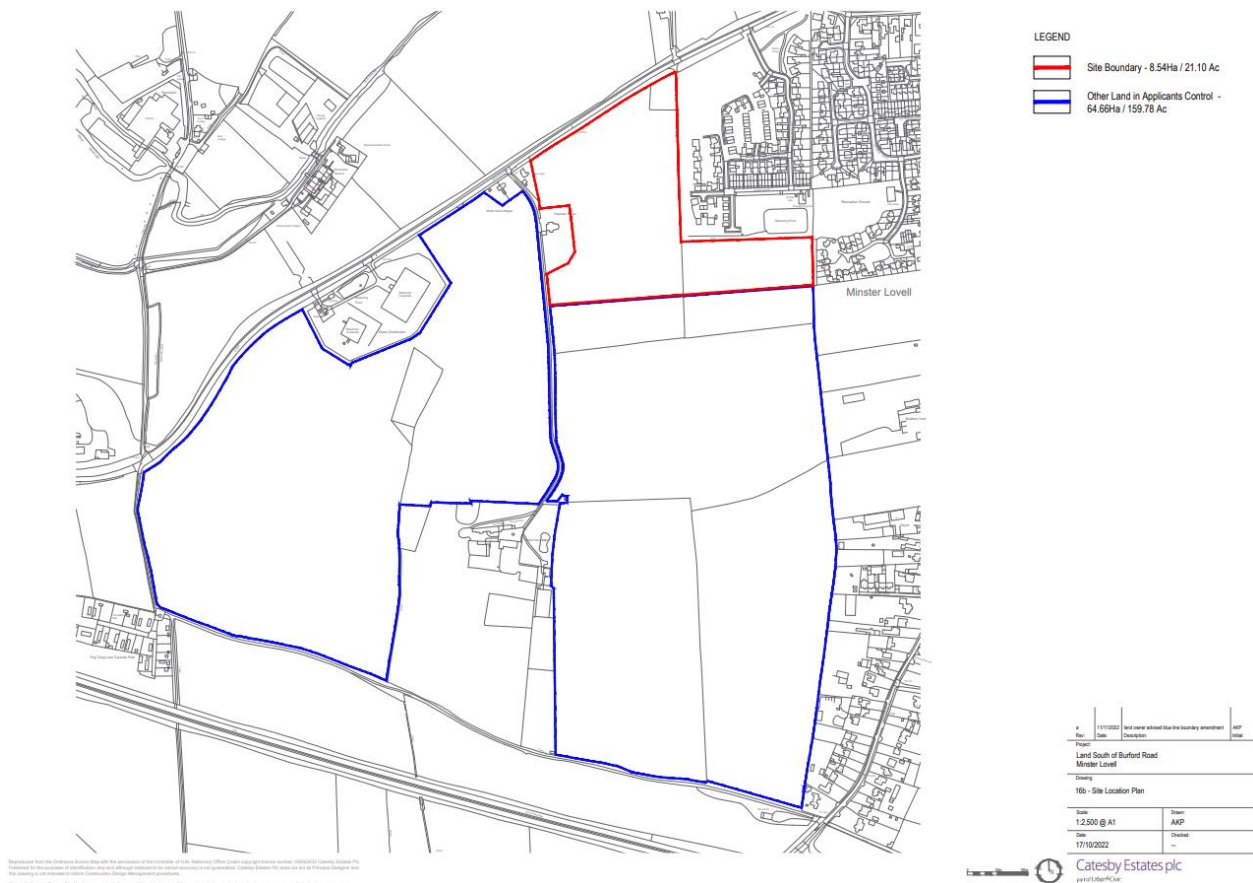
2.13 I will describe the planning history of this new housing estate in the following section of this proof of evidence (“PoE”); but at this point, I will merely observe that it has a line of bungalows facing towards Burford Road but set back behind a roadside hedgerow and a wide grassed verge at the front of the

estate but most other dwellings are 2-storey and it has significant areas of undeveloped land including flood attenuation features to the north west and south, with its main area of public open space in the southeastern corner, where there is pedestrian access into the Ripley Avenue play area/ playing fields.

- 2.14 This estate did not take up the whole of the field adjoining Whitehall Close, as this was approximately 430-520m deep (north-south, getting less deep to the west); and although the estate takes up the full 215 width of this field, it is approximately 270-380m deep (having a site area of some 7.28Ha), leaving an undeveloped area that is approximately 215m wide x 80-90m deep (18,200m<sup>2</sup>/ 0.18Ha) to the south.

### The Current Appeal Site

- 2.15 The current appeal site is described as *Land South of Burford Road, Minster Lovell*; and, as shown in the submitted red line site location plan, it comprises the majority of the arable field directly to the west of the Holloway Lane estate (which I will refer to here as “the western field”) and roughly half of the remaining part of the field to the south of the same estate (which I will refer to as “the eastern field”):



NB there are also large areas of adjoining “blue line” land under the appellant’s control to the south/ southwest.

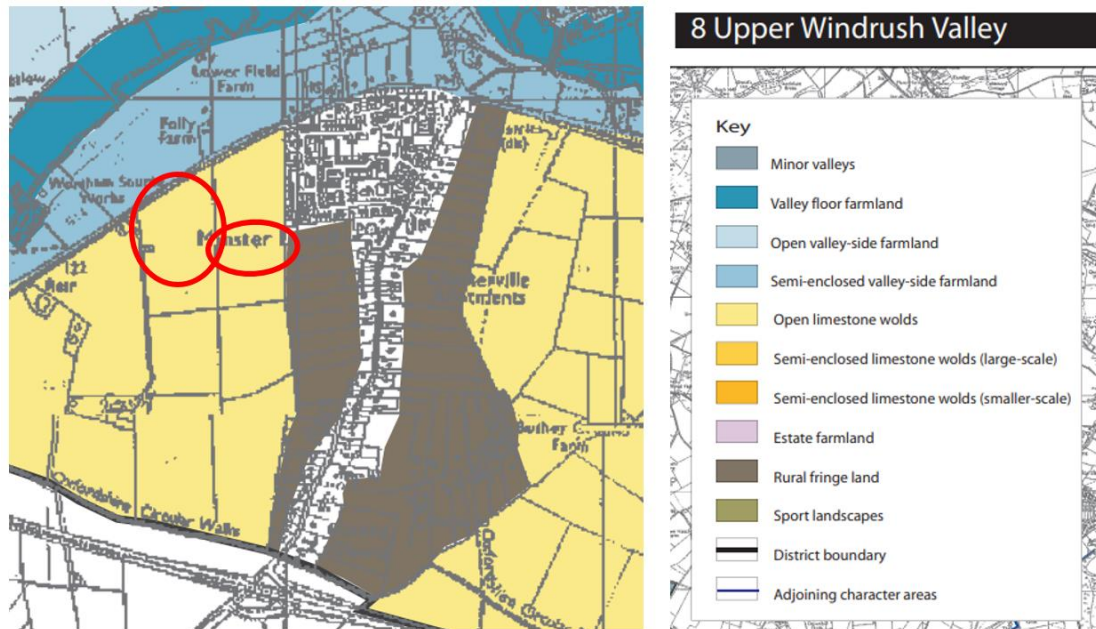
- 2.16 Measured by me from the scaled plan, the site has a roadside frontage of just under 280m; and is a maximum of some 270m deep (along the eastern boundary of the western field); a maximum width of some 435m (along its southern boundary effectively the combined widths of the western and eastern fields); and a total area of approximately 85,000m<sup>2</sup>/ 8.50Ha (comprising some 67,000m<sup>2</sup>/ 6.70Ha in the western field and some 18,000m<sup>2</sup>/ 1.80Ha in the eastern field)

- 2.17 The appeal site is thus a very roughly “L-shaped” area of land made up of parts of two undeveloped agricultural fields containing no buildings, adjoining the south side of the A40 to the west of the village;
- 2.18 Both fields are in agricultural use, growing arable crops and have a subtly complex topography located close to the upper valley sides/ ridge of the river Windrush to the north and land that falls generally to the south in the general direction of the A40 beyond this ridge.
- 2.19 The nature and character of adjoining land and development can be described as follows:
- **To the east** the site is bounded by a well-established field hedgerow; and adjoins the very recently built Holloway Lane/ Bovis Homes housing estate to the west of the village described above, which is shown in some of the plans and has Holloway Lane and Abraham Way as its main estate roads and Norridge View, Lock Close and Stratford Row along its western edge closest to the site but set back from the hedgerow by a grassed area that contains a large distinctive grassed bund, with the main built up area of the village beyond and then open land separates it from Witney;
  - **To the north/ northwest** it is bounded by a large ditch and then a well-established but gappy field hedgerow, with the A40 directly adjacent; and agricultural fields that lie within the Cotswolds AONB/ National Landscape (“the AONB/ NL”) and that fall towards the Windrush river beyond (the river is only some 300m from the appeal site);
  - **To the west** the field is again bounded by a well-established hedge and a group of four dwellings with accesses onto Burford Road, the southernmost of which is Repeater House, which has a large curtilage that “bites into” the appeal site, with open fields containing various dispersed development further west;
  - **To the south:** the site is not bounded to the south by any physical features as it its southern boundary runs through the middle of both fields. However, both fields are bounded by hedgerows; and there are further open fields and then the main A40 (some 800m from the site), with open farmland and occasional, mainly agricultural built development beyond.
- 2.20 The appeal site was altered before the application underlying this appeal was determined, making it some 14,100m/ 1.41Ha smaller, so that its original area was approximately 99,100m or 9.91Ha):



## Landscape Character

- 2.21 The whole of the appeal site and the fields to the west and south for some distance are classified in the West Oxfordshire Landscape Assessment (“the WOLA”) as *open limestone wolds* landscape type (“LT”) within the *Upper Windrush Valley* landscape character area (“LCA”), with *semi-enclosed valley-side farmland* on the upper slopes of the Windrush valley in the AONB/ NL to the north:



NB the land to the rear of the original Chartist bungalows on both sides of Brize Norton Road are classified as rural fringe land reflecting their original use as plots used for agriculture/ commercial purposes to support the individual settlers, with several of these plots still in commercial uses today.

## Nearby Public Rights of Way (“PRoWs”)

- 2.22 Whilst the Cotswolds region was until perhaps 100 years ago (and for many centuries before that) one of the nation’s most economically powerful and important areas due mainly to the success of the wool trade and related blanket industry, it is now a national and international holiday destination, primarily due to a combination of its naturally beautiful scenery and its wealth of mainly stone historic (designated and non-designated) heritage assets, including many historic buildings and settlements of all sizes.
- 2.23 The network of public rights of way (“PRoWs”) that criss-cross the Cotswolds region is well-used by a wide variety of leisure walkers, visitors to the area (including tourists); local residents and others to access the natural beauty and historic character of the area (including the Cotswolds AONB, the River Thames in the south of West Oxfordshire District and historic settlements such as Witney, Hailey, Crawley, Minster Lovell, Long Hanborough, North Leigh, Stonesfield, Coombe and Woodstock among others) and/or its more internationally famous tourist destinations, including Blenheim Palace (a UNESCO World Heritage Site) and the internationally famous City of Oxford with its “dreaming spires”.

2.24 As seen in the extract from the Definitive Map of public rights of way for Oxfordshire below, this network of PRoWs links Witney and Hailey and many other historic settlements in the nearby area that also have attractive settings and numerous interesting listed and non-listed heritage assets:



2.25 In particular, PRoW ref. 302/9/10, some 240m west of the appeal site and PRoW ref. 302/5/10 run north from Burford Road into the Windrush valley and the AONB/ NL, with historic settlements within walking distance of leisure walkers (as well as Minster Lovell Charterville) including Minster Lovell (Little Minster), Asthall, Asthall Leigh, Burford (a very well-preserved mediaeval town with extraordinary views across the Windrush valley, sometimes described as the jewel in the crown of the Cotswolds), Swinbrook, Crawley, Hailey, Ducklington and Witney.

#### Accessibility/ Local Facilities

2.26 Burford Road runs from Witney in the east, which is the largest town in the district of West Oxfordshire ("the District") to a roundabout some 1.7km west of the appeal site where it meets the A40, which is the District's busiest and most important road, effectively linking the M40 in the east to Gloucester and points west, passing through Oxford, Witney, Burford and Cheltenham en route.

2.27 The A40 is itself accessible from Minster Lovell heading east and can be accessed from the A40 heading west at the southern end of Brize Norton Road, which leads onto Brize Norton and then Carterton, the District's second largest population centre, some 5km from the centre of the village.

2.28 Thus, the site is very well located for access to large service centres and the wider road network.

2.29 In terms of facilities found within the village, Minster Lovell has a primary school, a medium-sized general store (the Spar shop towards the northern end of Brize Norton Road); a post office, two other

shops and a hairdresser (located further to the south on Brize Norton Road), a village hall, a church, two public houses (both on Burford Road), a car dealer and some limited employment opportunities.

2.30 According to the 2021 census, the Parish of Minster Lovell had a population of 1,436 people although these are dispersed among three villages (Charterville is the largest of the three).

2.31 The 233 and 234 bus service can be caught from Burford Road and provide a broadly twice hourly service between Witney and Burford, also stopping at Brize Norton and Carterton. The nearest bus stop to the site is located on Burford Road, immediately to the west of the site boundary. The V5 (Wednesday villager bus route) and daily Pulhams Coaches 64 offer limited services to some other destinations.

2.32 This is significantly more facilities and significantly better public transport links than most other villages in the District; and it is also closer to large centres than most villages; and the LPA's settlement sustainability (albeit last updated in November 2016) confirms this assessment, concluding that it is one of the most sustainable of the smaller villages.

2.33 However, I would emphasise that in my opinion, caution should be exercised in extrapolating from this that it is "highly sustainable", especially if this is taken to indicate a reduced need for use of private motor vehicles for reasons that include all of the following:

- It is located on three main routes
- Many of its working residents travel to work
- Thus, the SSR identifies only 4% of this population as using public transport to access work compared to an average of 6% for the District

**Table 2: Method of travel to work**

	In employment	Using public transport	Using private transport (inc taxi)	Passenger in a car or van	Bicycle or on foot
Minster Lovell	778	4%	79%	5%	8%
West Oxfordshire	56,515	6%	71%	5%	14%
South East		12%	67%	5%	14%
England		17%	63%	5%	14%

Source: ONS crown copyright Census 2011, table QS701

2.34 I believe that this reflects the very good access to the local and national road network available from this location so close to the A40 and the very good access to Witney, Carterton and Burford;

2.35 This high level of car use and good access to a wider range of facilities in nearby centres such as Witney and Carterton means many residents access those facilities rather than those in the village

2.36 Similarly, local facilities (including public houses/ restaurants on the B4047 Burford Road) also depend heavily on passing trade rather than being directly solely towards local residents

2.37 Plans, aerial photographs, historic maps and annotated photographs of the site and nearby area can be found at Appendices 1a-1d.

### 3 Relevant Planning History, including the Adjacent, Allocated Bovis Homes Site

- 3.1 I am unaware of any directly relevant planning history at the appeal site besides application ref. 22/03089/SCREEN, requesting a screening opinion for development of up to 140 dwellings, based on the current appeal site as originally proposed and the *Framework Plan* and *Illustrative Masterplan* as originally submitted relating to the original appeal proposal for 6 additional dwellings on this larger site:



- 3.2 The LPA's determination, as set out a letter dated 20 December 2022 was that: ***The development is not considered to be EIA development requiring the submission of an Environmental Statement.***
- 3.3 This was because the LPA considered *it will not be likely to have significant environmental effects having regards to its characteristics, location and the types and characteristics of the potential impact.*
- 3.4 As the appeal proposal is for a smaller number of dwellings on a smaller site, I consider it reasonable to assume that a similar conclusion would also apply to the current appeal proposal.
- 3.5 However, I consider the planning history relating to the recently built Bovis housing estate to the east of the appeal site to be relevant to the context of the site and the current appeal proposal.

The 2014 Strategic Housing Land Availability Assessment ("the SHLAA"); and

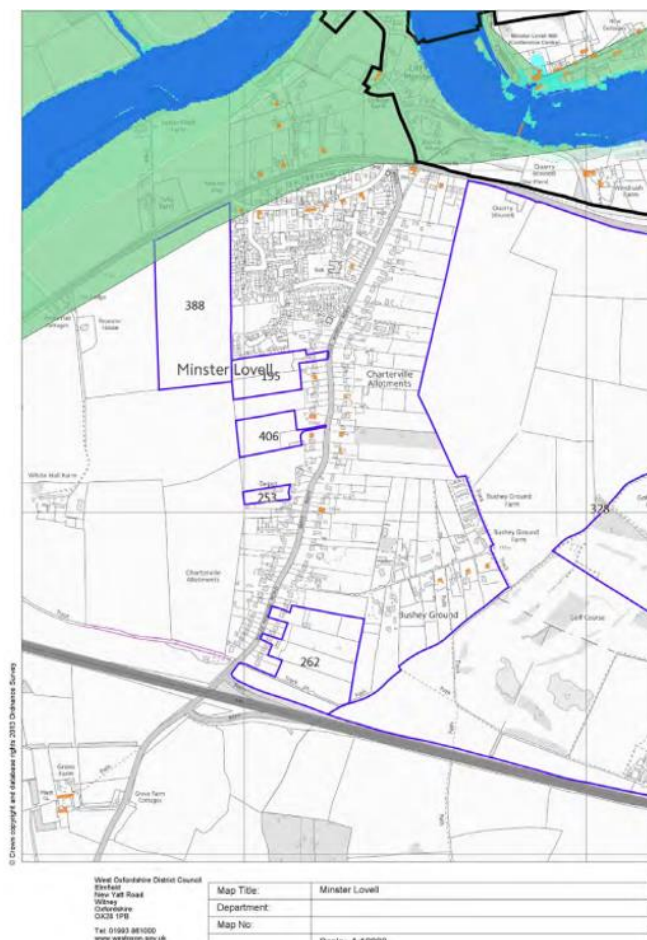
The 2016 Strategic Housing and Economic Land Availability Assessment ("the SHELAA")

- 3.6 The June 2014 West Oxfordshire Strategic Housing Land Availability Assessment ("the SHLAA") was produced to support the then emerging West Oxfordshire Local Plan 2011-2031 ("the emerging Local Plan") during its examination in public ("the EiP") when it was seeking to rely on a basic housing requirement of 525 dpa, which was significantly under the objectively assessed need mid-range figure of 660dpa, as estimated in the 2014 Oxfordshire Strategic Housing Market Assessment ("the SHMA").
- 3.7 The SHLAA did not consider any sites to the west of Minster Lovell.

- 3.8 However, after the first sitting of the EiP in October 2015, the first EiP Inspector (Simon Emerson) published his preliminary findings, which *inter alia* found that the LPA had failed to soundly justify its preferred 525 dpa housing requirement; and a requirement of 660dpa would resolve his concerns.
- 3.9 In response (among other actions), the LPA issued a further call for sites, leading to it publishing the December 2016 West Oxfordshire Strategic Housing and Economic Land Availability Assessment (“the SHELAA”), which included the field adjoining the western edge of the built up area of Minster Lovell [adjoining the larger of the two fields parts of which form part of the current appeal site] as site 388:



2014 SHLAA



2016 SHELAA

- 3.10 The SHELAA reviewed site 388, describing it as a *Large, relatively flat rectangular field used for arable farming. No distinguishing on-site features or structures. Mature boundaries along northern, western and southern boundaries. Established residential development immediately to the east of the site at Whitehall Close and Ripley Avenue. Whitehall Close comprises primarily relatively low-density, single storey bungalows with on-plot parking. Ripley Avenue comprises two-storey, primarily detached houses dating from the 1980s. There is an existing area of public open space with play space off Ripley Avenue. Land to the south and west of the site is in agricultural, arable use. The site is bounded to the north by the B4047 and beyond that are fields sloping down towards the River Windrush.*

<b>SHELAA REF:</b> 388	<b>Site Name and Location:</b> Land south of Burford Road, Minster Lovell <b>Site Area (Ha):</b> 10.53
<b>Site Description</b> <p>Large, relatively flat rectangular field used for arable farming. No distinguishing on-site features or structures. Mature boundaries along northern, western and southern boundaries.</p> <p>Established residential development immediately to the east of the site at Whitehall Close and Ripley Avenue. Whitehall Close comprises primarily relatively low-density, single storey bungalows with on-plot parking. Ripley Avenue comprises two-storey, primarily detached houses dating from the 1980s. There is an existing area of public open space with play space off Ripley Avenue. Land to the south and west of the site is in agricultural, arable use. The site is bounded to the north by the B4047 and beyond that are fields sloping down towards the River Windrush.</p>	

3.11 The SHELAA concluded it was suitable for 85 homes (all to be delivered in years 0-5) on the basis that:

***The site is considered to represent a sustainable location for new residential development. It is within comfortable walking distance of local services and facilities in Minster Lovell and is within walking and cycling distance of the main employment area to the west of Witney.***

***....it is not considered that development in this location would create a precedent for further development to the west of the B4477 Brize Norton Road.***

***Minster Lovell is a sustainable settlement and this site is considered to represent the most suitable opportunity for residential development of all those considered:***

<b>Suitability for housing</b>		<b>Suitability for employment</b>	
Suitable		Not suitable	
<b>Reason:</b>  The site is considered to represent a sustainable location for new residential development. It is within comfortable walking distance of local services and facilities in Minster Lovell and is within walking and cycling distance of the main employment area to the west of Witney.  Unlike sites 195, 406 and 253 to the south it is not considered that development in this location would create a precedent for further development to the west of the B4477 Brize Norton Road. Minster Lovell is a sustainable settlement and this site is considered to represent the most suitable opportunity for residential development of all those considered.  The site is unlikely to be suitable for employment use given the adjoining residential uses and is also not being promoted for employment use.			
<b>Likely Yield</b>			
<b>0-5 Years</b>	<b>6-10 Years</b>		<b>11-15 Years</b>
85 homes	0		0
<b>Availability</b>		<b>Achievability</b>	
Available		Achievable	
<b>Conclusion</b>			
Deliverable			

- 3.12 I note the references to easy walking and cycle access to local shops and services; and will explain further below why I think members were entirely correct to regard the current site as inaccessible in these terms, notwithstanding this commentary, noting that I disagree with parts of this analysis.
- 3.13 I also note the concerns about avoiding creating a precedent for development further to the west.
- 3.14 In any event, the site (but augmented by a significant area within the western field (as defined in section 2 of this PoE above that was identified in the illustrative Masterplan as a burial ground) was proposed to be allocated for 85 dwellings and outline planning permission was approved (effectively on that basis) subject to a legal agreement under application ref. 16/02588/OUT in November 2016.
- 3.15 Although legal agreements with the County and District Councils were subsequently completed and signed and a formal approval was granted; this was superseded by events, as the site (but now no longer including the area to the west previously identified as a burial ground) was the subject of a further application (ref. 17/01859/OUT) seeking outline planning permission for up to 125 dwellings.
- 3.16 This was the subject of discussions at the resumed EiP, with the second Local Plan Inspector (Malcolm Rivett) agreeing that it could accommodate a larger number of dwellings, stating in his August 2018 *Report on the Examination of the West Oxfordshire Local Plan 2031* (“the Local Plan Report”) that:

***Policy WIT2b - Land West of Minster Lovell***

141. *Again as a response to the increased housing requirement, the Council proposed that the plan be modified to include an allocation for around 85 dwellings on a green field site to the west of Minster Lovell. As a relatively modest development in one of the plan’s defined villages, and in fairly close proximity to Witney, the allocation accords with the overall spatial strategy of limited dispersal of development to settlements other than the main towns. In principle, therefore, the allocation is soundly-based.*

[NB I read this as a reference to the spatial strategy as set out in policy OS2, being permissive towards limited additional development at villages; and, as such, I consider it critical to understanding the later application of that part of the spatial strategy, as in my opinion, it clearly indicates that this additional 125 dwellings was assessed against this strategic aim rather than creating a new baseline; and later additions should therefore be assessed cumulatively.]

142. *Nonetheless, the Council has subsequently stated that it made an error in defining the boundary of the site on the proposed policies map and that a somewhat smaller site than that originally shown is what it intended to allocate.*

*The around 85 dwellings capacity indicated in policy WIT2b reflects a planning application which the Council has resolved to permit, subject to a legal agreement.*

*However, in the light of a subsequent, higher density, application for the same site area for around 125 dwellings, there is no persuasive evidence to indicate that, in principle, 125 homes could not be acceptably accommodated on the reduced-size site.*

[Again, I find it interesting that a significantly higher density was thought appropriate.]

143. ***Housing development on the northern part of the site, adjacent to Wenrisc Drive and Whitehall Close, would constitute a relatively modest expansion of the built-up part of the village which extends along Burford Road. 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.*

[I read this paragraph as confirming Inspector Rivett’s view that the urban form of the layout of housing in Ripley Avenue has links to the looser knit housing on Brize Norton Road (which strongly reflects the original Chartist layout of the village as described above); whereas what is now the Bovis Homes estate would be more closely linked to the non-historic housing in Wenrisc Drive and Whitehall Close; and that linking the two by building ***housing on the land adjacent to, and to the west of, Ripley Avenue would undesirably consolidate these two distinct areas of the village***; and 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***]

144. ***In conclusion and for the plan to be positively-prepared and justified, MM47 is necessary to include new policy WIT2b providing for this housing allocation for around 125 dwellings, on the reduced-size site, and setting out appropriate criteria with which the development should accord.***

3.17 This was thus the basis on which the Holloway Lane/ “Bovis Homes” estate was approved.

3.18 Details of these cases are at Appendices 3a-3d for completeness.

3.19 Before turning to consider the appeal proposal, I will briefly consider the requirements of policy WIT4 (effectively WIT2b, as discussed in the Local Plan report) of the West Oxfordshire Local Plan 2031, as adopted September 2018 (“the Local Plan”), which allocated site 388 as suitable *to accommodate around 125 new homes as part of a sustainable, integrated extension of the existing village.*

3.20 Whilst I recognise that the current appeal proposal is not an allocated site and therefore the requirements of policy WIT4 do not apply directly to it, I consider it illogical that a site that is further from the centre of the village and only adjoins part of the village that did not even exist when the Local Plan was adopted should be subject to lesser requirements than those that applied to this allocated site.

3.21 As such, I would similarly expect any development of the type now proposed to at least take all reasonable steps to attempt to achieve *a sustainable, integrated extension of the existing village*.

3.22 Moreover, policy WIT2 identifies the following key issues (a)-(k) that any development of the allocated site should address, which again I would expect the appeal proposal to try to also meet.

- a) ***provision of a mix of house types and tenures including affordable housing in accordance with Policy H3 – Affordable Housing;***
- b) *the provision of primary vehicular access from the B4047;*
- c) ***giving great weight to conserving the setting of the Cotswold AONB to the north of the site including key views southwards towards the site;***
- d) ***effective integration with the existing village including consideration of any pedestrian and cycle linkages;***
- e) ***a positive enhancement of the western edge of Minster Lovell including the approach from the west along the B4047;***
- f) ***development layout that respects the existing built form to the east of the site;***
- g) ***appropriate provision of and contributions towards supporting infrastructure; including the provision of supporting transport infrastructure, including mitigating the impact of traffic associated with the development; the provision of appropriate financial contributions towards LTP4 transport schemes; provision of appropriate public transport (services and infrastructure) serving the site; and provision of a comprehensive network for pedestrians and cyclists with good connectivity provided to adjoining areas including the town centre and other key destinations.***
- h) *provision of open space on the south of the site to take account of the existing public open space on Ripley Avenue;*
- i) *connection to the mains sewerage network which includes infrastructure upgrades where required including any necessary phasing arrangements;*
- j) ***the use of sustainable drainage methods to ensure that post-development surface water runoff rates are attenuated to achieve a reduction in greenfield run-off rates. The sustainable drainage systems should be designed to provide a biodiversity enhancement;***
- k) ***demonstrate the use of renewable energy, sustainable design and construction methods, with a high level of energy efficiency in new buildings***

3.23 The proposal that sought to meet these aims and was approved by the LPA as the reserved matters (“RMs”) stage detailed application ref. 18.03473/RMS was reasonably faithful to the illustrative masterplan approved at outline stage (shown above) with a wide front verge set behind reinforced existing planting and a multi-armed cul-de-sac layout with internal loops to improve access:



3.24 Elevational street scenes showed mainly reasonably generic 2-storey housing but with steeply pitched roofs and plain gable ends (which I regard as part of the local Cotswolds vernacular, notwithstanding that Minster Lovell is a late 19<sup>th</sup> century settlement) but also featuring a row of bungalows west of the access road facing Burford Road with front elevations that clearly echoed the original Chartist bungalows in the historic part of the village:



3.25 This application included a 12-page landscape strategy document that included a landscape layout plan showing *inter alia*: (5 and 6) the established roadside planting (effectively a thick hedgerow) retained with gaps filled in plans and a wide grassed verge beyond which there would be the row of “pseudo-Chartist” bungalows; (14, 15 and 8) hedgerows retained along the western and eastern boundaries and a new hedgerow along the southern boundary, reinforced to the west by *Native woodland under-storey and wildflower meadow to western edges of the site to cover earthworks bund*; (10-12) the main “formal public open space” in the southeastern corner, incorporating a large rectangular infiltration basin sown with meadow grass and with significant shrub and tree planting; and (1, 7, 9 and 20) grassed paths within the wide front verge and grassed areas along the western and southern boundaries (which would also contain a linear swale) connecting to hardsurfaced pathway leading to a new footway on Burford Road providing pedestrian access to Upper Crescent; and a new pedestrian link into the Ripley Avenue play area/ playing fields and therefrom the village:



3.26 I regard this as creating the immediate context to the current appeal proposal, noting that it is effectively an entirely new urban extension to the village; and I see this as clearly reflected in the submitted plans being considered at this appeal, which I will discuss in the following section of this PoE.

## 4 The Appeal Proposal

- 4.1 West Oxfordshire District Council as the Local Planning Authority in this case (“the LPA”) received application ref. 22/03240/FUL (“the appeal application”) on 21 November 2022, initially seeking outline planning permission for development described as:

***Development of up to 140 dwellings (Use Class C3), including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved***

- 4.2 The submitted plans were listed in the covering letter as follows:

### Drawings:

16a – Site Location Plan

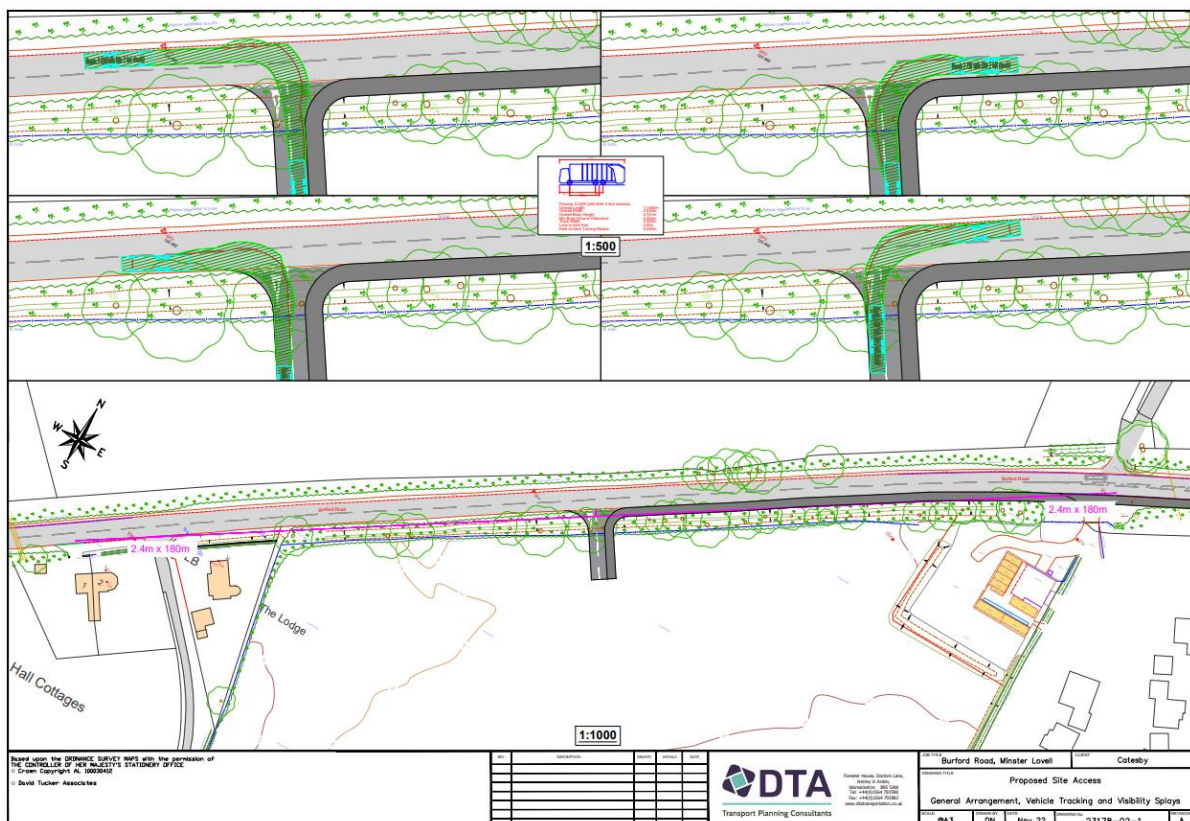
P02 Rev E - Framework Plan

P03 Rev D – Illustrative Masterplan

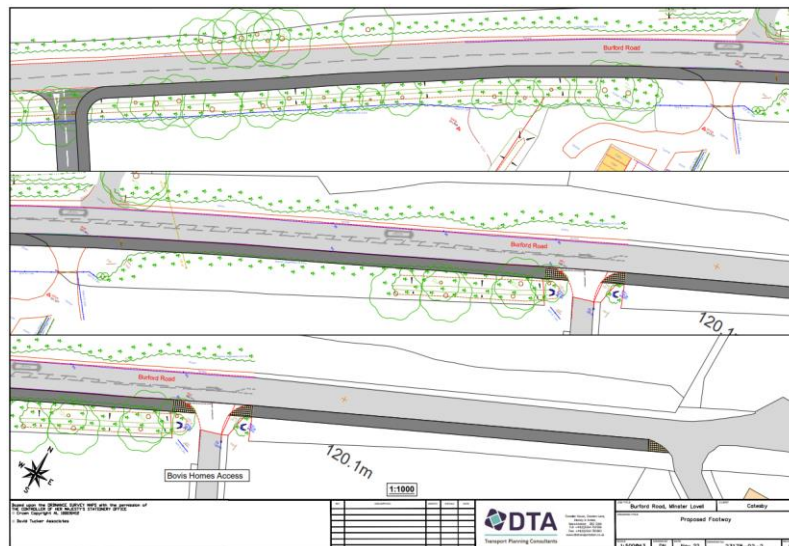
23178-02-2 Rev A Proposed Footway

23178-02-1 Rev A Proposed Site Access

- 4.3 The site location plan has already been discussed above, both as submitted and as amended
- 4.4 The detailed access drawing (which was unchanged) showed a broadly central access along the site’s B4047 Burford Road frontage; and showed visibility splays and large vehicle tracking to east and west:



- 4.5 The proposed footway drawings were also unaltered; and showed the footway in dark grey on the southern side of Burford Road, heading east (only) from the site access, passing Holloway Lane and stopping at the western end of Upper Crescent (where there are footways on both sides of the road):



NB it appears to want to take credit for footway already provided between Upper Crescent and a pedestrian path running from the Holloway Lane estate but in any case, it would provide/ complete a pedestrian route from both vehicular accesses (Holloway Lane and the new access) to the village.

- 4.6 The other two plans identified in the covering letter but that were later superseded comprised:
- The original (later superseded) **Framework Plan** (ref P02 Rev E)



As seen above, this showed residential development in sand in two main areas within the site, a relatively narrow area of dark green woodland along the roadside frontage and around

Repeater House (where it is shown significantly deeper); light green open space alongside most site boundaries, in the middle of the site between the two areas of housing and in most of the eastern field (but noting that, as explained above, the southern part of this area was omitted from the site prior to determination), which would only have housing in its northwestern corner, with the remaining area shown as containing what might be a swale or other surface water attenuation feature a children's play area, recreational routes and a foul pumping station.

The plan also showed pedestrian/cycle access into the Bovis Homes development in three places and a proposed footpath along Burford Road to the east; and it noted that (1) land use zone areas not immediately adjoining existing properties or protected vegetation/ ecology sensitive areas *allow for a limit of deviation 5m either side of the illustrated line*, and (2) **Maximum building height is 2 storey (10m to ridgeline).**

- The original (also superseded) *Illustrative Masterplan* (ref. P03 Rev D), reflecting the Framework Plan, showed what I would describe as a “multi-armed *cul-de-sac*” layout, with an access road running broadly south from the B4047 and serving two main clusters of housing. It showed areas of open space along the roadside boundary, with the housing set back broadly in line with the frontage housing to the east, in the middle of the site, running broadly east-west between the main housing clusters; and in the southwestern and particularly in the southeastern corners of the site, where it would adjoin the main area of open space in the Bovis Home estate, which itself adjoins the Ripley Avenue play area/ playing fields and provides a pedestrian link to the village:



4.7 The proposal was amended, seemingly in response to officers' concerns that the scheme would extend further to the south than the adjacent Ripley Avenue to the east; and so it would be contained away from the linear area and extend the 'sizable block of C20 development' and not the historic linear element, with the site location plan altered as described above.

4.8 As a result, as determined the appeal proposal sought outline planning permission for:

***Development of up to 134 dwellings (Use Class C3), including means of access into the site (not internal roads) and associated highway works,  
with all other matters (relating to appearance, landscaping, scale and layout) reserved  
(amended description) (amended plans)***

4.9 The only plans altered were the *Framework Plan* and *Illustrative Masterplan*, both of which were highly consistent with the original plans except that the area of open space in the southeastern corner of the site was significantly reduced and would be mainly taken up by the surface water attenuation feature and the LEAP and a small number (6) of dwellings would be lost from a layout that looked very similar:

4.10 Thus, the amended *Framework Plan* (ref P02 Rev F) which I note in particular retains the note confirming that ***Maximum building height is 2 storey (10m to ridgeline)***; is effectively unaltered outside the southeastern corner although this main area of open space now appears slightly cramped:



4.11 The amended *Illustrative Masterplan* (ref. P03 Rev F) is similarly altered although the omitted houses in the southeastern corner of the site are not easy to identify:



4.12 When assessing impacts on the character and appearance of the site and nearby area, I consider the albeit again indicative *Landscape Strategy* plan (ref. edp7754\_d011b) highly relevant:



4.13 As seen above, the Landscape Strategy Plan proposes *inter alia*:

- *Reinforcement of northern [roadside] boundary vegetation to reduce visibility from the Cotswold AONB to the north and west.* [This is similar to the Holloway Lane estate to the east]
- *Strong green corridors [alongside boundaries and in the middle of the site] break up the areas of development within the site and provide separation between site and adjacent Bovis development.* [this also requires a much larger site and greater landscape harm]
- *Structural planting along western green corridor to provide separation between proposed development and existing properties to the west, and reduce visibility from the west;*  
[This is also similar to the Holloway Lane estate except that this screening would only separate adjoining lines of new houses, should this appeal not be dismissed]
- *New hedgerow and hedgerow trees along western part of southern boundary to provide a strong landscaped edge and reduce visibility from the south.*
- *Strong green corridors [continuing the line of the western boundary of the Bovis Homes site across the southern part of the appeal site] break up the areas of development within the site and provide separation between site and adjacent Bovis development.* [again requiring a larger site]
- *Pedestrian and cycle routes throughout the green spaces [throughout the site; NB at the Holloway Lane estate, much of these areas are less usable, being taken up by flood alleviation measures].*
- *Formal equipped area for children's play [in the southeastern corner of the site], accessible for both new residents and existing residents of the Bovis development and the rest of Minster Lovell.*  
[This area has been reduced in size following the amended site plan and the need to retain the flood alleviation feature(s); Moreover, it also adjoins the main open space in the Holloway Lane estate and Ripley Avenue play area/ playing fields, which may reduce its usage for some children]
- *SuDS attenuation basin [in the southeastern corner of the site] also provides additional amphibian habitat and other ecological and social interest.* [again, this takes up much more of this main area of open space following the amended/ reduced site area]
- *Structural planting along eastern boundary [in the southeastern corner of the site] adjacent to Ripley Avenue to reinforce separation between proposed development and existing properties and reduce visibility from the east and south-east.*

4.14 In addition to my comments in square brackets above, in assessing this approach, I note that green open space remained an unusually high proportion of the site despite the amended scheme reducing the overall site area and this translating mainly into a reduction to the size of the main area of open space in the site's southeastern corner.

4.15 However, although this appears to underlie many of the asserted benefits, this also requires more undeveloped land reducing overall housing density and increasing landscape harm.

## Supporting Documentation

4.16 The application was accompanied by the following suite of supporting documents, initially comprising:

- **Planning Statement** – Walsingham Planning
- **Affordable Housing Statement**– Tetlow King Planning
- Agricultural Land Classification – Kernon Countryside Consultants Ltd
- Air Quality Assessment – RSK
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan – RammSanderson Ecology Ltd
- **Built Heritage and Archaeological Assessment Report** – Pegasus Group
- **Design & Access Statement** – Edge Urban Design
- Ecological Impact Assessment - RSK
- Flood Risk Assessment – RSK Land and Development Engineering Ltd
- Preliminary Foul Drainage and Utilities Assessment – RSK
- Land and Development Engineering Ltd Phase 1 Desk Study Assessment – GRM Development Solutions Ltd
- Noise Assessment Report – RSK Acoustics
- Statement of Community Involvement – Catesby Estates
- **Landscape and Visual Appraisal** – EDP Ltd
- **Sustainability Statement** – Turley
- Sustainability Transport Assessment – DTA
- Transportation Framework Travel Plan - DTA
- Transportation Lighting Impact Assessment - RSK

4.17 I also note that the following documents were updated when the site and proposal were amended:

- Drainage Strategy & Plans introduced by letter dated 28 February 2023 in response to initial objection from Oxfordshire County Council (“the County Council”) as LLFA
- Note from DTA relating to initial objection from Oxfordshire County Council (“the County Council”) as Highway Authority (“the HA”) relating to: Access Arrangements; Sustainable transport connectivity/ transport sustainability; Traffic Impact; and updated Travel Plan
- **Sustainability Statement** – Turley
- Built Heritage and Archaeological Assessment Report – Pegasus Group
- Interim and presumably final Archaeological Evaluation Reports - Oxford Archaeology

4.18 Noting here, as throughout this PoE that the appeal proposal is in outline, with all matters except access reserved and therefore subject to later review, I have identified in bold those that I consider of most relevance to the main planning issues in dispute at this appeal and I will briefly review these below:

#### **Planning Statement – Walsingham Planning (“the PS”)**

4.19 This relates to the original 10.07 Ha site;

4.20 It is clearly written in the context of a very significant deliverable housing land supply (“HLS”) shortfall against a requirement rising up to 1,125 dpa; In so doing, it relies on appeal decisions that indicated that the LPA was no longer claiming more than a 3.986 year deliverable HLS; and that *Due to the delays outlined previously with the progression of a Local Plan review, it is unlikely this shortfall will be addressed in the near future.*

4.21 It also asserted that there was a shortfall in the developable HLS

4.22 It confirms the maximum ridge height of 10m

4.23 It relies on the other supporting documents (and the lack of a 5 year HLS for policy H2) to claim compliance with all relevant Local Plan policies;

4.24 In relation to policy H2, it accepts that clear evidence of an identified need for the proposed housing and argues that (1) this is demonstrated by the HLS shortfall; and (2) the village is suitable in sustainability terms;

4.25 It states that: ***The applicant is prepared to make financial contributions where necessary, in consultation with West Oxfordshire District Council and Oxfordshire County Council.***

#### **Affordable Housing Statement – Tetlow King Planning (“the AHS”)**

4.26 This emphasises the importance of provision of affordable housing [a position with which the LPA in my opinion rightly agrees] in the context of reducing affordability in the District and I will discuss the weight to be given to the provision of 40% AH units further below.

#### **Built Heritage and Archaeological Assessment Report - Pegasus Group (“the BHAAR”)**

4.27 This *inter alia*

#### **Design & Access Statement – Edge Urban Design (“the DAS”)**

4.28 This relates to the original 10.07 Ha site;

4.29 It confirms maximum ridge height of 10m

4.30 It describes Minster Lovell as situated *approximately 4km west of the market town of Witney, 5km north-east of Carterton and 20km west of Oxford city centre. Both Carterton and Witney are within a 10 minute bus journey from the village providing facilities such as high street retail, a community hospital, cinema and leisure centres. Oxford provides further significant leisure and retail facilities as well as major*

*cultural, educational and employment opportunities. [I would emphasise that all these destinations are more easily reachable by private motor vehicle]*

- 4.31 It notes the Chartist history of the village and its original layout
- 4.32 It appears to see the two Minster Lovells as a single village [I consider this incorrect]
- 4.33 It argues that *The local primary school is within walking and cycle distance, being only 1km east of the Site* [however, I regard 800m as a more widely accepted “easy walking distance”; and the DAS appears to assess distances as point to point distances from the centre of the site. I think walking distances should be assessed for the nearest and furthest dwelling in the masterplan].
- 4.34 It says of *Landscape* that *The existing network of trees and hedgerows along the **Site boundaries will be retained and enhanced where possible** in order to maintain existing habitats and **integrate the proposals into the surrounding context. There are opportunities to provide enhanced boundary planting along the southern edge of the Site**, responding to the adjacent open countryside, as well as **a landscape buffer along the western edge to respect the existing property to the west of the Site*** [I suspect similar claims were made for the Holloway Lane estate]
- 4.35 In discussing *The Concept Plan*, the DAS comments *inter alia* that: *Following the initial concept plans, a Framework Plan has been developed to provide a more refined method to clarify the design principles for the Site. 3. **Site frontage - The dwellings should continue the 2 storey built form as well as a green buffer from Burford Road utilised in the neighbouring development, creating a strong, attractive new gateway into Minster Lovell.** 5. **Landmarks - Key landmark buildings should be positioned at entrance points to the Site, or on the corners of blocks to create distinctive gateways.*** [I take these as confirming the proposal would not incorporate bungalows, despite continuing the building line of the Holloway Lane estate and indeed it proposes landmark buildings at the entrance – I read this as confirming that it would be generally more visually prominent and less well related to Charterville]
- 4.36 Its conclusion states *Placemaking is central to the proposed development and the proposals are in accordance with the strategic placemaking principles. The development will offer an efficient number and mix of house types, sizes and affordability, that will be of an appropriate density.* [I am surprised that for a 10 hectare site with a developed area of 4.6Ha intended to deliver 140 dwellings at an overall density of 14 dph would claim efficient and appropriate density]
- 4.37 It also states that *The landscape-led scheme is designed to create interest and distinctiveness through a hierarchy of streets introducing different functions and characters. It provides new areas of public open space and diverse recreational routes, linking to the wider countryside. With Green Infrastructure forming an integral part of the proposals, existing habitats will be enhanced, enabling increased biodiversity for wildlife. These habitats include attenuation basins, amenity grassland and areas of scrub*

*set within a landscape buffer, benefiting both the community and wildlife. [this was reduced when the plans were amended]*

### **Landscape and Visual Appraisal – EDP Ltd (“the LVA”)**

- 4.38 Although not an LVIA, it states that it has been .....undertaken *in accordance with the principles embodied in ‘Guidelines for Landscape and Visual Impact Assessment – Third Edition (LI/IEMA, 2013)’ (GLVIA3) and other best practice guidance insofar as it is relevant to non-EIA schemes.*
- 4.39 It acknowledges that ....*the field assessment was undertaken in autumn conditions, with the trees still predominantly in leaf; which ....naturally provides additional screening of views and limits the degree to which long range view (in particular) are available, although it claims that it has been undertaken based upon a ‘worst case’ scenario, informed by professional judgement.*
- 4.40 Relies on a 15 year view *as the basis for conclusions about the residual levels of effect;*
- 4.41 Used a detailed study area that is 2km from the site boundary [I regard the use of simple distances from the site as quite crude and believe that more attention should be given to the nature of the site’s characteristic and try to focus on areas with particular sensitivity – thus in this case, I would have excluded the built area of the village when assessing landscape effects]
- 4.42 I note the conclusions on *Overall sensitivity of the site character* at paragraphs 4.55 onwards; and I agree generally with the assessment of land within the Upper Windrush Valley WOLA LCA as *Very high within AONB; and Medium to high outside of AONB* but whereas the LVA assesses the overall sensitivity of the site as medium, partly because of the presence of urban influences, including the Burford Road and housing to the east and west; and the lack of ecological value in the field itself, I consider it of at least *medium-high* value due to the combined effect of (1) its importance to the setting of the village to the east, which I will discuss further below but noting here that the committee report and the first reason for refusal (“RfR”) regard it as *an area of green space that makes an important contribution to the character and appearance of the area;* and (2) its importance to the setting of the adjoining AONB/ NL, noting that its subtly complex topography blends into the Windrush valley to the north and in most views from the northern side of the Windrush valley, it effectively forms the skyline.
- 4.43 I agree with the assessment of the sensitivity of visual receptors on PRoWs within the AONB as very high sensitivity although I also think this applies to other public viewpoints that are likely to be used by leisure walkers or other visitors to the area who are interested in the natural beauty of their surroundings, including public roads used to access PRoWs and/or historic settlements;
- 4.44 I also agree users of minor roads in designated areas can be regarded as high sensitivity; and indeed, I consider that passengers can be higher sensitivity, as they are not focussed on driving;
- 4.45 I also agree with the high sensitivity attributed to private views from dwellings/ garden areas

- 4.46 I agree that the chosen viewpoints are reasonably representative although I would have asked for one or two others to have been assessed;
- 4.47 I note the development was assessed as 2-storey maximum ridge height 9m (it should be 10m);
- 4.48 I have my own assessments of the visual effects experienced from the various viewpoints (“VPs”) but in broad terms, I regard these judgements as essentially subjective matters for the Inspector to weigh up having visited the VPs personally, noting that this will be in winter;
- 4.49 I also note the proposed landscape enhancements listed at para 6.13:
- *Increased public access to open space that provides opportunities for play and informal recreation and relaxation – for both existing and new residents (it is notable that the Bovis development provides only limited usable POS);* [However, I consider this significantly overstated, as: (1) I do not think “public open space” (“POS”) – whether genuinely “public” or not – is a landscape enhancement compared to a historic agricultural field that has been part of the rural setting of Minster Lovell as a historic rural settlement for approximately 150 years and that members regard as an important area of green open space although the amount of open space within the site is relatively very high; (2) the area of open space in the southeastern corner of the site was approximately twice as large in the version of the proposal reviewed here; and (3) the recreational route is effectively a walk around the outside of a housing development enclosed by screening, whereas there are walks available nearby that travel through and open up views across the AONB/ NL.]
  - *Creation of a strong landscaped western edge to the village, thus improving the way in which both the Proposed Development and the existing Bovis development ‘sit’ within their landscape context; and* [I would want to see a more detailed landscape strategy to assess this claim, as it seems to me that: (1) the Bovis edge faces west, with an approved landscaping strategy that supported hedgerows on the western site boundary; (2) the prominence of this western edge (which in my opinion presents as a long line of 2-storey dwellings) illustrates the difficulties of the original aim of softening this edge for 2-store dwellings; (3) similar challenges apply to the proposal and whilst there is more room to provide taller trees, these will take many years to establish and are unlikely to be fully effective throughout the year if indigenous species are used; (4) additionally, this can only be achieved by having a larger site, which increases landscape harm in causing further landscape harm to a field that I consider very important to the setting of the village; and (5) I am highly doubtful of the argument that to fix a problem arising from a large development of mainly 2-storey housing you should build a larger development of all 2-storey housing but in a larger adjoining site even further from the village centre so that the resulting new development (which in my opinion is likely to be seen largely as a piece, given that they would both have been built at a very similar time) would cause additional cumulative harm rather than one offsetting and/or possibly justifying the other]

- *Significant additional tree and hedge planting, areas of native shrubs and species-enriched grassland will contribute to visual amenity and habitat diversification* [in my opinion, this fails to recognise the intrinsic character and beauty of the appeal site as part of the open countryside that forms the setting to this historic rural village; and effectively seeks to argue that arable fields somehow need human assistance to “improve” them in these terms. NB in this last context, I do of course recognise that the appearance and character of an arable field arises in large part from human interventions but I would emphasise in this context that in my opinion, even though it is not in the AONB/ NL, it effectively adjoins it and shares many characteristics of fields within it in terms of size, topography and traditional field boundary treatments; and one of the most beneficial aspects of the Cotswolds AONB/ NB (unlike other, “wilder” AONBs/ NLs) is the subdivision of the landscape into fields and the interrelationship between those fields and the many historic settlements in the open countryside of the AONB/NL]

4.50 I agree that landscape effects across a larger landscape receptor such as the whole of the Upper Windrush LCA or the AONB/ NL as a whole are likely to be limited due to the relatively small scale of the proposal compared to the much larger landscape receptor. However, I regard this as effectively inevitable; and, as such of very little assistance in this type of case.

4.51 I do however differ with the LVA’s assessed landscape effects at site level in Table EDP 7.1:

**SUMMARY OF EFFECTS ON LANDSCAPE CHARACTER**

7.29 Effects on landscape character within the site and the wider surrounding area are summarised in **Table EDP 7.1** below.

**Table EDP 7.1:** Summary of Landscape Character Effects

Landscape Receptor	Construction Phase	Year 1	Year 15
Site	Moderate/minor adverse	Moderate adverse	Moderate adverse
Site environs		Outside of AONB: Minor adverse Within AONB: Moderate/minor adverse	Outside of AONB: Minor adverse/negligible Within AONB: Negligible

4.52 This is not only because I consider the sensitivity of the site medium-high for the reasons set out above; but I also consider the magnitude of change should be classified as high-very high [and adverse] because I consider changing parts of an arable field to amenity landscaping with walking/ cycling paths and other areas of open space; and the digging out of flood alleviation features of various kinds would represent a significant adverse change to the character of those parts of the site where housing is not proposed so that the whole of the site would be adversely altered [and noting here the earlier comment at paragraph 7.9 of the LVA that *It is a consequence of the nature of the development proposed that visual and sensory character of the site would change substantially as a result of implementation.*]:

- 4.53 Applying these inputs to table EDP A2.6 within the methodology would give a major/ moderate outcome, which I consider an elevated level of effect on this table’s verbal scale.
- 4.54 Before turning to the other documentation, I would further emphasise that these assessed outcomes must be treated with caution, as with any verbal scale, especially because there is no suggestion that they are calibrated to any other verbal scale, in particular the scale relied on in the committee report.
- 4.55 By way of an example, I have set out below for comparison purposes, the scale used by the LVA, as provided in this methodology and a graphical table used by the chartered Landscape Consultants mhp:

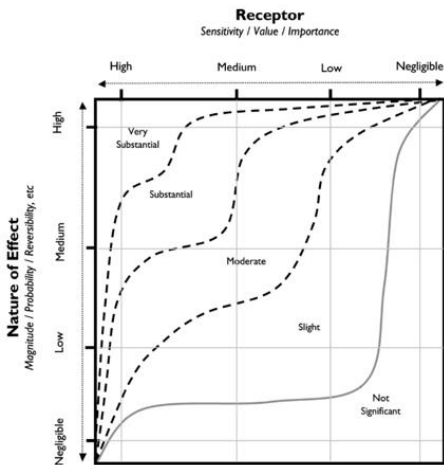


Table EDP A2.6: Determining the Predicted Levels of Effects to the Landscape and Visual Baseline

Overall Sensitivity	Overall Magnitude of Change				
	Very High	High	Medium	Low	Very Low
Very High	Substantial	Major	Major/- Moderate	Moderate	Moderate/- Minor
High	Major	Major/- Moderate	Moderate	Moderate/ Minor	Minor
Medium	Major/- Moderate	Moderate	Moderate/- Minor	Minor	Minor/- Negligible
Low	Moderate	Moderate/- Minor	Minor	Minor/- Negligible	Negligible
Very Low	Moderate/- Minor	Minor	Minor/- Negligible	Negligible	Negligible/- None

- 4.56 The Inspector will note that the mhp does not even have “very high” as an input but has very substantial as one of its outputs and combining high sensitivity and high magnitude of change gives a very substantial effect compared to major/ moderate for the EDP table used in the LVA.

Sustainability Statement – Turley (NB updated) (“the SS”)

- 4.57 This appears to effectively commit the developer to achieving higher than normal carbon, energy and water efficiency at construction stage. The committee report says the SS states that the proposed dwellings *would be built to meet the 2025 Future Homes Standards, delivering net zero ready homes, which reduce carbon emissions by at least 75% beyond current regulations. ....it is suggested that the buildings would be designed to make use of sustainable materials to reduce the environmental impact of construction and waste minimisation strategies would be employed throughout the construction*
- 4.58 This includes providing a *combined fabric, energy efficiency and low carbon renewable energy approach such as; triple glazed windows, heat recovery systems, provision of solar PV on all homes and air source heat pumps. A number of other measures are proposed such as water efficiency, landscaping, and the provision of cycle parking and a pedestrian footway/cycleway. These measures can be secured by condition to ensure they are delivered on site.*
- [I see these as positive factors but not as innovative measures that might inspire other developers.]
- 4.59 All these plans and supporting documents were available to the case officer in writing the committee report and to the members of the committee who determined the application.

## 5 **The Committee Report and the LPA's Decision**

### **The Committee Report**

- 5.1 The appeal application was the subject of a planning officers' report that was considered by the LPA's Lowlands Area Planning sub-Committee ("the committee report"/ "the committee") on 15 July 2023.
- 5.2 Section 1 of the report is titled *Consultations*; and it reports responses from statutory and other consultees, including all of the following:

- **Detailed, extensive "strong" objections from the Parish Council** relating to a wide range of issues that, as summarised in the report included:
  - *The Application is a purely opportunistic attempt to exploit WODC's temporary mismatch in the realisation of its 5-year land supply*

#### **Breach of Local Plan policy OS2 - Locating Development in the right places**

- *This development will have a very detrimental impact on the distinctive character and setting of Minster Lovell. The Village has been recognised as a Non Designated Heritage Asset, and its linear plan of Chartist dwellings, many of them with listed status, together with the 'backlands' and open aspects, have been recognised by at least four Planning Inspectors when rejecting recent development proposals. This application significantly intrudes on that open aspect at its southern part.*
- *This development has no integration with the Village. It is another 'dormitory' suburb set beyond the existing new Bovis development. This remoteness will force extensive car use for the new residents if they wish to go to the Primary School or visit the Village shops. It is just too far to walk - especially in inclement weather*

#### **Breach of Local Plan policy EH1 - Cotswold Area of Outstanding Natural Beauty & EH2 - Landscape Character**

- *This development will detract significantly from the landscape and the setting of the AONB. It will not assimilate into the landscape and will sit as a blot on the southern edge of the Windrush Valley.*

#### **Breach of Local Plan policy T3 - Public Transport, Walking and Cycling**

- *This development does little to provide opportunities for walking, cycling and use of public transport. The present footpath alongside the B4047 which provides access to the Village and the wider countryside is in a very poor state of repair for much of its length. Its proximity to the busy B4047 in places is dangerous.*
- *There is no provision for safe cycling to the Village, and use of the existing 'Sustrans' Cycle Route from Minster Lovell is precarious. It runs through an area used by OCC as a store for road chippings, and the following half mile or so is partially overgrown with brambles.*

- *There is no direct bus service to Oxford - just the 233 to Witney. The nearest Minster Lovell to Oxford service is the S1. The bus stop for this is at the A40/Brize Norton Road junction - nearly 2 miles away from this development. There are no 'park and ride' facilities at these bus stops.*

#### **Breach of Local Plan policy OS5 - Supporting Infrastructure**

- ***The upper Village of Minster Lovell, before the Bovis estate and this development, comprised some 600 dwellings. The combined effect of these new housing developments is to increase this by some 45% and the resulting increase of population is not sustainable with the current infrastructure.***
- ***There is little public parking in the Village and none for the School. Already at 'peak' times the traffic/parking problems are intense. These can only get far worse with the proposed development and its distance from the Village***
- ***There is no Chemist in the Village: there is no Doctor: there is no Dentist.***
- ***St Kenelm's CofE Primary School is effectively full - it was oversubscribed by 22 places in 2020/2021. The School is located on a small site and any enlargement will impinge on the recreational facilities for the pupils.***

#### **Water and Sewage**

- *The existing Village often suffers from low water pressure owing to problems at the Worsham Reservoir. More houses will only equate to more problems without significant new investment. Similarly with sewage. The pumping station on the Burford Road struggles with the volume of waste water/sewage at times. Recent remedial action was only a partial 'band aid' that is likely to become inadequate with the proposed development*

#### **Archaeology**

- *From the comments of the Lead Archaeologist it would appear that only a superficial and imperfect survey has been conducted into known archaeological features on the site. Once these are built over, they are lost forever so it is imperative that a formal and precise investigation is undertaken before this application can be considered.*

#### **Assessing development proposals on Agricultural land**

- *Local Planning Authorities are required to carry out Agricultural Land Classification (ALC) assessments for developments - especially those that are not in accordance with an approved development plan. As this site is likely to be classified as at least Grade 3 'Good to Moderate Quality Agricultural Land', the value of this land in terms of food production at a time of forecast food shortage should be assessed against the value of a non-planned housing development.*
- ***This development will set a dangerous precedent for further similar sized developments West along the Burford Road. The Application already contains a Plan that shows what could***

*easily become a further phase of development by delineating 'Other Land in Applicants Control'. This 'Other Land' is much larger in extent than the current Application.*

#### **Five Year Land Supply.**

- *The current glitch in the progress towards the 5 year land supply targets needs to be put in the context of three things; (1) If the glitch is temporary, then it should not influence the Local Planning Authority in its consideration of speculative proposals such as this one; (2) There is already significant discussion about the level of targets built into the current LTP [LP/ Local Plan?] These may change and, because of that, caution should be exercised about being stampeded into a decision based on current figures; (3) Much talk in Government circles is about making targets 'advisory' rather than 'mandatory'. Should this come to pass, then proposals such as this one should not be considered.*
- **Objection(s) from the West Oxfordshire District Council (WODC) Landscape and Forestry Officer** that, as summarised in the report commented *inter alia*:

***The location and layout of the housing estate does not reflect or reinforce the linear settlement pattern or character of Minster Lovell/Charterville Allotments.***

***It is an unallocated site that extends into open countryside, within the setting of the AONB.***

***It is within the Upper Windrush Valley Character Area and the Landscape Type of the site is 'open limestone wolds'. It exhibits characteristics typical of this landscape type.***

***Elevated, open limestone wolds landscapes are very visually exposed and particularly sensitive to development. The principal factors that potentially threaten landscape quality in this area include the expansion of settlements into open countryside, the suburbanisation of rural settlements and roads and the visual intrusion of unsightly development and poor management of fringe areas (e.g. West of Witney).***

***The northern boundary is particularly sensitive. The site is relatively open in views from the B4047. Existing vegetation along the boundary is sporadic. Tree cover is predominately ash and so this cannot be relied upon to survive in the short to medium term. There is no hedgerow and only occasional scrub cover. This boundary will become more open and exposed. The high ground along the Burford Road ridge is important in protecting views from within the AONB and from within and beyond the Windrush Valley. Consideration will need to be given to the potential visibility of housing development along the high ridge.***

***Views from the south are more limited. Housing development is likely to be visible, but at some distance. However, views across the wider countryside, across the Windrush Valley, towards Leafield and Wychwood Forest, is likely to be punctuated by a modern housing development roofscape.***

***The B4047, west of Minster Lovell, retains a very rural character. This would be adversely affected by the construction of housing development, new traffic access infrastructure, new roadside footpaths and signage.***

- **Objection from Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust** relating to: 1. Impact on Pumping Station Meadow Local Wildlife Site; 2. The importance of avoiding impact on UK priority species including dormouse and breeding Birds; 3. The management of hedgerows in order to achieve biodiversity net gain; and 4. The importance of a net gain in biodiversity being in perpetuity BBOWT also made comments in relation to green roofs and lighting.
- No objection subject to conditions and the payment of contributions towards from Oxfordshire County Council ("the county council" or "OCC")
- **Request for financial contributions** of £115,776.00 from **Oxford Clinical Commissioning Group NHS**, required because the .....***Area is already under pressure from nearby planning applications, and this application directly impacts on the ability of the Windrush Medical Practice surgery in particular, to provide primary care services to the increasing population. Primary Care infrastructure funding is therefore requested to support local plans to surgery alterations or capital projects to support patient services. The funding will be invested into other capital projects which directly benefit this PCN location and the practices within it if a specific project in the area is not forthcoming towards infrastructure/ services;***
- **Request for financial contributions from WODC Sports and Leisure team** totalling £377,967 towards off site contribution towards leisure and sports facilities in the catchment area relating to: a) Sport Hall provision of £65,588 toward the cost of a replacement or improvement to Sports Halls in the catchment area. b) Swimming pool provision of £72,519 towards the cost of a replacement or improvement to pools in the catchment area. and c) Outdoor pitch provision £239,860 towards improvements to pitch provision in the catchment area.
- **Comment from the LPA's Planning Policy team**, given on the basis that *the District Council acknowledges that it is currently unable to demonstrate a 5-year supply of deliverable housing land, the 'tilted balance' of the NPPF is engaged; so that there is a presumption that planning permission will be granted.....* This identified **the proposal's key benefits** as including ***the provision of additional housing to help meet the Council's five year housing land supply, affordable housing, the provision of additional public open space and the economic benefits development would bring;*** but also identified **the following potential harms** as including: ***the limited range of services and facilities within the village; the use of the private car unless measures are delivered to facilitate active travel and sustainable transport improvements; and the potential adverse biodiversity and landscape impacts if existing hedgerows, trees and their buffers are not adequately protected and maintained.***
- Comment from the WODC Housing Enabling Officer that:

- *The site is within the medium value zone and would trigger a requirement under Policy H3 - Affordable Housing to provide 40% of the completed dwellings as affordable housing [“AH”]*
- 154 households on the Council's Homeseeker+ affordable housing lettings system (here “the AH register”) have indicated Minster Lovell as one of their areas of preference,
- *Applicants can identify up to three locations when selecting their areas of preference. Of these applicants, 13 have indicated a rural connection to Minster Lovell.*
- ***Affordable Housing provided on this development could make an important contribution to local housing need.***
- No objections subject to conditions to be imposed from:
  - WODC Environmental Regulatory Services (contamination; air quality and noise), with reference to conclusions and recommended actions in the[updated] supporting documents;
- No comment was received from:
  - the LPA's Conservation and Design Officer
- No comment was received from:
  - the LPA's Conservation and Design Officer
  - Natural England
  - WODC Arts
  - WODC Ecologist
  - WODC Climate Change team

5.3 Section 2 of the report summarised **Representations** received. It identified **only 2 third party support comments** (mainly **identifying the benefits of new housing and in particular affordable housing**); but **157 third party objections relating to a very wide range of concerns (as well as a petition with 20 signatures)**, including many that overlap with the LPA's concerns, set out under these headings:

### **Principle**

- *This site has recently been put forward to be included in the West Oxfordshire Strategic Housing Land Availability Assessment (SHLAA) for development but as yet no decision has been made on its suitability. It does not fall within the criteria for Rounding Off or Windfall Development.*
- *The applicant ascertains that WODC will not meet its housing targets, but as the housing figure has not yet been confirmed, this claim cannot be verified.*
- *Minster Lovell is not a Service Centre.*
- *This proposal is not part of the local plan and housing is not needed in this area. **It is contrary to policy H2.** There is no evidence to indicate that WODC will not meet its housing targets. The proposed development is contrary to the NPPF and the Local Plan.*

- *Rishi Sunak has confirmed that he intends to scrap house building targets, and to make them advisory only.*
- *Whilst the lack of a 5 year housing land supply may be tilted further in favour of development, there are many substantial material considerations that are more heavily weighted against this development and permission should be refused.*
- ***While it abuts a current development from Bovis homes, it is clearly extending deep into open countryside on both its western and southern borders.***
- *The government have recently revised their planning target by removing the 300,000 new homes per year which means that the Council is no longer obligated to meet the new housing target. This should be considered, particularly when building on a green site in a village location.*

### **Sustainability**

- *Catesby state: "In summary, Minster Lovell has good access to bus and rail links to adjacent communities and good road links to the principal road network." and "The location of the development is within close proximity to a range of services and facilities, accessible on foot, by bike, or by bus." These statements are simply not true. **Minster Lovell is an isolated village with limited access to bus services, minimal access to rail links, very limited internal facilities and only a single road passing through it. The whole sustainability argument for this development simply does not stand up to scrutiny. This is NOT a sustainable development.***
- *Village amenities cannot support another large development. **Minster Lovell does not have the facilities/infrastructure to meet the residents' current needs and certainly not those for a new large development.***
- *The village has a limited bus service. There is no realistic public transport if you want to travel to work, school or college, or access leisure or medical services. There is no direct service to Oxford City.*
- *Not against new housing but it is not sustainable in Minster Lovell.*
- ***There are not sufficient employment opportunities in or near Minster Lovell and as such the residents will be heavily dependent on the private car.***
- *Minster Lovell is not setup to deal with any additional housing, it is struggling with the current Dovecote Park estate so further houses will put more strain on the village which it cannot take.*
- ***The local schools and doctors' surgeries do not have the capacity to cope with a development of the size proposed.***

### **Transport/Parking**

- *The development will dramatically increase the number of vehicles onto already congested and polluted roads. Unless a relief road is built, there will be another increase in road traffic along Brize*

*Norton road, which is already busier since Dovecote Park was built. Car ownership per existing Minster Lovell dwelling is already 2+ depending on age profile - several households have more.*

- This is because the current bus service is inadequate for most peoples' requirements. The travel plan talks of SMART (Simple, Measurable, Achievable, Realistic, Time Limited) targets, but this is utter nonsense if there are no financial penalties for failing to hit those targets. That won't bother the developer because the consequences will fall squarely on the shoulders of the existing residents in the shape of increased pollution, congestion, and further deterioration in our road surface quality. A speed and flow study & survey should be conducted along the village road to see what the current flow rate is before add additional houses. This should be conducted at the developers expense and not public money.*
- Question the safety of this scheme with regards to road safety. There is no safe way to cross between each half of the village. There have been very serious accidents involving children crossing the Burford road this year as a lack of crossing facilities from the bike path and foot path. Adding another 140 homes is putting the residents of the village in more danger.*
- We live in a village with many established commercial businesses and these need to co-exist with residential areas. 140 new homes may tick boxes for planners, but the increased traffic alongside all the commercial traffic will be at the expense of resident safety on the roads and footpaths. The junction with the Burford Road would be hazardous. The footpath along the Burford Road is narrow and dangerous for pedestrians. There is no cycle lane and the road is hazardous for cyclists. Roads are in a dreadful state unable to cope with more traffic. Big concerns about motorists using this road as a rat run for shops and school.*
- Too many entrances from existing new developments to the Burford Road in very short distance. Getting very dangerous. Wenrisc Drive has already become a rat run from the Bovis estate to the school and shops. The road needs to be 20 mph like the ones in Witney.*
- The parking and access problems within Old Minster especially during weekends and holiday periods (largely due to visiting the Minster Ruins) are well documented and cause the residents much distress and difficulty*
- The site does not maximise the opportunities for walking, cycling and the use of public transport.*
- There is a fundamental error in the transport assessment in respect of bus routes. The Travel Assessment is also at pains to show that health and leisure facilities in Carterton and Witney are accessible by bike or bus but this planning assumption is not grounded in reality. Households with cars will drive, increasing the pressure on the road infrastructure and the Transport Assessment's forecast of two-way vehicle trips is therefore a ludicrous underestimate.*
- The suggested walking route from the proposed development to the primary school already gets very muddy and additional use would make things worse. Again this is not sustainable.*

- *Access to the countryside and PRowS from the site is via the Burford Road public footpath opposite which is in a poor state of repair. S.106 funds will be required to bring this footpath back into a suitable condition and widened. Disabled access on the pavements is non-existent.*
- *You cannot safely move around the local area due to people constantly parking on the pavements or across them, again due to their being too many people for the amount of parking available.*
- *S.106 funds will be required to provide a designated off-road cycle route from the site to the B4477/B4047 junction and for improvements to be made to the existing route to Witney.*
- *There would need to be a roundabout from the new estate onto Burford Road to accommodate the traffic flows. There would need to be a new speed restriction further west on the Burford Road.*

### **Precedent**

- ***It will set a precedent for back land development.*** *If these houses are built we know it won't stop there as we hear more houses are likely to be built after the ones proposed.*
- *This application is only the start of a further development plan from the proposed existing site to Ting Tang Lane and no plans have been put forward to reinforce the local and wider area utility infrastructure. Catesby will use this as a precedent for expanding development in to the adjacent farmland (all 181.7 acres). A lack of a direction in the West Oxfordshire local plan has enabled this developer to take advantage, this has got to stop. The proposed development is not wanted.*

### **Character, Identity and Appearance including impact on the AONB**

- ***Minster Lovell is a Chartist Settlement of unique historical importance. This development will destroy the linear character of the village. It is a historic village and planning permissions have already eroded some of its identity. Any more developments in Minster Lovell will cause it to lose its identity and character as a historic village.***
- ***These new developments are slowly degrading the attractiveness and appeal of our village,*** *we have already contributed to the housing issues in the county and that should be enough.*
- *The anticipated poor architectural quality of the proposed development maximising profit over aesthetic will detract from the beauty of our natural surroundings and ruin its peace and tranquility.*
- ***The village includes several places of considerable historical and archaeological interest including the listed Minster Hall and Charterville properties. The proposed development has the potential to adversely impact on the village setting in which these properties are found.***
- ***This plan opens the door for development of a massive housing estate into what was previously open countryside. If we have any respect for our countryside and any desire to preserve it, this makes no sense whatsoever.***
- *There are many more opportunities to infill developments in Brownfield sites.*

- ***The area to the North of the proposed development is an AONB which will clearly be severely negatively impacted by approving such development***
- *The release of this site for development would lead to pressure for further housing development in Minster Lovell which, in equity, would cumulatively undermine the approach of concentrating growth in the most sustainable locations and would further adversely affect the village character and lead to a scale of development that is inappropriate in this rural location. The development is described as "Phase 1" and it is clear that further developments towards Worsham are planned. Granting permission for Phase 1 will establish a precedent for subsequent developments which will adversely change the character of this village of unique historical importance for ever and should be rigorously opposed.*
- *The proposal will detrimentally impact on the Cotswolds AONB and erode the character and distinctiveness of the village.*
- *The scale of the development is inappropriate.*
- *The landscape setting of the village will be lost.*
- *The tide of new construction is moving towards the ancient barrow to the west, damaging the essential character of this important area. The Archaeologist's report highlights in detail the inadequacies of this application, rejection of which should be justified on these grounds alone.*
- *The location of the green space within the development is poorly thought through.*
- *The negative externalities caused on the local environment and culture of the community far outweigh any benefits to the area resulting from this development and therefore strongly object.*
- *The southern boundary of the site should end parallel to Ripley Avenue. Beyond this boundary will detrimentally impact the historic Chartist linear arrangement of the village which the Planning Inspectorate conclude is a non-designated heritage asset.*
- *Further substantial housing developments in and adjacent to Minster Lovell are unacceptable.*
- *The older lower village is a Conservation Area and most of the village (upper and lower) is sited within or borders an area of outstanding natural beauty.*
- *We will soon be attached to both Witney and Carterton. Minster Lovell has already done its bit. No more.*

### **Neighbour Amenity**

- *The closeness of the housing to existing house will adversely affect the residential amenity of existing occupiers.*
- *The houses in Whitehall will be overlooked and the proposed development would be highly intrusive.*

### **Biodiversity and Geodiversity**

- *No information has been provided as to what percentage of Biodiversity Net Gain will be agreed for the site.*
- *Construction noise will impact on biodiversity.*
- *Requirement to ensure all planting is appropriate and provides a net gain on site. In particular, a species list will need to be included detailing the species mix to be planted, ensuring where possible fruiting and pollinating species are planted. In addition, a maintenance plan will ensure that long-term biodiversity net gains can be secured.*
- *The ecology, including wildlife habitats of the development and its surrounding area are likely to be adversely affected. Bird varieties include bullfinch (a national nature conservation priority), barn owl, tawny owl, marsh tit and green woodpecker. Flora, too, may be irretrievably destroyed.*
- *There is a rich and diverse variety of wildlife in habitation in and around the fields being offered up for development. We should be protecting wildlife, not forcing it out of their homes. We have lost 70% of our wildlife in the last 50 years. We need to stop encroaching into open countryside.*

## **Infrastructure**

- *The local sewage system is already overwhelmed.*
- *Minster Lovell has not got services for this proposal. One primary school, a post office and local shop are not representative of a sustainable environment to provide for new homes.*
- *The school is oversubscribed.*
- *Last summer we had no water due to lack of reservoir and water pumping facilities.*
- *Electricity infrastructure is unreliable.*
- *The River Windrush is one of the most polluted rivers in the whole country because existing infrastructure cannot cope. Thames Water acknowledges that there are likely to be capacity problems for foul water disposal into the existing pipework located, to the east of the proposed site, in Upper Crescent. Given the already poor state of the Windrush River due to excessive dumping of untreated sewerage by Thames Water, there is no justification for further building development until the sewerage dumping situation is comprehensively and permanently addressed.*
- *The proposed development would place significant increased strain on already stretched local infrastructure, water, electricity, gas, school places, roads, telephone and broadband, medical etc.*
- *It will put a strain on Witney's buckling infrastructure.*
- *There will be an increased risk of flooding and water mains problems.*
- *There is a lack of public transport serving the village.*
- *Consideration needs to be given for the provision of social infrastructure.*
- *S.106 funds will be required for Highway improvement Schemes, Education, Health and Dentist Services, sewerage and clean water provision. These are likely to be challenging if not unviable.*

- *The vast number of new houses recently built in Witney and Carterton have already pushed traffic levels to an extreme; there is a dire lack of dental care and GP appointments; an appalling lack of children's sports facilities such as football pitches and swimming lessons - these are just a few examples and a token payment by developers is not going to offset the additional burden of this proposed development.*
- *NHS cannot cope.*

### **Pollution Noise, Light, Carbon Emissions**

- *Because the new development is on high ground it will cause major light pollution to the surrounding area and will be seen from miles away. Given the climate crisis why does this proposal seek to provision new gas supplies, presumably for heating and hot water? Where is the forward thinking? If gas is used for the new estate, why? There should be ground-source heat pumps (air-source heat pumps are very noisy in cold weather). Is each house going to have a Battery Electric Vehicle charging point? (Though the few days of recent cold weather have shown BEV's to have significant range loss). Will result in increased noise and air pollution from increased traffic. Any additional transportation systems contribute to degraded air quality, as well as a changing climate. Transportation also leads to noise pollution, water pollution, and affects ecosystems through multiple direct and indirect interactions. Up to 140 additional household carbon footprints where daily activities cause emissions of greenhouse gases. For example, producing greenhouse gas emissions from not only driving but also home heating, or lighting etc.*

### **Public Engagement**

- *The statistics quoted in the Statement of Community Involvement are highly disingenuous. The manner in which the questions were worded enables misleading conclusions to be drawn. In addition, the very poor turnout (**only 7 people undertook the survey**) was a direct result of NO REAL effort being made to engage with the community - **the leaflets were distributed only 7 days before comments closed.***
- *The entire public engagement document must be discounted and a **proper engagement should be undertaken before this planning application is even put forward for consideration.***
- *Submitting this application over the festive period, where less people are likely to comment, once again shows that they know that this is an unnecessary development with no real consideration for the village, its current residents and the proposal's future residents.*
- *This consultation process appears like a sham and one hopes that this is does not reflect the true workings and value system of local government. **Limited time for considered response has been permitted over what everybody recognises as an extremely busy time of year where most people are, quite correctly, focussing attention on loved ones and consequently have no spare capacity for dealing with these kinds of issues.***

- *This is opportunism at its worst and is reprehensible. The argument will doubtless be made that everybody has had an opportunity to respond and that is, at best, disingenuous and, in fact, mendacious.*

## **Crime**

- *It is alleged that the new housing estate (Bovis Homes) has increased the level of crime in the village. Insufficient funding received by our local police force has resulted in an increase in unsolved crime. New estates and building sights also attract crime adding to an already stretched police force only puts the public at further risk.*

## **Comprehensive Housing Scheme**

- ***This ad-hoc planning application needs to be fully planned*** and incorporated into a formally consulted plan that meets the needs of the existing and potentially additional community **and not just be a bolt on of another 25% of the existing housing stock with the potential to double/triple the housing footprint of the existing village if extended to Ting Tang Lane.**

## **Other**

- ***This is a major tourist area being destroyed by the policies of local government.*** Do not break the golden egg that brings tourists here or you will end up with a wasteland.
- ***The effect on people's mental health will become an issue, people live in Minster Lovell because it is a small village, with surrounding fields to stroll around and nature to see, what will happen when these are destroyed, people will have no-where to go.***
- ***There will be significant damage and disruption caused during the project with large machinery and heavy plant causing substantial damage to the land and waterways.***
- ***The development will consume valuable farmland,*** this point has never been more valid than it is right now, we need crops not houses
- *Dog waste and litter and has increased.*
- ***New residents in the Bovis development report feeling isolated from the main village.***
- *The developers (Bovis) have still not completed infrastructure that was promised to the village as part of the Dovecote Park Development .*
- *Some development can add value to an area but too much can contribute to it losing its identity and reasons for attracting a stable and caring community.*
- *I also wonder why we need yet more housing in the general area. Witney, Carterton and indeed Minster itself have already hosted large housing developments, is there a real need or is just yet another money making scheme for the developers It is difficult to see how the proposed site will link into both the recent 126 house estate and the rest of the village as a whole and as a result will not support the village businesses.*

- *If the decision is that the site is to go ahead then I strongly urge the council to ensure that any low cost housing is offered first and foremost to Minster Lovell residents. Developers should be forced to address local issues and concerns BEFORE the planning consent is approved.*
- *When the Bovis consent was given we were told that Minster Lovell had done its bit and no further large developments were planned. You are turning our village into a town with no thought for village life. We are a village community and we need to stay that way.*
- *If the plan is to build 140 houses and invest NOTHING into solving problems, then it must not go ahead. If this application is approved, Minster Lovell Playing Field Trust (charity 296070) request the sum of S.106 funding to improve its sport and recreation facilities currently to the rear of St Kenelm's Hall, Brize Norton Road, Minster Lovell.*
- *With the price of a new property at an all-time high, will they sell, several new developments in the surrounding areas have yet to sell some properties years after completion.*
- *The council should look at developing unused industrial parks instead of destroying beautiful villages that contain the nation's history, once you destroy these landmarks, that history can never be replaced.*
- *The affordable housing statement from WODC clearly shows that there is no ACTUAL NEED for these additional houses.*
- *Minster Lovell is a village not a town. Put the environment before financial gain. Do not need this kind of unaffordable housing ruining our little village.*
- *This particular development is yet another soulless urban extension that does nothing for local people, the local environment and just creates yet more long term issues around lack of infrastructure and transport options.*
- *Damage quality of life*

5.4 In addition, the committee report summarises the following two third party representations from interested parties [although not individual residents]

- **The local/ national bus operator Stagecoach**, supporting the need for additional public transport infrastructure, including new bus stops for the west bound bus service near the Horse and Radish public house and at the northwestern corner of the site near White Hall Cottages; and noting and welcoming *the proposed direct pedestrian link to the east, through the current Bovis development and across the Ripley Avenue open space to Brize Norton Road, and the bus stops there, which will be better surveilled, and might well be preferred by some residents despite being a little further distant. It is more likely still that this link will be used by residents returning from Witney on Carterton-bound buses*; and urging the proposals to take necessary and appropriate steps to ensure that if consented, residents would be able to safely and conveniently access these services.

- **Windrush Against Sewage Pollution (WASP)**, a registered charity one of whose aims is to promote for the benefit of the public the conservation, protection and improvement of the physical and natural environment of the River Windrush and surrounding river catchments. .... **WASP takes no position with respect to development proposals.** WASP contends that **without the prior completed upgrade to ensure compliance with the legal permit standard at Witney STW, and adequate resolution of the on-going spilling of raw sewage at Brize Norton SPS, granting of planning permission for this development will simply endorse their present un-permitted and illegal operations, increasing further the spilling of untreated sewage into the River Windrush and Shill Brook catchments.** WASP contends that **the planning authority MAY take the advice of the statutory water company (TWUL) with regard to foul system and sewage treatment works capacity, but in the face of contrary evidence presented to them, does NOT HAVE to.** This belief is **based on counsel's advice and case law.**

5.5 The report then provides a **Summary of the Appellant's Case** (then as applicant), which is taken directly from the conclusions in the submitted Planning Statement and clearly premised on the LPA having a shortfall in its deliverable housing land supply ("HLS").

5.6 It then lists relevant **Planning Policies**, from the Local Plan, noting that this included the National Planning Policy Framework ("the NPPF") as a material planning consideration

5.7 I regard the **Planning Assessment** set out at section 5 of the report as of most relevance to the planning issues in dispute at this appeal.

5.8 This assessment first describes the proposal (very briefly) and the site in rather more detail, noting that:

- It is a *greenfield site located on land to the south of Burford Road (B4047), on the western edge of Minster Lovell..... comprising ....agricultural fields, with hedgerows marking the site boundaries.*
- It .....*adjoins the allocated WIT4 'Land West of Minster Lovell' (126 dwellings) to the east, which is nearing completion.*
- The *Cotswolds Area of Outstanding Natural Beauty [now National landscape, "the AONB/ NL"] is located immediately to the north of the site. The site is located within Flood Zone 1.*
- *There are no listed buildings, conservation areas or Scheduled Ancient Monuments within 200m of the site. However, **Minster Lovell itself is considered to be a non-designated heritage asset.** This view is supported by the Planning Inspector of appeal reference APP/D3125/W/18/3211732....*

*The village of **Minster Lovell** was originally a **Chartist settlement called Charterville** where residents would live in houses with plotlands, or smallholdings, supporting themselves.*

*As a result, **the settlement pattern of the village is an important and significant physical feature and can be seen clearly on maps of the village.***

***The Council consider that due to its history, relative rarity and the fact that many of the undeveloped plots that show the original layout of the village remain intact; the entire settlement is a non-designated heritage asset. This is a conclusion with which I agree, the significance being derived from the features described above.***

- 5.9 The report then notes that ....an *Environmental Impact Assessment (EIA) Screening Request* (planning ref: 22/03089/SCREEN) was submitted to the LPA on 02/11/2023 to establish whether the Proposed Development is EIA., with the LPA confirming that it was not on 20/12/2022.
- 5.10 The report then states that the reduced site area and number of homes, as amended was a response to officers' concerns that the site extended further south than the adjacent Ripley Avenue to the east.
- 5.11 Paragraph 5.8 notes that the application had been presented to an earlier committee meeting (30 May 2023) but that a decision had been deferred in order to conduct a site visit (which took place on 19 June); and was then deferred again so that WODC officers, particularly the Biodiversity Officer, could consider a late objection from Buckinghamshire and Oxfordshire Wildlife Trust ("BBOWT").
- 5.12 Taking into account planning policy, other material considerations and the representations of interested parties, the report then listed what officers considered the key considerations of the application:
- **Principle of Development;**
  - **Siting, Design, Form and Landscape Impact;**
  - **Heritage Impacts;**
  - Archaeology;
  - Highway Safety;
  - **Accessibility;**
  - Drainage and Flood Risk;
  - Trees and Ecology;
  - Residential Amenities;
  - Sustainability;
  - **S.106 matters;**
  - Other Matters; and
  - Conclusion and Planning Balance
- 5.13 The report discusses *Principle of Development* at paragraphs 5.10-5.19, looking first at the local and then at the national policy position.
- 5.14 Under the sub-heading *Development Plan*, the report initially acknowledges the position set out in law, section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise; and that Section 70(2) of the Town and Country Planning Act 1990 provides that

the LPA as decision maker shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.

5.15 Noting that for West Oxfordshire, the Development Plan is the Local Plan 2031 adopted in September 2018, the report then considers Local Plan policies OS2 and H2 as most relevant in the following terms:

5.11 ***Policy OS2 sets out the overall strategy on the location of development for the District.***

***It adopts a hierarchal approach, with the majority of new development focused on the main service centres of Witney, Carterton and Chipping Norton, followed by the rural service centres of Bampton, Burford, Charlbury, Eynsham, Long Hanborough, Woodstock and the new Oxfordshire Cotswolds Garden Village (now referred to as Salt Cross), followed by the villages.***

5.12 ***Minster Lovell is identified as a 'village' in the settlement hierarchy of the Local Plan and policy OS2 states***

***'The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities'.***

5.13 ***Local Plan Policy H2 states 'new dwellings will be permitted at the main service centres, rural service centres and villages in the following circumstances.....***

***On undeveloped land adjoining the built up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2'.***

5.16 Paragraph 5.14 concludes from this that: ***Policy H2 would permit new homes on undeveloped land adjoining the built up area where there is convincing evidence to demonstrate it is necessary to meet identified housing needs, it is in accordance with the distribution of housing (in Policy H1) and it is in accordance with the other local plan policies, particularly Policy OS2.***

5.17 Paragraphs 5.15-5.19 then consider the *National Policy* position, with 5.15 and 5.16 effectively setting out the presumption in favour of sustainable development, with regard to paragraph 11 of the NPPF:

5.15 ***The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these are expected to be applied.***

***The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development and sets out that there are three dimensions to sustainable development: economic, social and environmental.***

***In essence, the economic role should contribute to building a strong, responsive and competitive economy; the social role should support strong, vibrant and healthy communities; and the environmental role should contribute to protecting and enhancing***

***the natural, built and historic environment. These roles should not be undertaken in isolation, because they are mutually dependant.***

5.16 ***At the heart of the NPPF is a presumption in favour of sustainable development and paragraph 11 advises that for decision-making this means approving development proposals that accord with an up-to-date development plan without delay, or where policies that are most important for determining the application are out-of-date, permission should be granted unless:***

- ***the application of policies in this 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 this Framework taken as a whole.***

5.18 Paragraphs 5.17 and 5.18 then confirm that when the report was written, the LPA took the position that it could not demonstrate a full 5-year deliverable housing land supply ("HLS"):

5.17 ***The NPPF requires LPAs to demonstrate an up-to-date five year supply of deliverable housing sites. Where local authorities cannot .....paragraph 11 of the NPPF, as set out above, is engaged (Identified in footnote 8).***

5.18 ***The Council's latest Housing Land Supply Position Statement (2022-2027) concludes that the Council is currently only able to demonstrate a 4.1 year supply. As such, the provisions of paragraph 11d) of the NPPF is engaged.***

5.19 This part of the report is thus clearly dependent on the version of the NPPF current in July 2023 and on the position set out in its most recently published HLS position statement which showed a 4.1 year HLS.

5.20 Paragraph 5.19 concludes that: .....***it is clear that the decision-making process for the determination of this application is therefore to assess whether the adverse impacts of granting planning permission for the proposed development would significantly and demonstrably outweigh the benefits or whether there are specific policies in the framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed.***

5.21 Noting in passing that this did not return to comment on the requirement in policy OS2 that ***The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities.*** Paragraphs 5.20-5.37 discuss *Siting, Design, Form and Landscape Impact*, with paragraph 5.20 initially setting out the broad requirements for good design listed Paragraph 130 of the NPPF, which *is clear* that:

***.....development proposals should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history including the surrounding built***

**environment and landscape setting and create places that are safe, inclusive and accessible and have a high standard of amenity for existing and future users.**

- 5.22 Having set out the national policy position, the report returns to the relevant policies of the Local Plan:
- 5.21 ***Policies OS4 (High quality design), EH1 (Cotswolds Area of Outstanding Natural Beauty) and EH2 (Landscape character) each require the character of the area to be respected and enhanced. The importance of achieving high quality design is reinforced in the NPPF.***
- 5.22 ***Policy OS2 sets out general principles for all development.***

*Of particular relevance to this proposal is that it should:*

***Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;***

***Form a logical complement to the existing scale and pattern of development and/or the character of the area;***

***As far as reasonably possible protect or enhance the local landscape and its setting of the settlement;***

***Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;***

***Conserve and enhance the natural, historic and built environment; and***

***Be supported by all the necessary infrastructure.***

- 5.23 Paragraph 5.23 sets out the description of Minster Lovell in the West Oxfordshire Design Guide:

5.23 ***Minster Lovell is identified in the West Oxfordshire Design Guide as having a 'Linear' and 'Nucleated' settlement pattern. The Design Guide explains that it is a 'Village located in the centre of the District, on an elevated ridge above the 115m contour. Charterville comprises a C19 planned utopian settlement of dispersed linear form. To the north of this, adjacent to the B4047, is a sizable block of C20 development'. The Charterville area of Minster Lovell has two distinct portions, the linear historic area and the later C20 area.***

- 5.24 I would observe here that the Design Guide was last updated in or before 2016 so this description was written before the Holloway Lane Bovis Homes development had been allocated; and when the *sizable block of C20 development* effectively comprised Ripley Avenue, Wenrisc Drive/ Whitehall Close and mainly infill bungalows on the north side of Upper Crescent and in Wychwood View.

- 5.25 In this context, paragraph 5.23 continues: ***The scheme before the LPA proposes to extend the C20 area further to the west. Officers secured a reduction in the scheme such that it is contained away from the linear area. In that regard, while the development does affect the settlement pattern, it extends the 'sizable block of C20 development' and not the historic linear element.***

*Nonetheless, **by adding volume to the C20 moves the overall settlement pattern more toward the nucleated than the linear. This causes some harm to the character of Minster Lovell.***

5.26 The report then turns to the question of whether the proposal would represent *limited development which respects the village character and local distinctiveness* of Minster Lovell, as Policy OS2 requires, noting that: .....***The 2011 census identified 580 households in Minster Lovell Parish. As noted by the Parish Council, if this scheme were to be approved, when including the Bovis home scheme, would result in an increase of homes in Minster Lovell of 260 (approximate increase of 45%).***

5.27 Whilst noting that *the term 'limited' is not defined in the Local Plan*; the report concludes clearly on this point that *it is the view of officers that **the addition up to 134 dwellings would not be 'limited' when considered cumulatively with the Bovis Home development.***

5.28 It nonetheless takes the opposite position if seeing the development in isolation, stating: *taken as a standalone development, 134 homes as an increase on the 706 (580 plus the 126 Bovis Homes scheme) is just a 19% increase, this is considered to be limited.*

5.29 Without quite resolving this point, the report turns to the likely impacts of the proposal on the setting of the Cotswolds AONB/ NL at paragraph 5.25, stating:

5.25 *While the development site is outside of the AONB, officers are mindful that **the AONB is immediately to the north of the site and thus the development would affect its setting.***

*Policy EH1 states 'In determining development proposals within the Cotswolds Area of Outstanding Natural Beauty (AONB) and **proposals which would affect its setting, great weight will be given to conserving and enhancing the area's natural beauty, landscape and countryside, including its wildlife and heritage. This will include consideration of any harm to the contribution that the settlement makes to the scenic beauty of the AONB'.***

5.30 In this context, paragraph 5.26 states *Officers acknowledge that **the development will affect the setting of the AONB by urbanising the site;*** but states that

*.....**a balanced view must be taken in light of the allocated WIT4 to the east of the site, as that scheme has a comparable impact on the setting of the AONB. WIT4 was found to be acceptable by the LPA and indeed the Planning Inspectorate when assessing the Local Plan allocations. As such, officers would be hard pressed to demonstrate that this scheme, which has a very similar impact, would be harmful to the setting of the AONB.***

5.31 Whether I agree with this or not [and whether it might be more appropriate to assess the likely impacts of the appeal proposal cumulatively with reference to the existing impacts of the Bovis Homes development in views out from the AONB/ NL], I think it is important to reiterate that in my opinion the allocation of the adjacent site does not create a precedent for “acceptable harm” as suggested here.

- 5.32 In any case, paragraph 5.26 then considers the opportunities for mitigating landscaping to soften/mitigate any adverse impacts, stating:

*.....In addition, **significant screening, planting and a suitable separation distance could be secured at reserved matters stage to mitigate the impact to the AONB.***

*As such, **officers do not consider the scheme to be harmful to the setting of the AONB.***

- 5.33 Paragraph 5.27 continues by looking at localised landscape harm outside (but adjoining) the AONB:

*While the development is not harmful to the setting of the AONB, **it is considered to cause localised harm to the landscape due to the urbanisation of the greenfield site.***

***The application site contributes to the rural ambience on the approach to Minster Lovell from the west. In that regard the site contributes to the rural character of the village.***

***As the proposed development extends into open countryside to the west and south it would fundamentally alter the land character from rural to urban in this location.***

***Therefore, the proposal would not protect the setting of the settlement and would involve the loss of an area makes an important contribution to the character or appearance of Minster Lovell.***

- 5.34 Paragraph 5.28 reinforces this assessment by officers that *.....**the land in question, and indeed much of the open countryside to the west of the settlement to be 'open space that makes an important contribution to the character of the village'***, concluding that: ***It reinforces that Minster Lovell is a rural village and protects the historic linear element. Thus, the proposal would involve the loss of an area of open space that makes an important contribution to the character of the village, conflicting with a general principle of OS2.***

- 5.35 Paragraphs 5.29-5.30 conclude on the weight to be given to this identified breach of policy as follows:

- 5.29 ***The proposal does not wholly respect the village character and local distinctiveness as it extends the existing C20 development, which further delineates the historic from the modern. Cumulatively, it is not limited development (taken in isolation it is limited).***

***It would not protect the local landscape or setting of Minster Lovell; and would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area. In addition, the scheme causes localised landscape harm by urbanising this greenfield site.***

- 5.30 ***The proposal does not accord with the provisions of Policy OS2 of the Local Plan with regards to matters of character and appearance. Furthermore, the scheme would conflict with Policy EH2 of the Local Plan for the landscape reasons identified.***

However, **there is much limiting this conflict, as set out above, and as a landscape led and high quality scheme could be secured at reserved matters stage, officers consider this policy conflict to be moderate.**

5.36 I would note briefly here that this clearly confirms officers' assessment that **Cumulatively, it is not limited development**, so that it clearly conflicts with the spatial strategy of the Local Plan; and that other harms to the character and appearance of the site and nearby area [including harm to the historic character of the village as a non-designated heritage asset; local landscape harm to the site itself; **loss of an area of green space that makes an important contribution to the character and appearance of the area**; and a specifically stated conflict with policy EH2] were all harms to which in my opinion members were entitled to give greater weight than the *moderate* weight indicated here.

5.37 The report then discusses **Heritage Impacts**, at paragraphs 5.31-5.36, I note variously that:

- Paragraph 5.31 reminds the committee that *Minster Lovell is considered to be a non-designated heritage asset. Paragraph 203 of the NPPF states 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.*
- Paragraph 5.32 notes that Local Plan policy EH16 states that: *'When considering proposals that would affect, directly or indirectly, non-listed buildings, non scheduled, non-nationally important archaeological remains or non-Registered Historic Parks and Gardens, as such assets are also irreplaceable, the presumption will be in favour of the avoidance of harm or loss. A balanced judgement will be made having regard to this presumption, the significance of the heritage asset, the scale of any harm or loss, and the benefits of the development. Proposals will be assessed using the principles set out for listed buildings, scheduled monuments and Registered Historic Parks and Gardens in Policies EH11, EH15 and EH14.*
- Paragraph 5.33 rehearse the previously referred comments of an earlier Inspector in concluding that as a Chartist settlement where ....residents would live in houses with plotlands, or smallholdings, supporting themselves ....the settlement pattern of the village is an important and significant physical feature and can be seen clearly on maps ....**The Council consider that due to its history, relative rarity and the fact that many of the undeveloped plots that show the original layout of the village remain intact; the entire settlement is a non-designated heritage asset. This is a conclusion with which I agree, the significance being derived from the features described above.** [NB I take this to be a comment that development that would make the currently relatively intact original historic layout of the village more difficult to appreciate would cause harm to the heritage significance of the village as a non-designated heritage asset]

- Paragraph 5.34 comments in this context that ....*officers would argue that the settlement pattern that warrants protection is to the entirety of the east of Brize Norton Road (between Burford Road to the north and the A40 to the south); and only to the west of Brize Norton Road, south of Ripley Avenue. The western part of Minster Lovell to the north of (and including) Ripley Avenue no longer has a clear historic form; this has largely been compromised by post war and modern development, which includes the Bovis Homes estate to the east of the current scheme. This is in part why officers sought to contain the scheme in line with Ripley Avenue.*
- Paragraph 5.35 states: *Officers are mindful of the non-designated heritage asset designation and will seek to protect it where applicable. However, officers do not consider this to be a particular constraint for this development. The settlement pattern to the east of the proposed site to Brize Norton Road is not linear, it is a modern and post war housing development in depth. As such, the immediate site does not reflect the original Chartist settlement.*

5.38 I finally note the overall conclusion on this issue, as set out at paragraphs 5.36-5.37 that:

5.36 While officers consider the immediate built form to the east to not reflect the settlement pattern of the original Chartist settlement, there is perhaps an argument that extending Minster Lovell further to the west would affect the significance of Minster Lovell as a non-designated heritage asset. This is noted and has some traction, however, officers can only assign modest harm to this. This is in part because if extending to the west from Minster Lovell were a concern, the Bovis Homes estate to the east of the current scheme would not have been allocated as an acceptable location for development in the current Local Plan (WIT4). Arguably, the impact to the settlement pattern of Minster Lovell is similar between WIT4 and the current proposal. Nonetheless, modest harm is attributed to the impact to Minster Lovell as a non-designated heritage asset.

5.37 There is some modest conflict therefore with Local Plan Policy EH16 and the NPPF insofar as they apply to the impact to Minster Lovell as a non-designated heritage asset.

5.39 The report discusses **Accessibility** at paragraphs 5.44-5.49, stating initially that:

5.44 ***The submitted illustrative masterplan shows how the proposed development would link to the existing transport network.***

***An access is proposed onto Burford Road to the north. A footpath is proposed along the southern side of Burford Road that would link to the existing footpath network and three pedestrian links are proposed to the Bovis Home development to the east.***

5.45 ***Officers however raise concerns that the scheme is dominated by dwellings and is relatively remote from many of the key services and facilities found in Minster Lovell.***

***The Town and Country Planning Association (TCPA) defines 20 minute neighbourhoods as 'The 20-minute neighbourhood is about creating attractive, interesting, safe, walkable environments in which people of all ages and levels of fitness are happy to travel actively for short distances from home to the destinations that they visit and the services they need***

**to use day to day - shopping, school, community and healthcare facilities, places of work, green spaces, and more'.**

**In short, key services and facilities should be within a 20 minute round trip when walking.**

- 5.46 **Although walkable from the development site, some key services and facilities are in excess of the 20 minute guidance. For example, from the centre of the site to the nearest convenience store (SPAR - Minster Lovell) is a 2.4km round trip (28 minutes).**

**Also, there are limited services and facilities within Minster Lovell such as a secondary school, supermarket, doctors or dentist.**

- 5.47 **Previous Committee Reports also explained that the nearest school (St Kenelm's C of E School) was a 2.2km round trip (26 minutes) from the centre of the site.**

**However, a new lit path from the south-eastern corner of the Bovis development across the Ripley Avenue play area was under construction when Members conducted their site visit on June 19th. This path provides a reduced round trip distance of 1.7km (20 minutes) to the nearest school. Thus, this brings the distance in line with the 20 minute guidance. However, it should be noted that the Ripley Avenue path is a hoggin path, as such, it will be constructed from gravel. While this may compact in time, those pushing pushchairs or wheelchair users may avoid using path and may prefer a different route.**

- 5.48 **When taking into consideration that some users may choose not to use hoggin path, it is noted that alternate routes are available. It must also be acknowledged that while these alternate routes are in excess of the 20 minute guidance to the school and Spar, the routes are paved and (mostly) lit. As such, they are safe and attractive routes to walk to the services and facilities identified. Also of note is that the distance from Blake Crescent in the Bovis Home Development (allocated WIT4 'Land West of Minster Lovell' within the Local Plan) and the current scheme to the services and facilities identified is comparable.**

**Another important consideration is that the Horse & Radish pub/restaurant is just 500m from the site and OCC explain that bus stops exist at White Hall Cottages (200m from the access) and the Horse & Radish on Burford Road (500m). However, both stops are unmarked and OCC seeks funding from the developer to improve the bus service/bus stops in the area.**

- 5.49 **Officers are aware that the Local Plan does not contain suggested acceptable/sustainable walking distances in relation to new development and access to goods/services.**

**However, 20 minute neighbourhoods' have been gaining momentum for several years. Research (see TCPA publication '20-Minute Neighbourhoods Creating Healthier, Active, Prosperous Communities An Introduction for Council Planners in England') shows 20 minutes is the maximum time that people there are willing to walk to meet their daily needs.**

***A 20-minute journey represents an 800 metre walk from home to a destination, and back again (10 minutes each way). The proposed development is solely for housing, as such does not provide the infrastructure or services required to serve the development.***

***Occupiers are required to travel to meet their daily needs, this travel is likely by private vehicle and less by walking. As such, the proposed development would not meet the definition of a 20 minute neighbourhood.***

***Be that as it may, the development would have permeability with the existing settlement, the routes are safe and attractive to walk, and the distances are comparable with the Bovis Home development to the east.***

***As such, officers could not describe the development as being 'unsustainable' in accessibility terms, however, it could not be considered as wholly sustainable either.***

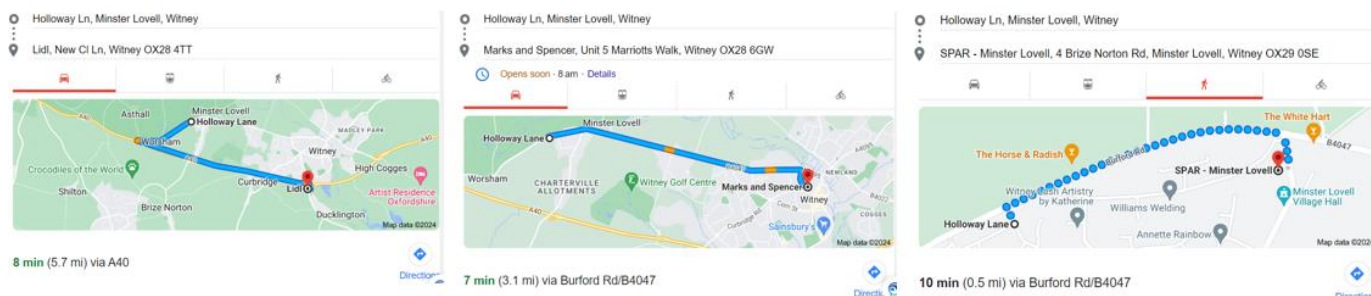
***There is no clear cut off where a development would become unsustainable in these terms, no fixed distance that when crossed would equal unsustainable development, nonetheless, officers note there is some conflict with Local Plan Policy T1 and T3, and the NPPF in that regard.***

5.40 I consider this a fair and reasonably comprehensive discussion of this issue that takes account of the possibility of future pedestrian linkages despite its somewhat equivocal conclusion

5.41 However, I would emphasise all the following points in this regard:

- The “20 minute neighbourhood” concept and the general approach of locating new housing within easy walking distance of a good variety of good quality local services and facilities for as many people as possible is not only beneficial in terms of reducing carbon footprints, pollution and energy costs to individual(s) and the nation and in terms of reducing congestion and reducing parking demand for those who have to use private motor vehicles ; but it also has clear positive benefits in terms of physical and mental health, in encouraging exercise and increasing opportunities for people to come into informal contact with one another;
- I would again question the implication that the allocation of the Bovis Homes estate [in a different housing land supply context and under a different national policy regime relating to the 2012 NPPF] automatically creates a precedent for later development that is only a little less accessible];
- The distances quoted above appear to relate to average distance from the centre of the site; however, many of the proposed dwellings would be further from shops/ facilities;
- Few people are likely to walk 800m or so to a local shop if they are intending to buy more than a few items, as the return journey carrying large amounts of shopping is likely to be more difficult;
- Conversely, once people are driving, more distant but large shops that have a wider range of products for sale and may be cheaper are then much more accessible.
- Thus from a property relatively close to Burford Road in Holloway Lane in the existing Bovis Home estate, it is approximately 10 minutes to walk to the Spar store in Bize Norton Road, whereas Lidl

on the edge of Witney [but near the A40 and with a large car park with EVCP facilities] and Marks and Spencer in the centre of Witney [also very near a large car park] are only 7-8 minutes by car:



5.42 Members of the committee would have been well aware of these factors when assessing the appeal proposal and in my opinion could have relied on them to give greater weight to these clearly identified planning concerns/ breaches of local and national policy.

5.43 The report discussed **S.106 matters**, at paragraphs 5.66-5.76, with paragraph 5.66 first noting the relevance of Local Plan policy OS5 *in seeking to ensure that new development delivers or contributes towards the provision of essential supporting infrastructure*; and policy T3, which expects new development to *contribute towards the provision of new and/or enhanced public transport, walking and cycling infrastructure to help encourage modal shift and promote healthier lifestyles*.

5.44 Paragraphs 5.67 and 5.68 note the requirements of Local Plan policies H3 (requiring 40% provision of affordable housing units) and H5 (requiring 5% of the units to be self build/ custom housing plots), with the report confirming that the appellant (then as applicant) proposes to comply with these requirements.

5.45 The report *inter alia* then summarised the requests from the County Council (but noting that the transport related requests needed updating for the reduced number of dwellings; and that a S.278 agreement would also be required), the NHS, the District Council and the Parish Council as follows:

5.69 OCC seek the following contributions:

- Primary and nursery education: £ 755,120
- Secondary education: £ 805,752
- Special education: £ 71,793
- Household Waste Recycling Centres: £12,591
- Public transport services £158,620
- Public transport infrastructure £5000
- Travel Plan Monitoring £1558

**Please note, the figures for education and waste were updated since the May 30th Committee (to reflect the reduced housing numbers). However, the figures for transport related contributions are yet to be amended. Officers have requested updated figures from OCC and will update Members either through the late representations procedure or verbally at committee.**

OCC also require the Applicant to enter into S278 agreement(s) to mitigate the impact of the development as set out in their comment. This is to be secured by means of S106 restriction not to implement development until S278 agreement has been entered into.

5.70 Biodiversity net gain and signposting along footpaths that lead to the Pumping Station Meadow Local Wildlife Site (LWS) is required.

5.71 The NHS are requesting £115,776.

5.72 £377,967 off site contribution towards leisure and sports facilities in the catchment area is required:

- Sport Hall provision of £65,588 toward the cost of a replacement or improvement to Sports Halls in the catchment area.
- Swimming pool provision of £72,519 towards the cost of a replacement or improvement to pools in the catchment area.
- Outdoor pitch provision £239,860 towards improvements to pitch provision in the catchment area.

5.73 The Parish Council have requested the following contributions:

- Completion of the New Village Hall Project £400,000
- New Tennis Court at Ripley Field £ 80,000
- Expansion of Pre School facilities £ 70,000
- Repair/re-instate River Bank along Wash Meadow £ 90,000
- Renovation and re-modelling of Wash Meadow Pavilion £120,000

5.46 In relation to the requests from the Parish Council (“the PC”), the report noted the need to meet all the relevant tests of being: a) *necessary to make the development acceptable in planning terms*; b) *directly related to the development*; and c) *fairly and reasonably related in scale and kind to the development*.

5.47 These tests of course also apply to all the other requests made and the LPA and the County Council will be submitting “Regulation 122” statements in due course.

5.48 As regards the PC requests, paragraph 5.5 confirms that *Officers consider the request for £400,000 for the New Village Hall Project to meet the tests, as It will aid community cohesion between the occupiers of the new homes and the existing community*; and notes that: *The applicant is willing to provide this funding and the £400,000 will be secured through the legal agreement*.

5.49 However, paragraph 5.76 concludes regarding the tennis court and works to the Wash Meadow that *these are not considered to meet the tests as in conjunction with the £400,000 for the New Village Hall Project, results in a cumulatively unreasonable request. These will not be secured. The need for Pre School facilities are funded by the request from the County Council so the LPA cannot seek this twice*.

5.50 The report discusses **Sustainability** at paragraphs 5.61-5.65, noting initially that *The applicant has submitted a 'Sustainability Statement' which states that the proposed dwellings would be built to meet the 2025 Future Homes Standards, delivering net zero ready homes, which reduce carbon emissions by at least 75% beyond current regulations. Furthermore, it is suggested that the buildings would be designed to make use of sustainable materials to reduce the environmental impact of construction and waste minimisation strategies would be employed throughout the construction*.

5.51 Paragraph 5.62 continues: *The potential methods and techniques incorporated into the final design and layout of the proposals will help deliver a development that would reduce fuel use and greenhouse gas*

*emissions, minimise energy use and input of raw materials and incorporates principles of energy conservation in relation to the design, siting and orientation of the buildings. The applicant states that this will be achieved through a combined fabric, energy efficiency and low carbon renewable energy approach such as; triple glazed windows, heat recovery systems, provision of solar PV on all homes and air source heat pumps. A number of other measures are proposed such as water efficiency, landscaping, and the provision of cycle parking and a pedestrian footway/cycleway. These measures can be secured by condition to ensure they are delivered on site.*

5.52 Paragraph 5.63 then sets out as a context to these aims that: *A material consideration for this application is that West Oxfordshire District Council declared a climate and ecological emergency in 2019. Climate action is a leading priority in the Council Plan 2020-2024, and the framework for delivering this is set out in our Climate Change Strategy for West Oxfordshire 2021-2025. The Council are determined to lead by example and put climate considerations at the heart of all its decision-making processes, policies and plans.*

5.53 Paragraph 5.64 notes that Local Plan Policy OS3 states ***All development proposals (including new buildings, conversions and the refurbishment of existing building stock) will be required to show consideration of the efficient and prudent use and management of natural resources***, with paragraph 5.65 concluding from this that:

*In light of the support offered to the scheme by OS3, and in the context of the declared climate emergency and the current 'energy crisis', **the sustainability measures proposed attracts significant weight in support of the proposal.***

5.54 I will comment on this weighting further below but I would emphasise that

5.55 In relation to **Other matters**, I note *inter alia* that the report confirms that.

- ***The applicant has agreed to a reduced timeframe of 2 years for the reserved matters to be submitted to the LPA and a total of 4 years for development to begin (4 years from the date of the outline permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later).***
- ***This ensures the homes are delivered in good time and make a meaningful contribution to the housing shortfall in the District.***
- *Comments from Ministers regarding the removal of housing targets should be disregarded.....*  
[NB in this context, this PoE is written with regard to the current December 2023 NPPF]
- *A children's play area and recreational route is proposed.*

5.56 Finally, I note the discussion within the report's **Conclusion and Planning Balance**; which states that: paragraph 5.82 makes clear that *As the LPA cannot demonstrate a 5YHLS, the tilted balance as set*

out in paragraph 11 of the NPPF applies..... under which ....where policies that are most important for determining the application are out-of-date, permission should be granted unless::

- I. the application of policies in this 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 would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

5.57 In this context [and perhaps reading *policies in this Framework that protect areas or assets of particular importance* as not applying to development within the setting of AONBs, notwithstanding the wording of paragraph 182 on this issue], paragraph 5.83 notes that paragraph 11(d)(i) *does not seek to protect non-designated heritage assets*; and concludes that

**.....there are no policies in the NPPF that protect areas or assets of particular importance that would provide a clear reason for refusing the development proposed.**

5.58 Paragraphs 5.84-5.93 assesses weight to be given to the planning benefits likely to arise from the proposal, which are as follows:

Benefit	Positive Weight
Provision of up to 134 dwellings to the LPA's housing stock, ....in light of the lack of a 5YHLS and the Government's objective of significantly boosting the supply of homes (paragraph 60 of the NPPF), this attracts.	<b>Significant</b>
Provision of 40% affordable housing (up to 54 homes)	<b>Significant</b>
Economic benefits to the local area during the construction phase and when the development is occupied by future residents by increasing the spending power in the area.	<b>Moderate to Significant</b>
A children's play area and open space/recreational route	<b>Moderate</b>
Three pedestrian links between the current scheme and the adjoining Bovis Homes development, described in the report as ensuring that ....the development is permeable with the existing settlement and encourages sustainable travel options.	<b>Moderate</b>
Financial contributions to local services/infrastructure through a Section 106 agreement are required. The report comments that: <i>While these are required to mitigate the impact of the scheme, this is a positive impact.</i>	<b>Unspecified positive</b>
Biodiversity net gain would be achieved.	<b>Moderate</b> .....commensurate with the scale of development
Sustainability measures	<b>Significant</b>
Provision of 5% (up to 7) of the homes as 'self-build' plots.	<b>More than Significant</b>

	Noting that at a recent appeal for the provision of two SBCH plots, <i>substantial weight</i> was given to the cumulative identified economic and social benefits
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NB in the above assessment(s), paragraph 5.93 of the report noted that: *A reduced timeframe for the reserved matters to be submitted and for development to begin ensures the development makes a meaningful contribution to the housing shortfall in the District.*

- The report then identified harms in relation to all the following

Harm	Negative Weight
<p><b>Failure to wholly respect the village character and local distinctiveness</b> as it extends the existing C20 development, which further delineates the historic from the modern.</p> <p><b>Cumulatively, it is not limited development</b> (taken in isolation it is limited).</p> <p><b>Failure to protect the local landscape or setting of Minster Lovell;</b></p> <p><b>Loss of an area of green space that makes an important contribution to the character and appearance of the area.</b></p> <p><b>Localised landscape harm by urbanising this greenfield site.</b></p>	Moderate
<b>Impact to [the heritage significance of?] Minster Lovell as a non-designated heritage asset</b>	Modest
<b>.....some conflict with Local Plan Policy T1 and T3, and the NPPF in that distances to key services and facilities are in excess of the 20 minute guidance.</b>	<p>Moderate</p> <p>Noting that ..this issue is mitigated as explained in the accessibility section.</p>

NB It is not clear to me why the first five harms are grouped together, noting that the second of these (that **Cumulatively, it is not limited development**) appears to me to be a clear breach of the local Plan spatial strategy separate from impacts on local character.

- The balance is carried out under the paragraph 11(d)(ii) “tilted balance” [only]:

5.97 Turning to the planning balance as directed by paragraph 11 of the NPPF. Taking all of the above into consideration, it is officer opinion that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits and as such, planning permission should be granted.

5.98 The application is therefore recommended for approval, subject to the suggested conditions and the applicant entering into a legal agreement.

5.59 After the Planning Assessment, the report includes a set of recommended conditions, on which I have based the LPA's initial suggested conditions in this case, as set out further below.

### **The Committee Minutes and the LPA's Decision**

5.60 As set out in set out in the minutes of its 17 July 2023 meeting, I note that these first comment that the application was first considered in May 2023, when it was deferred for a site visit; and was then again deferred to enable consideration of a late objection from the Buckingham and Oxfordshire Wildlife Trust (BOWT) that required a response from the Biodiversity Officer.

5.61 The committee was then advised that the updated report now referred to the amended plans, which included *Reduced size of site; Reduced number of houses; Access points to and from the site to services via the Bovis Estate; and Proposed landscape plan, including the loss of a hedgerow.*

5.62 As also noted in the minutes, discussions were preceded by Councillor Liam Walker, Ward Member for Hailey, Minister Lovell and Leafield; and Councillor Jonathan Stowell, Vice-Chair of Minister Lovell Parish Council in objection to the application; and Ed Barratt, Planning Director at Catesby Estates in support of the application.

5.63 In response to Mr Barratt's presentation, *Councillors asked for the following points to be clarified: Access to bus stops; Pedestrian crossings across main road; Suitable pathways for wheelchair and pushchair access; and Over subscription of local primary and wider primary schools.*

5.64 As reported in the minutes, Ed Barratt confirmed in response that:

- *Oxfordshire County Council had not requested a crossing to access bus stops or for safe access across the main road.*
- *.....a gravel pathway had been added however there was another tarmac path for access which was not much farther to service points in the village.*
- *.....Oxfordshire County Council had asked for a financial contribution towards education which would enable the local school to fund more places and expand.*

5.65 The minutes then set out several points of clarification in the case officer's presentation to the committee, all of which relate to matters within the report discussed above.

5.66 The minutes summarise discussions of the application by listing the following clarification points:

- *Provision for Sewage, water provision, senior schools, work opportunities and primary health provision;*
- ***The location of the site in relation to the village;***
- *Potential harm to the character of the Charter Village settlement;*
- *For affordable properties more suited to serviced centres;*
- *Increased commuter traffic to secondary schools and workplaces;*
- ***Pressure on the limited services in the area;***

- ***Location of bus stops and road safety concerns when crossing to get to bus stop. Oxfordshire County Council would have to request a pedestrian crossing;*** and
- ***Potential problems with sewage treatment capacity in the area;***

5.67 Further to this discussion, the application was refused on 21 July 2023 for the following reasons:

- 1 The proposal does not respect the village character and local distinctiveness as it extends the existing C20 development, which further delineates the historic from the modern.**

**Cumulatively, it is not limited development.**

**It would not protect the local landscape or setting of Minster Lovell.**

**It would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area and the scheme causes localised landscape harm by urbanising a greenfield site.**

**In addition, the site is divorced from key services and facilities on offer in Minster Lovell with future residents reliant on private vehicles to meet their daily needs.**

**While the development would provide up to 134 dwellings to include 40% affordable homes and 5% self-build plots; economic benefits, a children's play area, open space/recreational route, pedestrian and cycle links, biodiversity net gain, and sustainability measures. The adverse impacts identified would significantly and demonstrably outweigh the benefits.**

**As such, the proposal is considered to be unsustainable development and is contrary to policies H2, OS2, OS4, T1, T3 and EH2 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, and the relevant paragraphs of the National Planning Policy Framework.**

- 2 The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children's play area.**

**The proposal conflicts with West Oxfordshire Local Plan 2031 Policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5; and the relevant paragraphs of the National Planning Policy Framework.**

5.68 The plans and supporting documentation have all been supplied by the appellant with the appeal form; and details of relevant policies, comments from statutory and other consultees, third party representations the related committed report and minutes and other relevant facts relating to the case have been provided by the LPA in its appeal questionnaire response.

## 6 **Relevant Legislation and National Planning Guidance**

### Relevant Legislation

- 6.1 I consider the following legislation most relevant to this appeal:
- **S.38 (6) of the Planning and Compensation Act 2004**, which requires decision makers to determine applications in accordance with the policies of the development plan (here the saved policies of the Local Plan) unless other relevant material planning considerations (including in particular current national government planning policies and guidance) indicate otherwise; and
- 6.2 I also note that decisionmakers have statutory duties under **S.85 (1) of the Countryside and Rights of Way Act 2000** that apply to *exercising or performing any functions in relation to, or so as to affect, land* in an AONB; and I further note that these have changed materially in October 2023, several months after the appeal application was determined.
- 6.3 The appeal site lies entirely outside the AONB/ NL; and the LPA did not refer to harm to the setting of the AONB in its reasons for refusal; and the committee minutes do not refer to this issue so that it is my understanding that it will not be taking a point on harm to the setting of the AONB; and I therefore do not intend to talk to this issue here; although I note that some third parties have done so.
- 6.4 I am sure the Inspector will be well aware of the new statutory requirements.

### Relevant National Planning Guidance

- 6.5 In presenting my evidence, I will refer as appropriate below to the most up to date government policy, guidance and advice that it considers relevant to this appeal, with particular regard to:
- The current September 2023 *National Planning Policy Framework* (“the NPPF”); or any subsequent superseding iteration of the NPPF; and
  - The *Planning Practice Guidance* (“the PPG”, originally introduced in March 2014; and since updated continuously/ occasionally);
- 6.6 I will discuss in particular the following aspects of the NPPF:
- **Achieving Sustainable Development; and the Presumption in Favour of Sustainable Development, including paragraph 8, 11 and 12**
  - **Decision-making; the distinction between strategic and non-strategic policies, the need to review policies at least every 5 years and Conditions and Planning Obligations and Conditions, including paragraphs 20-23, 28, 33, 34, 47, 55-58**
  - **Delivering a Sufficient Supply of Homes, including paragraphs 60-63, 64, 69-79**
  - **Promoting healthy and safe communities, including paragraphs 92, 93, 95 and 98**
  - **Promoting Sustainable Transport, including paragraphs 104, 105, 112, 113 and 152**

- **Achieving well-designed and Beautiful places; and the Requirement for Good Design, including paragraphs 126-132 [particularly 130] and 134**
- **Conserving and Enhancing the Natural Environment, including paragraphs 174, 176**
- **And perhaps Conserving and Enhancing the Historic Environment, including paragraphs 189 and 203**
- **Implementation; and Weight to be given to relevant policies of the adopted Local Plan, including paragraphs 218 and 219**

6.7 I will also refer to: the Community Infrastructure Levy Regulations 2010 (“the CIL Regulations”).

## **7 Provisions of the Development Plan and Other Policy Documents**

- 7.1 Section 38 (6) of the Planning and Compensation Act 2004 requires decision makers to determine applications in accordance with the policies of the statutory development plan (“the development plan”) unless other relevant material planning considerations indicate otherwise.
- 7.2 For the purposes of this appeal, there being no made neighbourhood plan for Minster Lovell, the development plan effectively comprises the West Oxfordshire Local Plan 2031 (“the Local Plan”).
- 7.3 The Local Plan was adopted 27 September 2018); and is thus over 5 years old.
- 7.4 As noted above the reasons for refusal (“RfRs”) refer to the following Local Plan policies:
- OS2 (Locating development in the right places)
  - OS4 (*High quality design*)
  - OS5 (*Supporting Infrastructure*)
  - H2 (*Delivery of New Homes*; also relevant to HLS considerations)
  - H3 (*Affordable housing*)
  - H5 (*Custom and self-build housing*)
  - T1 (*Sustainable transport*)
  - T3 (*Public transport, walking and cycling*)
  - EH2 (Landscape character)
  - EH3 (Biodiversity and geodiversity)
  - EH4 (Public realm and green infrastructure)
  - EH5 (Sport, recreation and children’s play)
- 7.5 The Local Plan as a whole is before this inquiry and I will not therefore rehearse these policies here although I will refer to them as they occur below.
- 7.6 I am nonetheless ready to discuss any of the policies and/or any supporting text at the inquiry to the extent that this may assist the Inspector, the appellant or any other parties.
- 7.7 Nonetheless, I consider it relevant when considering what weight to give to policies of the Local Plan (which, as noted, is now over 5 years old) to note first that paragraph 225 of the NPPF states:  
***.....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).***
- 7.8 In this context, the LPA completed a Regulation 10A review of its policies in September 2023, when the Local Plan became 5 years old (see Appendix 4a); concluding for the policies listed above that:

- **Local Plan overall strategy policy OS2** (*Locating development in the right places*)  
***The general principles contained in Policy OS2 are also considered to be consistent with the current NPPF albeit certain elements (e.g. design) now have a much stronger emphasis than was the case with the 2012 NPPF under which the current LP was prepared.***
- **Local Plan overall strategy policy OS4** (*High quality design*)  
***Whilst Policy OS4 remains consistent with the NPPF in seeking high quality design solutions, since the Local Plan was adopted, the importance of design has been much more fully recognised at the national level including the introduction of the National Design Guide and National Model Design Code.***
- **Local Plan overall strategy policy OS5** (*Supporting Infrastructure*)  
***Whilst Policy OS5 remains consistent with national policy, the emerging Local Plan provides the opportunity to consider whether a standalone policy is necessary or whether the need for supporting infrastructure can be incorporated into other policies related to biodiversity, healthy communities, green infrastructure transport etc.***  
***It also provides the opportunity to strengthen supporting infrastructure requirements and consider issues such as phasing in more detail.***
- **Local Plan housing policy H2** (*Delivery of New Homes*)  
***Like Policy H1, the first strand of Policy H2 [setting out the Local Plan stepped housing requirement] needs updating because it is based on 2014 evidence which pre-dates the introduction of the standard method for assessing local housing need.***  
***It will be for the new Local Plan to establish an appropriate housing requirement to 2041 based on up-to-date evidence of housing need.***  
***Whilst the second strand of Policy H2 [the strategic locational provisions stating where housing is acceptable in principle for different sizes of settlement] remains consistent with the NPPF and the need to promote a sustainable pattern of development and remains up to date, the review of the Local Plan presents the opportunity to consider reasonable alternatives and determine whether this current approach should be rolled forward, or a different strategy pursued.***
- **Local Plan housing policy H3** (*Affordable housing*)  
***Whilst Policy H3 remains consistent with the NPPF in setting out the circumstances in which an affordable housing contribution will be sought from development, there have been important national changes including the introduction of First Homes as a form of affordable housing. The District Council is also in the process of commissioning new evidence of housing need including affordable housing.***

*As such, the current provisions of Policy H3 will need to be considered as part of the review of the Local Plan and the policy updated and refined as appropriate.*

- **Local Plan housing policy H5 (Custom and self-build housing)**

*Whilst **Policy H5 remains consistent with national policy**, it will be considered and updated accordingly as part of the proposed review of the Local Plan to take account of new evidence of need as well as the implementation of the policy since the Local Plan was adopted in 2018*

- **Local Plan transport and movement policy T1 (Sustainable transport)**

*In seeking to reduce the need to travel and maximising opportunities for walking, cycling and the use of public transport, **Policy T1 is considered to remain consistent with national policy.***

- **Local Plan transport and movement policy T3 (Public transport, walking and cycling)**

*Whilst **Policy T3 remains consistent with the NPPF**, the policy will be considered as part of the review of the Local Plan – particularly in the context of the County Council’s Local Transport and Connectivity Plan (LTCP5) and other associated strategies as well as up to date evidence on the infrastructure needed to support planned development to 2041.*

- **Local Plan environmental and heritage assets policy EH2 (Landscape character)**

*While **the general approach of the policy remains appropriate and consistent with national policy**, the policy wording or supporting text may need to be updated to reflect more recent advice on design, character, strategic scale and multifunctional nature of landscape, as well as local initiatives such as the NE Cotswolds Landscape Recovery Project.*

- **Local Plan environmental and heritage assets policy EH3 (Biodiversity and geodiversity)**

*While **the main thrust of Policy EH3 remains relevant**, in light of the **emerging environmental policy and context changes for biodiversity at a national, county and local level, a detailed re-appraisal of this policy and the supporting evidence will be required as part of the review of the Local Plan.***

- **Environmental and heritage assets policy EH4 (Public realm and green infrastructure)**

*While **the main thrust of Policy EH4 remains relevant**, in light of the emerging environmental policy and context changes for public space and green infrastructure at a national, county and local level, **a detailed reappraisal of this policy and the supporting evidence will be required as part of the review of the Local Plan***

- **Environmental and heritage assets policy EH5 (Sport, recreation & children’s play)**

*Whilst **Policy EH5 remains consistent with the NPPF**, the policy will be considered as part of the review of the Local Plan and could for example potentially be expanded to address the wider role and multi-functionality of facilities and open space as part of healthy place shaping*

- 7.9 On this basis (and applying my own assessment of the consistency of these policies against the current NPPF) I consider that all these policies are highly or broadly consistent with the policies of the NPP and that, as such under the application of paragraph 219, they should all be regarded as up to date given full or almost full weight
- 7.10 In reaching this conclusion I also note that the design policies are considered less consistent with the NPPF because design policies in the current NPPF are now more demanding than in 2012; and, as such I consider this a reason to give greater weight to design harms.
- 7.11 In this same context, I also consider it relevant to note that paragraph 139 states *inter alia* that:  
***Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design<sup>55</sup>, taking into account any local design guidance and supplementary planning documents such as design guides and codes.***
- 7.12 When interpreting what the NPPF means by “well-designed” the NPPF, I believe it must mean at least meeting all the broadly based requirements listed at paragraph 135 (a)-(f) in the same Section of the NPPF, headed *Achieving Well Designed and Beautiful Places*; and whilst I understand that case law indicates that the seemingly very clear requirement set out in paragraph 139 cannot disapply the paragraph 11(d)(ii) “tilted balance” ***where this is engaged*** [my emphasis], in my opinion, this must give great weight to any failure to achieve well-designed development in this broadly defined context; and in particular it clearly gives weight to ***local design policies; local design guidance; and supplementary planning documents such as design guides and codes***
- The emerging Local Plan 2041
- 7.13 The LPA has begun preparing a replacement Local plan (“the emerging Local Plan 2041”); but this is still at an early stage and in my opinion currently attracts limited weight (see broad details from the LPA’s website at Appendix 4b); although I nonetheless note with reference to paragraph 226 of the NPPF that it has reached Regulation 18 stage although I have not yet seen a published *policies map or proposed allocations towards meeting housing need.*

Other Material Considerations including Supplementary Planning Documents (“SPD”)

- 7.14 I also consider the following supplementary planning documents (“SPD”) and other supporting documentation relevant:
- The ***West Oxfordshire Design Guide*** which is an adopted SPD;
  - The long established 1998 ***West Oxfordshire Landscape Character Assessment***;
  - The adopted supplementary planning document ***Affordable Housing***; and
  - The adopted supplementary planning document ***Developer Contributions***

## The West Oxfordshire Design Guide

- 7.15 In April 2016, the LPA's longstanding Supplementary Planning Document *The West Oxfordshire Design Guide*, adopted in September 2006 ("the 2006 Design Guide") was superseded by an updated West Oxfordshire Design Guide ("the 2016 Design Guide").
- 7.16 I regard the 2016 Design Guide as a logical evolution of the 2006 Guide and, as a highly relevant, up to date design guide, of the type referred to in paragraph 126 of the NPPF, it is thus a further example of the LPA's long established commitment to high quality design in all new development that respects the District's built and natural surroundings and architectural traditions and has successfully helped retain its special character despite significant housing growth over many years (as part of a County-wide strategy of relocating development away from Oxford).
- 7.17 I regard this as an important document in achieving high quality design and note particularly that its new section 11 *Development and Context* (advising on the importance of understanding the local context in formulating the design approach taken) states *inter alia* as follows:
- ***Each context, while potentially sharing some characteristics with other sites, represents a unique scenario with its own unique set of characteristics. Because of this, the council will seek to ensure that new development offers bespoke and locally resonant, rather than generic and non-specific, design solutions. The greater the level of analysis and understanding, the more meaningful and successful the design outcome is likely to be.***
  - ***All relevant aspects of the site and immediate and wider contexts must be carefully assessed as part of the design process.***
  - ***Whatever the scale or nature of a proposed development, particular care should be taken to ensure that local character is respected or strengthened.***
  - ***Poor quality design of even minor aspects of a scheme can disproportionately undermine the appearance and success of the scheme as a whole.***
  - ***In the case of a site within or immediately adjoining a settlement with a distinctive established character, it may be most appropriate to develop a scheme that echoes and builds sympathetically upon distinctive aspects and features of that settlement, ....to create a place whose character meaningfully relates to that of its context.***
  - ***Careful consideration should be given to the treatment of those parts of the site which adjoin neighbouring areas of development and landscape....***
- 7.18 Relevant extracts from the Design Guide are already with the Inspectorate.

## Other Relevant Considerations 2: The West Oxfordshire Landscape Assessment

- 7.19 The West Oxfordshire Landscape Assessment ("the WOLA") was *approved for development control use* by the West Oxfordshire Planning Committee at its 9 June 1998 meeting.
- 7.20 Although not an adopted document, I consider that the WOLA supports the design process to ensure that new development respects the surrounding area, as encouraged in the NPPF/ PPG.
- 7.21 It specifies the landscape character of every part of the District (including the open land to all sides of Minster Lovell (Charterville) that form its setting but not the built up area of this historic village) in some detail; and identifies important characteristics, strengths and development sensitivities.
- 7.22 As noted above, the Landscape Assessment classifies the appeal site as *open limestone wolds* landscape type ("LT") in the *Upper Windrush Valley* landscape character area (LCA).
- 7.23 The WOLA deals with the *Upper Windrush Valley* LCA in its section 8, stating in its initial overview that: *The River Windrush flows through a deep valley which dissects the limestone of the Cotswold dip slope and forms a highly distinctive landform feature, with a distinctively intimate and pastoral character. The valley is punctuated at its western end by Burford and at its eastern end by Witney....*
- 7.24 As regards the *open limestone wolds* landscape type ("LT"), the WOLA identifies the following key characteristics:
- ***large-scale, smoothly rolling farmland occupying the limestone plateau and dipslope;***
  - ***typically large or very large fields, with rectilinear pattern of dry-stone walls (typical of later enclosures and often in poor condition) and weak hedgerows, with frequent gaps and very few trees;***
  - ***productive farmland predominantly under intensive arable cultivation;***
  - ***thin, well-drained calcareous soils and sparse natural vegetation cover and a somewhat impoverished 'upland' character;***
  - ***very open and exposed character; distinctive elevated and expansive character in higher areas, with dominant sky and sweeping views across surrounding areas;***
  - ***high intervisibility.***
- 7.25 I consider that most of these characteristics apply to the appeal site and nearby undeveloped fields to the west of the Cote Ditch except that ***intervisibility is more limited in some directions due to topography and existing vegetation.***
- 7.26 Section 8 of the WOLA comments of Charterville under the heading *Settlement Character* that:
- .....the Victorian settlement of Charterville was located incongruously on the high limestone land above Minster Lovell....***
- 7.27 Page 55 states in relation to *Landscape Quality and Key Issues*:

*Most of the character area lies within the Cotswolds Area of Outstanding Natural Beauty, while the Windrush Valley and its tributary, the valley of the Seven Springs, form part of the Upper Thames Tributaries Environmentally Sensitive Area.*

*The lower part of the valley also lies within the Area of High Landscape Value designation.*

***These designations confirm that much of the Upper Windrush Valley landscape is of outstanding quality and of national significance.***

7.28 Section 8 states further in relation to *Landscape Quality And Key Issues* that

***Overall, the Upper Windrush Valley has a highly attractive and remarkably unspoilt, rural character but with some localised variations in quality and condition which require different strategies for management and enhancement (see Figure 6).***

NB in my opinion, this generally ***highly attractive and remarkably unspoilt, rural character*** is thus sensitive to development that would adversely impact on that character; and where there is harmful existing development, then more such harmful development should be avoided.

7.29 The *Enhancement priorities* identified on page 79 for limestone wolds landscapes include:

- ***retain and replant hedgerows and hedgerow trees, using native species typical of the limestone (e.g. ash, field maple etc.);***
- ***where possible, encourage conversion of arable land to pasture;***
- ***plant large blocks and belts of native broadleaved woodland, to link with existing woodlands and restore a mosaic of woodland and farmland***

7.30 Although the WOLA does not discuss large scale additions to existing settlements (partly, in my opinion, because when it was written these were not policy compliant or considered at all likely in this area under policies that had for many years enabled the LPA to meet its HLS targets whilst protecting the landscape setting of its many rural historic villages by directing the bulk of new houses to its largest and most accessible towns and rural service centres); and partly because large scale development outside settlements is always likely to have elevated LV effects at a site level; it states as regards ***development sensitivities for open limestone wolds landscapes:***

***elevated, open limestone wolds landscapes are very visually exposed and particularly sensitive to development;***

***tall structures, such as communications masts, and large buildings would be particularly prominent in these elevated landscapes..***

7.31 The relevant extracts from the WOLA are already with the Inspectorate.

7.32 The adopted supplementary planning document ***Affordable Housing*** is also in front of this inquiry and in my opinion supports the LPA's approach to requiring AH from developers in large schemes.

8 **The LPA’s Housing Land Supply (“HLS”) Position**

8.1 Paragraph 77 of the NPPF requires LPAs to identify and update annually a full 5-year deliverable housing land supply (“HLS”) against their requirement set out in adopted strategic policies, until those strategic policies are more than 5 years old, after which they must do so against the local housing need (“LHN”), which footnote 39 states *should be calculated using the standard method*:

77. In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing<sup>41</sup>, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old<sup>42</sup>. Where there has been significant under delivery of housing over the previous three years<sup>43</sup>, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).

<sup>39</sup> The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under review and reflected as policies are updated.

<sup>40</sup> Transitional provisions relating to the application of this paragraph are set out in footnote 79.

<sup>41</sup> For the avoidance of doubt, a five year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately, in line with the policy in that document.

<sup>42</sup> Unless these strategic policies have been reviewed and found not to require updating. **Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.**

8.2 As I read this, in the 5 years after the adoption of the Local Plan, the **housing requirement set out in adopted strategic policies** as described above meant the requirement set out in Local Plan housing policies H1 and particularly H2. Policy H1 sets out the overall housing requirement [as assessed at the EiP, relying heavily on the 2014 Oxfordshire SHMA assessed OAN of 660dpa and a contribution of 2,750 dwellings towards Oxford City Council’s unmet need], split indicatively by sub-area. Policy H2 sets out a stepped requirement that [including 275dpa from 2021-2031 as the 2,750 dwelling contribution towards Oxford’s unmet need] increases to 1,125 dpa by 2024:

**POLICY H2:**  
**Delivery of New Homes**

Provision will be made for at least 15,950 new homes in the period 2011 – 2031.

This will include 13,200 homes in the period 2011 – 2031 to meet West Oxfordshire’s housing needs and a further 2,750 homes in the period 2021 – 2031 to meet Oxford City’s housing needs.

The housing requirement will be phased over the plan period in accordance with the following table:

Year	West Oxon’s needs	Oxford City’s needs	Combined annual requirement
2011 - 17	550 per annum		550 per annum
2017 - 18	550		550
2018 - 19	550		550
2019 - 20	550		550
2020 - 21	550		550

2021 - 22	525	275	800
2022 - 23	525	275	800
2023 - 24	700	275	975
2024 - 25	850	275	1125
2025 - 26	850	275	1125
2026 - 27	850	275	1125
2027 - 28	850	275	1125
2028 - 29	850	275	1125
2029 - 30	850	275	1125
2030 - 31	850	275	1125
Totals	13,200	2750	15,950

The 5 year housing land supply is to be calculated on the basis of the phased requirement set out in this table. The additional requirement of 2,750 dwellings to meet Oxford City’s housing needs is set out separately for illustrative purposes but delivery and supply will be assessed against the combined annual requirement.

When assessing the 5-year housing land supply the Council will apply the residual (Liverpool) approach with any under-supply (backlog) of housing to be delivered over the remaining plan period to 2031.

The required level of housing delivery of at least 15,950 homes will be achieved through a combination of homes already completed, existing commitments, site allocations (strategic and non-strategic sites) windfall development and any additional provision in Neighbourhood Plans.

If, post adoption of the Local Plan, the phased housing requirement is consistently not delivered, or it becomes clear that this is likely to be the case during the remainder of the plan period, then the Council will undertake an early review of the plan. Such a review will consider up to date evidence on housing needs (including unmet needs from neighbouring authorities) and, if necessary, will allocate additional sites for housing.

Proposals for housing will be determined as set out below:

8.3 That is the basis on which the LPA’s November 2022 HLS position statement concluded that for the 5-year period commencing 1 April 2022, the LPA could only demonstrate a 4.1 year deliverable

HLS [a position that was thereafter challenged at several later appeals, with the LPA arguing for a 3.14 year deliverable HLS at the most recent inquiry determined on the basis of the 2022 HLS position statement at *Land north of Cote Road, Aston*].

8.4 However, these policies are now more than 5 years old, after which (as set out above) paragraph 77 states that the LPA should demonstrate a 5 year deliverable HLS against LHN, subject only to the caveat that the existing requirement can be maintained if [and only if] ....*these strategic policies have been reviewed and found not to require updating.*

8.5 In fact, as noted above, the LPA carried out a Regulation 10A review in this context in September 2023 [see Appendix 4a], which *inter alia* concluded that policy H1 and parts of policy H2 require updating, commenting in particular in relation to policy H2 that:

***Like Policy H1, the first strand of Policy H2 needs updating because it is based on 2014 evidence which pre-dates the introduction of the standard method for assessing local housing need.***

***It will be for the new Local Plan to establish an appropriate housing requirement to 2041 based on up-to-date evidence of housing need.***

***Whilst the second strand of Policy H2 remains consistent with the NPPF and the need to promote a sustainable pattern of development and remains up to date, the review of the Local Plan presents the opportunity to consider reasonable alternatives and determine whether this current approach should be rolled forward, or a different strategy pursued.***

[NB I consider this a reasonable conclusion, as I consider the following paragraphs of the NPPF consistent with a spatial strategy informed by a settlement hierarchy: 8, 9, 16(a), 17, 20, 60, 73(b), 74(a) and (b), 83, 84 and 85; and for development more broadly: 86(a), 87, section 7, 96, 97(a), (b) and (e), 102, sections 9 and 10; 123, 124(c), 128(c), 129(a), 143(e), 157, 180(a) and (b),

The spatial strategy was also considered consistent with the 2012 NPPF in 2018 and I can see no material relevant alterations to later iterations of the NPPF to suggest that this almost standard approach to plan making might have become inconsistent with the current NPPF.]

8.6 As a result, **paragraph 77 requires LPAs to use local housing need (“LHN”) when assessing whether a 5-year supply of specific deliverable sites exists and footnote 42 requires that LHN .....*should be calculated using the standard method set out in national planning guidance.***

8.7 I also consider it relevant that whilst paragraphs 11(b), 23, 35(a) and 123 of the NPPF continue to require planning policies to provide for objectively assessed needs as a minimum, footnote 19 explicitly states that *Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 61 of this Framework* (and paragraph 61 states: *To determine the minimum number of homes needed, **strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning***

*guidance – **unless exceptional circumstances justify an alternative approach** which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, **any needs that cannot be met within neighbouring areas should also be taken into account** in establishing the amount of housing to be planned for.*

- 8.8 In this last regard, it seems logical to me that any such unmet need in neighbouring areas/ authorities should be recalculated using the LHN for any assessment originally based on an out of date OAN, using in the first instance the LHN for those areas/ authorities.
- 8.9 And in that context, I note that Oxford's unmet need was based on an assessed OAN of 1,400dpa, whereas its standard method figure is only 762 dpa - so that to my mind any need that might be deemed to arise from **exceptional circumstances** .....which also reflects current and future demographic trends and market signals might need to be recalculated as a minimum.
- 8.10 Moreover, as applied to the current context, I am uncertain if other Oxfordshire LPAs may intend to maintain their full contributions towards Oxford City's unmet need, in which case, recalculating the current level of unmet need would appear to be even more important and it would appear to be even less certain whether there would even be any unmet need.
- 8.11 In any case, the LPA must now **identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need** .....calculated using the standard method; and (as I read paragraph 77) there is no choice about this approach so that it is impossible to paint this as opportunistic in any way.
- 8.12 Moreover, again as I read it, the Planning Practice Guidance ("the PPG") is unequivocally clear that the standard method is calculated to take account of past shortfalls (noting here that the LPA's last HLS position statement identified that it had all but eliminated its shortfalls against the H2 requirement), with paragraph 2 of section 2a of the PPG [last updated 20 February 2019] confirming that **The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply**; and paragraph 11 of the same section of the PPG [and last dated at the same date] stating that **The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately**]:

What is the standard method for assessing local housing need?

The National Planning Policy Framework expects strategic policy-making authorities to follow the standard method in this guidance for assessing local housing need.

The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply.

The standard method set out below identifies a minimum annual housing need figure. It does not produce a housing requirement figure.

Paragraph: 002 Reference ID: 2a-002-20190220

Revision date: 20 02 2019

Can strategic policy-making authorities take account of past under delivery of new homes in preparing plans?

The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately.

Where an alternative approach to the standard method is used, past under delivery should be taken into account.

Paragraph: 011 Reference ID: 2a-011-20190220

Revision date: 20 02 2019

8.13 Finally, I note that whilst the Local Plan requirement includes a 275dpa addition to help meet Oxford City's unmet need, there is no reference to any such additions in paragraph 74.

8.14 However, I accept that if this additional 2,750 dwellings is not achieved this has the potential to result in unmet need in Oxford and that this therefore remains a material planning consideration.

8.15 Before passing on to consider the LPA's HLS position on a paragraph 74 basis, I would observe that my understanding of the 2014 Oxfordshire SHMA is that the Oxford City requirement of 1,400 dpa was twice the figure required to achieve the "supporting economic growth" model figure in order to achieve a higher level of affordable housing ("AH") although this was still only two thirds of the amount required to meet full AH need, even assuming 50% delivery.

8.16 Interestingly in this context, Oxford's AH need of 1,029dpa exceeded its "supporting economic growth" model need figure of 700dpa by almost 50%, unlike any other Oxfordshire district:

Oxfordshire Strategic Housing Market Assessment  
Summary – Key Findings on Housing Need, March 2014

Figure 14: Housing Provision Required to Meet Affordable Need in Full – Housing Need per Annum, 2011-31

Area	Net Need (per annum)	Assumed % Affordable Delivered	Total Annual Delivery Required to Meet Affordable Need in Full	Supporting Committed Economic Growth
Cherwell	407	33%	1233	1142
Oxford	1,029	50%	2058	700
South Oxfordshire	386	40%	965	749
Vale of White Horse	273	40%	683	1028
West Oxfordshire	274	40%	685	661
County	2,370	-	5624	4280

Figure 15: Conclusions on Future Need for Housing

Housing Needed per Year (2011-31)	A. Demographic Base + Shortfall	B. To Support Committed Economic Growth	C. To Meet Affordable Housing Need in Full	D. Range: Housing Need per Year	E. Midpoint of Range
Cherwell	682	1142	1233	1090-1190	1140
Oxford	780	700	2058	1200 - 1600	1400
South Oxfordshire	552	749	965	725-825	775
Vale of White Horse	508	1028	683	1028	1028
West Oxfordshire	541	661	685	635-685	660
Oxfordshire	3063	4280	5624	4678 - 5328	5003

8.17 It thus seems to me that the need rested in the AH generated and that the additional requirement was at least at that point intended to provide additional AH rather than to meet the overall OAN.

8.18 In turn, this meant that much of the additional market housing taken on by the neighbouring LPAs (a total of 14,300 dwellings, including the 2,750 in West Oxfordshire) did not reflect Oxford's need.

8.19 As noted above, Oxford's assessed 1,400dpa 2016-2031 OAN is 638 dpa more than its 762 dpa LHN, as calculated using the standard method; and if this was applied, it is unclear to me what Oxford's unmet need would be (if any), and even if future growth adjustments were included, it is unclear what allowance is needed; so that the 2,750 dwellings in the Local Plan seems unreliable.

8.20 In any case, the LPA recently published an HLS position statement for the 5-year period starting 1 April 2023 ("the HLSPS2023") using the standard method LHN figure of 570dpa [but with a 5% buffer that the current NPPF no longer requires, given the LPA's very good housing delivery test results]; and that concluded on that basis that the LPA could demonstrate a 5.4 year deliverable HLS.

8.21 In my opinion, having been personally involved in what were frequently detailed discussions about the LPA's HLS position based on the policy H2 housing requirement at numerous appeals in the past 18 months or so, I regard this HLSPS2023 as more robust for all the following reasons:

- It includes the 5% buffer that is no longer necessary, adding about 0.3 years to the HLS;

- It includes an allowance of 64 dwellings for past undersupply, which I believe is not required under the standard method for the reasons set out in the PPG and referred to above;
- Adjusting for this would add approximately 0.1 years to the HLS;
- It does not include any allowance for any of the SDAs that have not yet been granted consents [or from the Cotswolds Garden Village]; and only 256 dwellings at the West Eynsham SDA, where there is an agreed masterplan; and some permissions have already been granted and some housing schemes have been/ are being built;
- This reflects the NPPF definition (b) of deliverability for allocated sites but I consider it likely that in practice many of these large sites, these remain a very large resource of potential future supply including 1,850 dwellings in the North and East Witney SDAs; a balance of 744 dwellings at the West Eynsham SDA, as well as some 2,200 dwellings at the Garden Village and 1,200 dwellings at the East of Chipping Norton SDA where I consider delivery less likely;
- Even excluding these last two sites entirely, this still represents 3.25 years' supply at 570dpa
- Moreover (as can be seen in places within the large commitments at Appendix 1 and the Woodstock and WESDA sites in Appendix 3), allocated sites often over deliver; and whilst this may not now be the case for the NWSDA, 1,250 dwellings remains over 2 year HLS.
- The HLS includes an allowance for windfalls (omitting large schemes) using an estimate of 125dpa, whereas historic small windfall rates in West Oxfordshire have averaged 175dpa;
- In this context, the windfall performance in the five complete years since 1 April 2018 total 1,544 dwellings, at an average of 309 dpa;
- As shown below, small windfalls on their own averaged 162 dpa (30% more than the projected 125dpa) and large windfalls averaged an additional 146 dpa, as follows:

Year	Small Windfall Residential Permissions (<10 dwellings net gain)	Large Windfall Residential Permissions (≥10 dwellings net gain)	Total	Commentary
2018/19	191	53	244	This year included a number of larger planning permissions that have been excluded from the windfall calculations. <ul style="list-style-type: none"> <li>• 126 dwellings on land west of Minster Lovell</li> <li>• 80 extra care apartments at London Road, Chipping Norton</li> <li>• 66 dwellings on former Stanton Harcourt Airfield</li> </ul>
2019/20	180	356	536	This year included one large permission that has been excluded from the windfall calculations. <ul style="list-style-type: none"> <li>• 99 dwellings south of Banbury Road, Chipping Norton</li> </ul>
2020/21	179	28	207	This year included one large permission that has been excluded from the windfall calculations. <ul style="list-style-type: none"> <li>• 22 dwellings, Oliver's Garage, Long Hanborough</li> </ul>
2021/22	145	0	145	This year included one large permission that has been excluded from the windfall calculations. <ul style="list-style-type: none"> <li>• 72 dwellings Land east of Swinbrook Road, Carterton</li> </ul>
2022/23	120	292	412	This year included one large permission that has been excluded from the windfall calculations. <ul style="list-style-type: none"> <li>• 200 dwellings south of Milestone Road, Carterton</li> </ul>
<b>Total</b>	<b>815</b>	<b>729</b>	<b>1,544</b>	

NB Windfall approvals for the year to date since 1 April already exceed 125 dwellings.

- 8.22 I await the appellant's comments on this recently published 2023 HLS position statement (see Appendix 5a); although I also understand that following the publication of the December 2023 NPPF, the LPA is considering re-issuing the 2023 HLS position statement and if this happens before this inquiry closes, I reserve the right to comment appropriately on this aspect of the case.
- 8.23 I similarly reserve the right to provide appropriate rebuttal evidence on the appellant's case; but in this last context, I understand that the appellant is likely to dispute the inclusion of some or all of the dwellings included in the deliverable HLS from some sites]; but I expect to be able to address any questions relating to the assumed delivery arising from the large commitments (approvals/ approvals in principle, as shown in Appendix 1 to the HLSPS2023) and the allocated sites, including the SDAs (at Appendix 3); and will be able to discuss any sites/ approvals of interest at the inquiry.
- 8.24 However, in the meantime, I regard the SDAs (including those that are now assessed as if no delivery will arise from them in the next 5 years; and indeed, including the current appeal site and the Taylor Wimpey site in the NWSDA at least); minor windfalls; and major windfalls (including large planning approvals granted since 1 April 2023) as significant sources of the developable supply, that together exceed the Local Plan requirement and are potential sources of future oversupply, particularly when assessed against the basic LHN of 570dpa and noting that the 5% buffer is *moved forward from later in the plan period*, which in this case is now only some 8 years.
- 8.25 For all these reasons, I conclude that, although the assessed deliverable HLS is close to 5 years, it exceeds this figure; and is in many respects conservative against the LHN.
- 8.26 However, at a very recent inquiry relating to land to the west of Hailey Road, Witney, the appellant challenged some aspects of the published figures and in particular (1) identified a number of sites that it considered did not met the definition of deliverability in the NPPF; and (2) found a number of errors in the smaller sites in Appendix 2 of the HLSPS2023.
- 8.27 I am also aware the current appellant wishes to challenge many of the same sites at this appeal.
- 8.28 I have therefore attached an HLS rebuttal proof of evidence produced for the Hailey Road appeal at my Appendix 5b, which provides the LPA's evidence relating to these sites.
- 8.29 I also hope to negotiate an agreed position on housing land supply with the appellant that may have the potential to save significant inquiry time discussing this issue in forensic detail.

#### Affordable Housing Need and Supply

- 8.30 The supporting text to the Local Plan refers to a need for 274 affordable housing units based on the findings of the 2014 SHMA but this is not a formal requirement or referred to in any Local Plan.
- 8.31 Instead, AH is expected to emerge through applying Local Plan policy H3 to large sites.
- 8.32 I am also intending to agree a statement of common ground relating to AH need and supply.

## **9 Amplification of the LPA's Case**

### **Main Planning Issues**

9.1 For ease of reference the reason for refusal in this case ("RfR1") state:

- 1 The proposal does not respect the village character and local distinctiveness as it extends the existing C20 development, which further delineates the historic from the modern.**

**Cumulatively, it is not limited development.**

**It would not protect the local landscape or setting of Minster Lovell.**

**It would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area and the scheme causes localised landscape harm by urbanising a greenfield site.**

**In addition, the site is divorced from key services and facilities on offer in Minster Lovell with future residents reliant on private vehicles to meet their daily needs.**

**While the development would provide up to 134 dwellings to include 40% affordable homes and 5% self-build plots; economic benefits, a children's play area, open space/recreational route, pedestrian and cycle links, biodiversity net gain, and sustainability measures. The adverse impacts identified would significantly and demonstrably outweigh the benefits.**

**As such, the proposal is considered to be unsustainable development and is contrary to policies H2, OS2, OS4, T1, T3 and EH2 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, and the relevant paragraphs of the National Planning Policy Framework.**

- 2 The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children's play area.**

**The proposal conflicts with West Oxfordshire Local Plan 2031 Policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5; and the relevant paragraphs of the National Planning Policy Framework.**

9.2 As set out in the LPA's Rule 6 statement, with regard to the planning concerns identified in the reasons for refusal and the discussions at the committee meeting, the main planning issues are:

- 1 Whether the proposed development is acceptable in principle under the spatial strategy of the West Oxfordshire Local Plan 2031 ("the Local plan"), as set out in the relevant strategic location policies OS2 and H2;**

- 2 **Whether it would lead to excessive reliance on use of the private motor vehicles, as a result of the proposed dwellings being inconveniently located to access key local services and facilities on offer in Minster Lovell**
- 3 **Impact on the character and appearance of the site and nearby area in landscape and visual (“LV”) and other terms and in terms of the loss of an area of green space that makes an important contribution to the character and appearance of the area**
- 4 **Whether the proposal would fail to make adequate provision towards essential supporting infrastructure directly required to offset the demands that the proposed development would otherwise place on those services and infrastructure**

9.3 I will assess the harm arising from each issue in turn; and will give weight to those harms.

9.4 I will then set out what I regard as the main planning benefits likely to arise from the proposal and assess the weight that I consider should be attributed to those benefits.

9.5 Finally, I will assess the appropriate balance(s) to be applied in this case; and will set out in each case why I considers that the balance falls against the appeal proposal.

### **Acceptability in Principle**

9.6 There are two relevant strategic Local Plan policies that apply in this case: OS2 and H2.

9.7 **Overall strategy policy OS2** deals with *Locating Development in the Right Places*; and it identifies locations for new development of all kinds [although it later explicitly defers to housing policy H2 in relation to location of new housing; and also contains some relevant General design principles].

9.8 Policy OS2 initially comments on the role of larger settlements, with particular reference to the main towns and some of the rural service centres, as follows:

#### **Main Service Centres, Rural Service Centres and Villages**

***A significant proportion of new homes, jobs and supporting services will be focused within and on the edge of the main service centres of Witney, Carterton and Chipping Norton. A number of site allocations are proposed to ensure identified needs are met. The distribution of development is set out in Policy H1.....***

9.9 Thus, the major towns [not Charterville] are identified as being suitable for ***a significant proportion of new homes, jobs and supporting services*** [I consider that this is mainly to minimise travel; and improve efficiency in terms of providing infrastructure and services, including retail and leisure].

9.10 The policy effectively deals with rural service centres on an individual basis, describing Burford, with Charlbury as being *relatively constrained by their AONB location* and with two other rural service centres [Bampton and Long Hanborough] that *have a more restricted range of services and facilities* as consequently, being ***suitable for a modest level of development to help reinforce their existing roles.***

- 9.11 All these settlements are thus identified as more suitable for large scale development than villages.
- 9.12 As for villages, it states that: ***The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities.*** A number of site allocations are proposed to ensure identified needs are met. Further allocations may be made through Neighbourhood Plans.
- 9.13 This part of the policy finishes by stating that: ***Proposals for residential development will be considered in accordance with Policy H2 of this Local Plan.***; but this requirement that development at villages should be restricted to ***limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities*** remains an overarching strategic requirement for new development.
- 9.14 The locational part of OS2 then defers to policy H2 regarding housing proposals.
- 9.15 Following from this part of the policy [which effectively sets out the phased requirement], **Housing policy H2** is the principal strategic locational Local Plan policy for housing in the spatial strategy.
- 9.16 Its first strand, as set out in section 8 of this PoE above, contains the Local plan housing requirement that the Regulation 10 review considered in need of review and updating.
- 9.17 However, the second strand, which the review considered remained consistent with the NPPF and therefore worthy of almost full weight under the application of paragraph 225 of the NPPF sets out advice on where new housing development can be located.
- 9.18 For unallocated, undeveloped land adjacent to a village (such as the appeal site), the *main service centres, rural service centres and villages* part of policy H2 would apply. This states:

**1. New dwellings will be permitted at the main service centres, rural service centres and villages in the following circumstances:**

- *On sites that have been allocated for housing development within a Local Plan or relevant neighbourhood plan;*
- *On previously developed land within or adjoining the built up area provided the loss of any existing use would not conflict with other plan policies and the proposal complies with the general principles set out in Policy OS2 and any other relevant policies in this plan.*
- *On undeveloped land within the built up area provided that the proposal is in accordance with the other policies in the plan and in particular the general principles in Policy OS2.*
- ***On undeveloped land adjoining the built up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in***

**accordance with consistent with other policies in this the plan in particular the general principles in Policy OS2.**

- 9.19 Thus, policy H2 is quite restrictive for ***undeveloped land adjoining the built up area of a village***, requiring ***convincing evidence ....to demonstrate it is necessary to meet identified housing needs*** and *is in accordance with the distribution of housing set out in Policy H1.*
- 9.20 As it is clear that this site is unallocated and undeveloped land adjoining a village; **this appeal proposal is unacceptable under policy H2 if the appellant cannot demonstrate that it is necessary to meet identified housing needs.**
- NB this is, however, also dependent on the HLS position, as paragraph 5.38 of the supporting text (see also below) confirms that the these identified housing needs ....***could be district-wide needs.***
- 9.21 In all cases, however (as stated), ***proposals must be in accordance with the other policies in the plan and in particular the general principles in Policy OS2.***
- 9.22 In this case, as I will explain in more detail below, the LPA considers that (even setting aside RfR2) the appeal proposal would also conflict with other Local Plan policies, including several of the General Principles in policy OS2 (listed above) and policies OS4, EH2, T1 and T3.
- 9.23 The supporting text to this policy is at paragraphs 5.22-5.46, with particular reference in this case to the subsection “Windfall Housing” at paragraphs 5.35-5.39.
- 9.24 The most relevant parts of the supporting text to the issues in dispute at this appeal include paragraph 5.37 and 5.38, which state:

**5.37 *It is important that any windfall development supports the delivery of the Local Plan strategy. It should therefore contribute to meeting housing needs in sustainable locations, recognise the intrinsic character and beauty of the countryside and, where appropriate, encourage the re-use of previously developed land.***

*Windfall housing development will be supported within the built-up area and on previously developed land where it accords with other relevant policies in the Local Plan and particularly the general principles set out in policy OS2.*

**5.38 Windfall housing development on undeveloped land adjoining built up areas will require robust justification.**

**Sites outside the Cotswolds AONB will only be supported where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, which could be district-wide needs, needs identified through a neighbourhood plan or affordable housing needs specific to a particular settlement, for example through a rural exception site.**

***Any such development would also need to be in accordance with the indicative distribution set out in policy H1 and other relevant plan policies, including in particular the general principles in Policy OS2.***

9.25 Thus, in this case I consider that there are two key *in principle* tests:

- Would the proposal represent ***limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities?*** and
- ***Is the appeal proposal necessary to meet identified housing needs*** (policy H2)

Would the proposal represent ***limited development?***

9.26 In the first instance, therefore, I note that the committee report concluded that the proposal would not be *limited development* if it should be considered with the Holloway lane development.

9.27 That is because taken together the two developments would add 259 new dwellings or perhaps 622 people (assuming 2.4 people per dwelling), which added to a parish with 580 households (on the 2011 census) or 1,436 people on the 2021 census would equate to an increase of 45% (2011 households) or 43% (2021 population).

9.28 Noting that these percentages are quite similar, they are both sufficiently large to exceed what I would regard as *limited*, in the normal use of the word, especially as Minster Lovell parish has three villages within it and although Minster Lovell (Charterville) is the largest by some way, in reality the increase would probably exceed 50%.

9.29 I think it is appropriate to consider the cumulative effect in this case because:

- The Holloway Lane estate has been finished in the past year or so (the 2021-2022 aerial photographs at Appendix 1a and the red line site location plan both show this estate half-built)
- The two sites are directly adjacent and their layouts show a degree of alignment
- This means that the appeal proposal would be likely to be seen as the second phase of a single urban extension by local residents

9.30 I also think it is important to note that, in my opinion, this type of large urban extension is likely to bring real problems, particularly with integrating new residents and existing residents, which is a planning matter (see for example paragraph 96(a) of the NPPF); and third party comments already appear to suggest some difficulties and some concerns about future development as part of an ongoing plan, with at least one reference to the Holloway Lane estate having been called “phase 1”.

9.31 For all these reasons, I consider that the proposal would not represent limited development and would therefore conflict directly with the spatial strategy of the local plan, as set out in policy OS2.

9.32 I will shortly explain why I also consider that it would fail to ***respect the village character and local distinctiveness***; and might not ***help to maintain the vitality of these communities*** to as great an extent as might be expected from this number of new homes.

Is the appeal proposal necessary to meet identified housing needs?

- 9.33 To my mind, this is an even more clear cut issue.
- 9.34 Policy H2 is very clear about what is or is not acceptable in this type of edge of village location; and it require that new housing must be **necessary to meet identified housing needs**.
- 9.35 However, the appellant's case appears to rest entirely on its claim that there is an HLS shortfall [which on my reading of the policy must exceed 134 dwellings].
- 9.36 I agree that paragraph 5.39 of the supporting text makes clear that this would then represent a District wide need; but I would emphasise that this is not the LPA's position and that I have seen no other evidence to suggest that it might meet any local or other **identified housing needs** [indeed, the size of the proposed estate is such that I find it very difficult to even imagine how it could be necessary to meet local housing needs, particularly in addition to the Holloway Lane estate].
- 9.37 I would again emphasise that although I regard this as a very important policy conflict that is critical to maintaining the integrity of the Local Plan spatial strategy, this restrictive policy requirement exists to avoid a number of real planning problems, including:
- The very significant planning and sustainability advantages of concentrating new homes in the largest most sustainable centres;
  - The importance of protecting the landscape and settings of the District's many historic rural villages, including Minster Lovell (Charterville);
  - To avoid overwhelming existing populations; and
  - To minimise social isolation in new residents.
- 9.38 And I would again further emphasise that compliance with policy H2 also requires that proposals **must be in accordance with the other policies in the plan and in particular the general principles in Policy OS2**, with which I consider this appeal proposal would clearly conflict.
- 9.39 I will turn to these points shortly, primarily in assessing impacts on the character and appearance of the site and nearby area but to conclude this part of my PoE, my conclusions are that the appeal proposal is unacceptable in principle because of clear conflicts with Local Plan policies OS2 and H2, which I regard as the two most important policies to the entire spatial strategy.
- 9.40 As such, I would ascribe **very significant weight** to both breaches; and I would emphasise that I would give that very high weight to either breach seen in isolation, even if the Inspector was to conclude that only one was clearly harmful.
- 9.41 In particular, if the appellant's HLS arguments are successful, I would still see the harm associated with the breach of OS2 and the addition of effectively 50% to the existing population in a site so far from the village centre that it is only attached to the village on one boundary and even that boundary is part of an estate that did not exist in 2019.

- 9.42 Finally, I would further emphasise that in my opinion, even if footnote 8 came into effect, I would still give almost full weight to policy under the provisions of paragraph 225 of the NPPF; and the LPA's September Regulation 10A review, as set out above; and I would further argue that even if they are considered technically out of date, they remain an important part of the development plan and are highly consistent with the NPPF and should be given weight accordingly.

### **Accessibility and Dependence on Private Motor Vehicles**

- 9.43 In the first instance, I note that the appeal proposal would effectively be a further, substantial western urban extension to the village attached to a very recent western urban extension to the village.
- 9.44 This makes it almost inevitable that the new residents would feel a little isolated from the main part of the village, even if distance was not such an important consideration.
- 9.45 However, to assist in understanding the distances, I have taken measurements from the illustrative masterplan of the distances to each of the three access points from the estate (the main access, the pedestrian route through the Holloway Lane estate ending at the northeastern corner of the estate and the Ripley Avenue exist but noting that this is a hoggin path) to various local destinations:

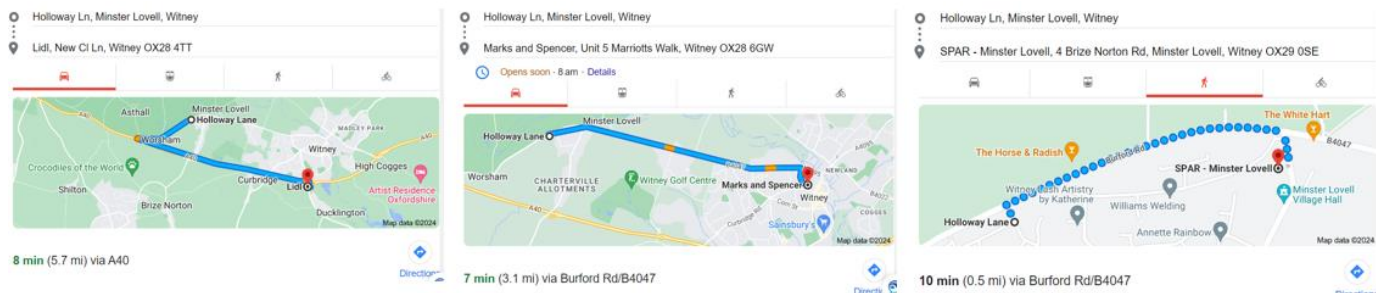
<b>Distance (time)</b>	<b>Main access</b>	<b>Pedestrian access Holloway Lane Estate</b>	<b>Ripley Avenue access</b>
Nearest Dwelling	<b>30m</b>	<b>350m</b>	<b>250m</b>
Furthest Dwelling	<b>430m</b>	<b>710m</b>	<b>670m</b>
School	820m	500m	350m
Spar	850m	570m	730m
Horse and Radish	350m	50m	570m
Post Office	1,030m	700m	560m
Village Hall	930m	650m	650m

- 9.46 I have then taken the shortest and longest routes to each destination:

<b>Distance (time)</b>	<b>Main access</b>	<b>Pedestrian access Holloway Lane Estate</b>	<b>Ripley Avenue access</b>
School	850-1,250m	850-1,210m	600-1,020m
Spar	880-1,280m	920-1,280m	980-1,400m
Horse and Radish	380-780m	400-760m	820-1,240m
Post Office	1,060-1,440m	1,050-1,410m	810-1,230m
Village Hall	960-1,360m	1,000-1,360m	900-1,300m

- 9.47 It seems from this that almost all these trips except to the nearest public house from the northern part of the estate and to the school from the nearest dwellings in the southeastern corner of the site across the Ripley Avenue hoggin path are all over 800m and many are over 1km.
- 9.48 I think this supports the concerns set out in the committee report that refers to the *TCPA publication '20-Minute Neighbourhoods Creating Healthier, Active, Prosperous Communities An Introduction for Council Planners in England'*; and .....**shows 20 minutes is the maximum time that people there are willing to walk to meet their daily needs. ....A 20-minute journey represents an 800 metre walk from home to a destination, and back again (10 minutes each way).**
- 9.49 On this basis, the genuinely important benefits of walking are likely to be unattractive for most future residents of the estate whose dwellings are not near one of the accesses; and even for the very nearest dwellings, few of the journeys meet the 800m indicative easy walking distance.
- 9.50 This appears to me to be a direct result of the fact that the proposed urban extension would be added on to another recent addition to the village and would not otherwise be joined to the village at all.
- 9.51 As noted above in section 5 of this PoE, I consider that the committee report presents a fair and reasonably comprehensive discussion of this issue that takes account of the possibility of future pedestrian linkages despite its somewhat equivocal conclusion
- 9.52 However, I would emphasise all the following points in this regard:
- The “20 minute neighbourhood” concept and the general approach of locating new housing within easy walking distance of a good variety of good quality local services and facilities for as many people as possible is not only beneficial in terms of reducing carbon footprints, pollution and energy costs to individual(s) and the nation and in terms of reducing congestion and reducing parking demand for those who have to use private motor vehicles ; but it also has clear positive benefits in terms of physical and mental health, in encouraging exercise and increasing opportunities for people to come into informal contact with one another;
  - I would again question the implication that the allocation of the Bovis Homes estate [in a different housing land supply context and under a different national policy regime relating to the 2012 NPPF] automatically creates a precedent for later development that is only a little less accessible];
  - The distances quoted above appear to relate to average distance from the centre of the site; however, many of the proposed dwellings would be further from shops/ facilities;
  - Few people are likely to walk 800m or so to a local shop if they are intending to buy more than a few items, as the return journey carrying large amounts of shopping is likely to be more difficult;
  - Conversely, once people are driving, more distant but large shops that have a wider range of products for sale and may be cheaper are then much more accessible.

- Thus from a property relatively close to Burford Road in Holloway Lane in the existing Bovis Home estate, it is approximately 10 minutes to walk to the Spar store in Bize Norton Road, whereas Lidl on the edge of Witney [but near the A40 and with a large car park with EVCP facilities] and Marks and Spencer in the centre of Witney [also very near a large car park] are only 7-8 minutes by car:



- 9.53 As a result of these various considerations, it seems likely to me that, even if they wished to use these limited local facilities, most residents would normally use private motor vehicles to access them; and that once in a car many more facilities that duplicate local shops/ facilities would then be readily accessible, making it less likely that they would choose to use the village shop(s).
- 9.54 Moreover, as shown in the settlement sustainability report, the great majority of new residents with jobs would appear very likely to work outside the village [noting also that access to the main A40 and Witney, Carterton and Oxford may well be a reason for many people choosing to live in this location], meaning that most will depend on use of private motor vehicles to travel to and from work;
- 9.55 And, in any event almost all the new residents would need to access the many facilities and services not available in the village [including healthcare, most leisure, most shops, including niche sellers and large supermarkets, most older friends/ existing social support networks]; and most would therefore also need to travel for the great majority of non-work related trips;
- 9.56 For all these reasons, I consider that the location of the proposed estate is too distant from almost all local facilities for the great majority of dwellings, increasing the likelihood that more people will drive ; and that this will deny them the multiple benefits of physical exercise, and opportunities to “bump into” new friends; and I believe it will very significantly reduce use of local shops and other facilities because of competition from more distant centres that are easily accessible by car.
- 9.57 In this context, Local Plan policies T1 gives priority to **locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised**, due to opportunities for walking, cycling and the use of public transport, particularly where this would help to reduce traffic congestion on the routes around Oxford and the Air Quality Management Areas at Witney and Chipping Norton; and policy T3 requires that *All new development will be located and designed to maximise opportunities for walking, cycling and the use of public transport. Where opportunities for walking, cycling and using public transport are*

*more limited, other measures will be sought to help reduce car use as appropriate (e.g. measures to promote home working or the opportunity for linked trips e.g. through mixed-use development).*

9.58 In my opinion, therefore, despite the generally above average sustainability characteristics of the village, as shown in the settlement sustainability report, the proposal in this location is likely to lead to excessive use of motor vehicles, increasing the carbon footprints of new residents, contrary to policies T1 and T3 of the Local Plan, relevant paragraphs of the NPPF, including 96(a), 97, 108, 109 and 157-159; and good planning principles; and the District Council's declared climate emergency.

9.59 I would give this harm **significant weight** given the combination of adverse planning outcomes and the fact that it would not deliver healthy and attractive homes that would promote social interaction.

### **Impact on Character and Appearance of the Site and nearby Area**

9.60 As noted above, in addition to what I regard as the clear in-principle breaches of the Local Plan spatial strategy, both policy OS2 and H2 also require good design in different terms:

- Policy OS2 requires must ***respect the village character and local distinctiveness and help to maintain the vitality of these communities?*** And
- Policy H2 requires compliance with ***other relevant plan policies, including in particular the general principles in Policy OS2***
- ***Is the appeal proposal necessary to meet identified housing needs*** (policy H2)

9.61 I have already touched on my doubts about the extent to which the new residents would ***help maintain the vitality of the village community***, primarily because they would be discouraged from taking a full part in the community and be inclined to access more distant, shops and other facilities because the location away from the village would encourage them to use their cars.

9.62 However, I also believe that the proposal would fail to ***respect the village character and local distinctiveness***; and would breach several ***other relevant plan policies, including the general principles in Policy OS2***.

9.63 In this context, **the final General Principles section of policy OS2**, which apply to all development (including housing), requires that ***All development should:***

- ***Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;***
- ***Form a logical complement to the existing scale and pattern of development and/or the character of the area;***
- ***Avoid the coalescence and loss of identity of separate settlements;***
- ***Be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants;***

- ***As far as is reasonably possible protect or enhance the local landscape and the setting of the settlement/s***;
- ***Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area***;
- *Be provided with safe vehicular access and safe and convenient pedestrian access to supporting services and facilities*;
- *Not be at risk of flooding or likely to increase the risk of flooding elsewhere*;
- ***Conserve and enhance the natural, historic and built environment***;
- *Safeguard mineral resources*;
- *In the AONB, give great weight to conserving landscape and scenic beauty and comply with national policy concerning major development*;
- *In the Green Belt, comply with national policies for the Green Belt; and*
- ***Be supported by all necessary infrastructure*** including that which is needed to enable access to superfast broadband.

9.64 In addition, **Overall strategy policy OS4** deals with *High Quality Design*. It states:

***High design quality is central to the strategy for West Oxfordshire.***

***New development should respect the historic, architectural and landscape character of the locality, contribute to local distinctiveness and, where possible, enhance the character and quality of the surroundings and should:***

- ***demonstrate high quality, inclusive and sustainable design with the provision of a safe, pleasant, convenient and interesting environment where the quality of the public realm is enhanced*** and the likelihood of crime and fear of crime is reduced; and
- *not harm the use or enjoyment of land and buildings nearby including living conditions in residential properties; and*
- *demonstrate resilience to future climate change, particularly increasing temperatures and flood risk, and the use of water conservation and management measures; and*
- ***conserve or enhance areas, buildings and features of historic, architectural and environmental significance***, including both designated and non-designated heritage assets and habitats of biodiversity value; and
- *enhance local green infrastructure and its biodiversity, including the provision of attractive, safe and convenient amenity open space commensurate with the scale and type of development, with play space where appropriate.*

9.65 RfR1 also refers to Local Plan **Environmental and heritage policy EH2**, which deals with ***Landscape Character***; and states (with the most relevant parts of the policy shown in **bold**):

***The quality, character and distinctiveness of West Oxfordshire's natural environment, including its landscape, cultural and historic value, tranquillity, geology, countryside, soil and biodiversity, will be conserved and enhanced.***

***New development should conserve and, where possible, enhance the intrinsic character, quality and distinctive natural and man-made features of the local landscape, including individual or groups of features and their settings, such as stone walls, trees, hedges, woodlands, rivers, streams and ponds. Conditions may be imposed on development proposals to ensure every opportunity is made to retain such features and ensure their long term survival through appropriate management and restoration.***

***Proposals which would result in the loss of features, important for their visual, amenity, or historic value will not be permitted unless the loss can be justified by appropriate mitigation and/or compensatory measures which can be secured to the satisfaction of the Council.***

*Proposed development should avoid causing pollution, especially noise and light, which has an adverse impact upon landscape character and should incorporate measures to maintain or improve the existing level of tranquillity and dark-sky quality, reversing existing pollution where possible.*

*Special attention and protection will be given to the landscape and biodiversity of the Lower Windrush Valley Project, the Windrush in Witney Project Area and Wychwood Project Area.*

- 9.66 In my opinion paragraph 225 of the NPPF, its September Regulation 10A review and its HLS position all support the non-strategic policies OS2 and EH2, as well as the General Principles of OS2, which should be regarded as up to date [irrespective of the HLS position]; as they are highly consistent with the NPPF and should be given full statutory weight accordingly [
- 9.67 Moreover, the under the application of paragraph 139 of the NPPF, these local design policies and the local West Oxfordshire Design Guide should be given great weight to the extent that they are consistent with the broadly expressed paragraph 135 of the NPPF; and indeed that its reading of paragraph 134 if the paragraph 11(d)(ii) is not engaged then its ordinary means applies and that: ***Development that is not well designed should be refused.***
- 9.68 Taking all of the above together (but all the while recognising that the proposal is in outline and could be the subject of a reasonable degree of change at reserved matters stage), I will set out my views in relation to all the following issues:
- Would the proposal lead to the loss of ***an area of green space that makes an important contribution to the character and appearance of the area***; and/or to the substantive loss of a field that is very important to the setting of the village; and are these effectively the same thing?
  - What value should be attributed to the appeal site as a landscape receptor and what overall level of landscape effect would arise from the proposal;

- To what extent would this lead to adverse visual effects and what receptors would be most affected?
- To what extent could any adverse Landscape and/or visual effects be mitigated by landscaping;
- To what extent does the Holloway Lane estate provide an urbanising context that reduces the adverse effects of further urban extension; and/or to what extent does it provide an example of the various harms that will almost inevitably arise from this type of development and provide a reason for not permitting further development of a similar general character?
- How would the development affect the setting of the village as a non-designated heritage asset and/or the ability of visitors to the village to recognise this aspect of the village's history?

9.69 I will take each of these issues in turn below:

Loss of an area of green space that makes an important contribution to the character and appearance of the area; a field that is very important to the setting of the village

9.70 RfR1 refers to the proposal as **involving the loss of an area of green space that makes an important contribution to the character and appearance of the area.**

9.71 I note this is one of the OS2 General Principles bullet points; and I can understand why members (having carried out a site visit) might have concluded that this was the case because:

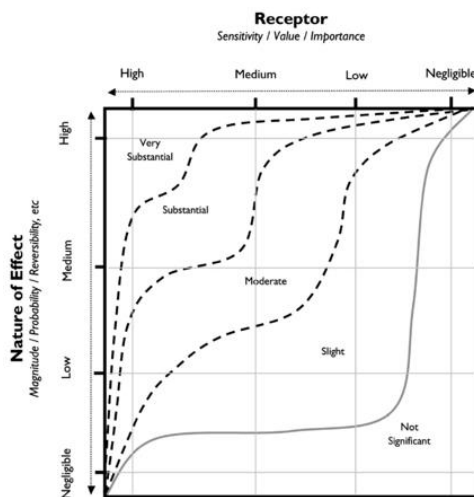
- It is undeveloped land in its historic agricultural use that now forms the village's western setting;
- The western field provides a space between the [extended] village and the historically separate farm buildings and isolated dwellings to the west;
- It also provides an undeveloped visual gap in views from Burford Road and other nearby estate roads in the Holloway Lane estate; and in longer views from public viewpoints to the north and perhaps to the south, depending on intervening planting [which is all "blue line land"]
- This reinforce the fact that the village is fortunate to stand in attractive open countryside of the edge of the AONB/NL.

9.72 I concur with all of the above but I personally do not read this part of policy OS2 as being intended to refer to fields outside and historically not even adjoining rural villages;

9.73 However, I regard the site as comprising parts of two fields, both of which are attractive arable fields with subtly complex topographies and the form a significant part of the setting of the village.

9.74 In any case, though, both are caught by different bullet points in the OS2 *General Principles* (either ***as far as is reasonably possible protecting or enhancing the local landscape and the setting of the settlement***, or ***Not involving the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area.***

- 9.75 On either basis, it seems to me that the proposal would drastically and transformatively alter the character and appearance of the site in what I regard as a clearly adverse way;
- 9.76 However, almost equally problematically from my point of view, the undeveloped parts of the site would have an ornamental character that would be clearly associated with and effectively part of the housing estate.
- 9.77 As such, I consider that the whole site would be transformed, not just the areas built upon and therefor it seems to me perfectly justifiable to assert that the proposal would ***involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area.***
- 9.78 However, if I am right, I consider that ***the proposal would fail to protect or enhance the local landscape and the setting of the settlement***, and in either case, ***the harm would be very similar.***
- Value of the appeal site as a landscape receptor and overall level of landscape effect
- 9.79 I have touched on this issue in commenting briefly on the LVA submitted at application stage in section 3 (above, at 4.38 onwards); but put simply:
- Despite adjoining the AONB and forming an important part of the skyline in views out from the south and separating the cluster of housing to the west from the village, all of which I regard as factors that add to the landscape value of the western field, the LVA assessed the site as *medium* value, presumably because of the urbanising influences in the Holloway Lane estate, Burford Road and perhaps the housing to the west
  - I disagree with this and consider that a medium-high sensitivity is more appropriate.
  - In that con text, I also consider that the magnitude of change should be classified as high-very high [and adverse] because for the reasons discussed directly above, I consider that changing parts of an arable field to amenity landscaping with walking/ cycling paths and other areas of open space; and digging out flood alleviation features of various kinds would represent a significant adverse change to the character of those parts of the site where housing is not proposed so that the whole of the site would be adversely altered [and noting that paragraph 7.9 of the LVA states: *It is a consequence of the nature of the development proposed that **visual and sensory character of the site would change substantially** as a result of implementation.*]
- 9.80 Applying these inputs to table EDP A2.6 within the appended LVA methodology would give a major/moderate outcome, which I consider an elevated level of effect on this table's verbal scale.
- 9.81 However, I think it is inappropriate to simply import the verbal scale from the LVA, as this would be inconsistent with other verbal scales, as these can vary significantly between landscape consultants



**Table EDP A2.6:** Determining the Predicted Levels of Effects to the Landscape and Visual Baseline

Overall Sensitivity	Overall Magnitude of Change				
	Very High	High	Medium	Low	Very Low
Very High	Substantial	Major	Major/- Moderate	Moderate	Moderate/- Minor
High	Major	Major/- Moderate	Moderate	Moderate/- Minor	Minor
Medium	Major/- Moderate	Moderate	Moderate/- Minor	Minor	Minor/- Negligible
Low	Moderate	Moderate/- Minor	Minor	Minor/- Negligible	Negligible
Very Low	Moderate/- Minor	Minor	Minor/- Negligible	Negligible	Negligible/- None

## Visual Effects

9.82 As to visual effects, I believe these are subjectively assessed and that there is no substitute for visiting the site and the various viewpoints, which I generally regard as representative;

9.83 However, I would observe in this context that:

- In all views where the eastern end of the Holloway Lane estate can be seen, I believe this represents a reasonable indicator of the likely effects of the appeal proposal, except that (1) the Holloway Lane estate has bungalows at the front, whereas the DAS suggests that the whole appeal proposal would be 2-storey with larger landmark buildings at the access; (2) as such, the appeal proposal would have tall buildings closer to the road/ the viewer from the south, making it more visually prominent;
- I believe passengers in vehicles (sometimes in tourist coaches with elevated views) can be higher sensitivity receptors than drivers are normally considered to be;

9.84 I believe that views from close to the site and longer views from the south would both be adversely affected but that the magnitude of the change will depend *inter alia* on both (1) the effectiveness of landscaping; and (2) whether the Holloway Lane estate is seen as an urbanising influence that would contextualise the proposed built development and reduce visual harms or if visual effects should be assessed cumulatively in addition to any harms arising from this other new housing estate.

Could adverse Landscape and/or visual effects be mitigated by landscaping?

9.85 I am always cautious about accepting that landscape harm can be mitigated by screening; although this can clearly be relevant to visual effects.

9.86 I take this opinion particularly strongly in this case as regards landscape effects because:

- I do not think the existing field needs “improving”

- Even if I did, I do not think that “improving” parts of a large site in any way offsets the irredeemably adversely affected areas of built development;
- In fact, I think quite the reverse: I think the amenity landscaping [even where the land is not dug out to form attenuation ponds or swales or built up into bunds, all of which can be found at the Holloway Lane estate] still represents additional landscape harm, which increases with the size of the site, which in this case appears to me to far exceed what is normally required for a development of this scale;

9.87 As regards visual effects, I think screening is potentially more possible but subject to the following:

- The landscape strategy plan shows space to the west that could include some traditional indigenous trees that when mature could rival a 10m-high 2-storey dwelling;
- However, the LVA implicitly considers that 15 years would be required to achieve this outcome;
- The large green areas would need to be carefully maintained over the whole of this period;
- But this would be expensive and I do not find it difficult to imagine a situation where owners chose to have less maintenance and lower management company service charges;
- In any event even if they achieved maturity, they would still be ineffective in winter;
- Screening views from Burford Road would appear more possible but even then, I am not persuaded that well design housing estate should ordinarily need to be screened;
- Moreover, to illustrate the position clearly, at present the glimpsed views through the gappy frontage hedgerow reveals the rural setting of people travelling along Burford Road, which has no need for screening – so that even if screening was able to eliminate all views of housing except at the access, where there would be extensive views that also included the Holloway Lane estate, the proposal would still cause the loss of those attractive rural glimpsed views.
- I thus believe that the LVA overstates the extent to which on-site landscaping could mitigate these landscape harms;

Is the Holloway Lane estate an urbanising influence or a Precedent to avoid

9.88 I note references in the committee report that appear to rely on the existence of the Holloway Lane estate as the arbiter of what is acceptable.

9.89 Conversely, the LVA argues that the development could have beneficial visual effects by building and planting in front of the visually prominent harsh line of 2-storey on the western edge of the estate

9.90 I disagree with both points of view; primarily because (1) the allocation was granted in the context of needing extra housing land in order to adopt the Local Plan; (2) I think you can only truly judge effects when developments are built; (3) if your assessment of a development is that it has harmful effects, this is a reason not to repeat that harm; (4) I think the proposal and the Holloway Lane proposals

should be assessed cumulatively, which the GLVIA3 requires, as I read it; and (5) I am entirely convinced that the solution to harshly incongruous obtrusive 2-storey housing is more housing, even if there is room for the new housing to be screened in the next 15 years.

9.91 In short, I think the Holloway Lane should be assessed as part of the baseline but that adverse effects should not be expanded to give cumulatively greater harm.

9.92 And, which is another recurring, thematic point, I also think that the appeal proposal could have been brought forward in a smaller site with less landscape and visual harm.

#### Impact on the village as a non-designated heritage asset

9.93 Upper Crescent was one of the original spur roads in the late 19<sup>th</sup> century Chartist layout, linking Burford Road and containing one of the few tall buildings in the entire settlement.

9.94 This gives it an importance in my opinion to understanding the original layout, which was enhanced because it was found at the western edge of the village approaching on Burford Road from the west;

9.95 I think that the Holloway Lane made it more difficult to readily understand the historic importance of Upper Crescent by introducing overtly contemporary housing to the west, notwithstanding that this features some interesting bungalows that clearly reflect the designs of the original settlers' houses [although I am never quite sure how successful that approach can hope to be, as if it is very convincing it can confuse people's perceptions of the historic pattern of development in the village; whereas unconvincing partial copies can appear like pastiche].

9.96 In any event, I consider that the Holloway Lane estate makes it marginally harder to understand the heritage significance of Minster Lovell (Charterville) as a heritage asset.

9.97 And I therefore think that an all 2-storey contemporary housing estate with open land on three sides set away from the historic heart of the village would confuse that heritage significance even more, especially as it would involve building on an important part of the rural setting of the historic rural village of Minster Lovell (Charterville), now regarded by the LPA as an important green open space that has in my opinion become more important following the building out of the Bovis site; which has already extended non-historic [20<sup>th</sup> and 21<sup>st</sup> century] development further to the west and further from the historic centre of the village. In my opinion the proposal would thus further exacerbate this real/ perceived effect to the detriment of the historic character of this small former Chartist settlement, again contrary to policies OS2 and OS4 of the Local Plan.

#### Conclusion on Harm to Character and Appearance and Weight

9.98 For all the reasons set out above, I conclude that the proposal would give rise to at least significant landscape harm (increased in my mind because I am unconvinced that it is even necessary to bring the proposed housing forward) and moderate heritage and visual harm.

9.99 Therefore, I give these harms significant and moderate weight accordingly.

## **Provision of Contributions towards Services and Infrastructure (RfR2)**

9.100 For ease of reference, the second reason for refusal (“RfR2”) states:

**2 The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing, self build plots, biodiversity net gain or signposting to the Local Wildlife Site; or contributions to education, waste, public transport, sport and leisure, medical facilities, Village Hall, or children’s play area.**

**The proposal conflicts with West Oxfordshire Local Plan 2031 Policies OS5, H3, H5, T1, T3, EH3, EH4, and EH5; and the relevant paragraphs of the National Planning Policy Framework.**

9.101 In my experience, this is the type of reason for refusal that is often included in decision notices where a binding legal agreement has not been signed; and does not generally indicate that the proposal is unacceptable in principle.

9.102 Indeed, in most cases, this type of refusal reason can be addressed by submission of a planning obligation that meets the LPA’s requests (and any other requests from other parties, if the appellant considers that they meet the requisite tests).

9.103 Typically, such a planning obligation will contain a “blue pencil clause” that effectively means that any obligations that the Inspector explicitly identifies as not meeting the relevant tests, as set out in the NPPF and Regulation 122(2) of the CIL regulations, which the Inspector must be satisfied are met before any weight can be given to those obligations.

9.104 In this case, the committee report has set out the requested contributions; and the LPA will provide a “Regulation 122 statement” justifying those requests (I anticipate that the County Council will provide a similar statement relating to the requests arising from them).

9.105 These statements will in particular argue that all the requested contributions meet the CIL Reg.122 (2) tests and in particular that they are clearly necessary in planning terms in order to comply with Local Plan policies OS5, H3, H5, T1, T3, EH3, EH4 and EH5, as referred to in RfR2.

9.106 On this basis and applying my knowledge of the issues and the circumstances of the case and in the absence of any viability concerns (noting that paragraph 58 of the NPPF states: ***Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage***), I consider that these requests are necessary, related to the development and reasonable in scale and kind so that failure to mitigate these impacts would conflict directly with these relevant adopted Local Plan policies and the relevant paragraphs of the NPPF

- 9.107 I also note that, as I read section 8 of the appellant's initial Statement of Case ("the SoC"), the appellant appears to be positively inclined to meeting the requests that it considers justified and that it intends *....to submit a draft Section 106 Agreement in advance, within the planning appeal timetable and under the appeal inquiries regulation; and to ....engage with both WODC and Oxfordshire County Council in respect of the contents of this document; and that ....At this time, it is not expected that any contentious matters will arise during these discussions or the preparation of this document, given the consultation responses and discussions with the Case Officer during the application process.....*
- 9.108 I interpret this as an indication that the appellant will provide a unilateral undertaking or other legally binding commitment to the inquiry that will provide the necessary contributions in full.
- 9.109 I am therefore optimistic that the necessary legal agreement can be finalised and agreed ahead of the inquiry.
- 9.110 However, there is currently no formal unilateral undertaking or S.106 agreement (or other mechanism) to provide contributions towards infrastructure and services upon which the appeal proposal would place an additional demand and I support the LPA's view that such a mechanism that is legally secure and satisfactory in all other respects is required to offset the likely impacts of the increased population that would arise from the proposal on services such as public transport, education, on and off site leisure and healthcare facilities and waste management.
- 9.111 Therefore, in the continued absence of an acceptable, legally binding, ideally agreed planning obligation to offset these additional burdens, it seems to me that RfR2 remains entirely justified.

## 10 **Planning Benefits of the Appeal Proposal**

- 10.1 In my experience, the LPA always takes account of all positive planning benefits of every proposal that comes before it in determining a given application as a matter of course.
- 10.2 In that context, I recognise and as I understand it the LPA in determining the appeal supplication recognised that that approving up to 134 dwellings, with 40% (up to 54) affordable housing units would be likely to give rise to some significant social and economic benefits if/ when occupied.
- 10.3 I would emphasise that this would be the case, irrespective of the housing land supply (“HLS”) position; but that if the HLS position was as problematic as committee members understood was the case when determining this application, greater weight would have applied to the benefits.
- 10.4 In that context, if the Inspector should agree that the LPA can demonstrate a full 5-year deliverable HLS position, then the benefits would accrue lower weights than set out below.
- 10.5 Nonetheless, in this part of my evidence, I will consider the weight to be given to the planning benefits likely to result from the proposal primarily as understood by the members of the LPA’s Lowlands Area Planning sub-Committee (“the members” and “the committee”) when determining the appeal application with regard to the professional advice they received in the form of the related committee report, which I have already reviewed in section 5 of this PoE.
- 10.6 In that context, I note that members’ assessment of the weights to give to the benefits likely to arise from the proposal would have been informed by the commentary on weight at paragraphs 5.84-5.93 of the committee report, as summarised in the table set out in section 5, above:

<b>Benefit</b>	<b>Positive Weight</b>
Provision of up to 134 dwellings to the LPA’s housing stock, <i>....in light of the lack of a 5YHLS and the Government's objective of significantly boosting the supply of homes</i> (paragraph 60 of the NPPF)	<b>Significant</b>
Provision of 40% affordable housing (up to 54 homes)	<b>Significant</b>
Economic benefits to the local area during the construction phase and when the development is occupied by future residents by increasing the spending power in the area.	<b>Moderate to Significant</b>
A children's play area and open space/recreational route	<b>Moderate</b>
Three pedestrian links between the current scheme and the adjoining Bovis Homes development, described in the report as ensuring that <i>....the development is permeable with the existing settlement and encourages sustainable travel options.</i>	<b>Moderate</b>

Financial contributions to local services/infrastructure through a Section 106 agreement are required. The report comments that: <i>While these are required to mitigate the impact of the scheme, this is a positive impact.</i>	<b>Unspecified positive</b>
Biodiversity net gain would be achieved.	<b>Moderate</b>  <i>.....commensurate with the scale of development</i>
Sustainability measures	<b>Significant</b>
Provision of 5% (up to 7) of the homes as 'self-build' plots..	<b>More than Significant</b>  Noting that at a recent appeal for the provision of two SBCH plots, <i>substantial weight</i> was given to the cumulative identified economic and social benefits

NB in the above assessment(s), paragraph 5.93 of the report noted that: *A reduced timeframe for the reserved matters to be submitted and for development to begin ensures the development makes a meaningful contribution to the housing shortfall in the District.*

- 10.7 As regards the first two of these, I fully accept that either (A) Provision of up to 134 dwellings to the LPA's housing stock, ....*in light of the lack of a 5YHLS and the Government's objective of significantly boosting the supply of homes*; or (B) *Provision of 40% affordable housing (up to 54 homes)* deserve to be given significant positive weight, as assessed in the report.
- 10.8 Indeed, on many verbal scales, these might be given greater weight than this. However, given the many difficulties of comparing different people's verbal scales and in the interest of consistency, I will provide my weighting in the context of the assessments set out in the report.
- 10.9 However, on that basis, the report appears to overlook the fact that the 134 dwellings also includes the 54 AH units so that at least as regards (A) this appears to involve a significant amount of double counting, even setting aside what I regard as the inevitable difficulties of combining weightings in verbal scales when assessing a "check list" of benefits in this way
- 10.10 In any event, I think it would be justified to ascribe less weight than the ***Moderate to Significant*** weight the report gives to *Economic benefits to the local area during the construction phase and when the development is occupied by future residents by increasing the spending power in the area*; on the basis that, at least in my opinion, indirect economic benefits, which I take to be what is referred to here as *Economic benefits to the local area .....when the development is occupied by future residents by increasing the spending power in the area*, should not be weighed in isolation and may not be reliable at all because:

- For many people disposable income can fall when buying (or renting) a new property or if moving to a more expensive property;
- Any new residents who might have been living in Minster Lovell itself (perhaps adult children living with their parents) would also be less likely to increase local spending;
- For most people moving into a new area, even if their disposable income did not fall (which I regard as uncertain at best), that disposable income would be partly/ entirely lost from the area where they were previously living and contributing to local spend;
- Ultimately, even large new housing schemes do not create new jobs [even in the construction industry unless overall levels of housebuilding rises significantly, which in my opinion is neither reliable nor the result of a single permission, however large]

10.11 Whilst the report does not separately indicate what weight is ascribed to indirect benefits, I nonetheless therefore consider that the *moderate-significant* weight ascribed to this indirect element of the economic benefits was overstated – and ***moderate weight*** is more appropriate. NB I recognise that *moderate* might be regarded as understating the overall economic benefits of building 134 dwellings in large, landscaped grounds; and in my experience greater weight is often ascribed to this size of project. However, as verbal scales are internally/ personally calibrated and in my opinion, the social benefits of providing 134 homes for people in need of homes, including 54 AH units for the lifetime of the development significantly exceed the temporary economic benefits of a large construction project; then, if the case officer's verbal scale assesses these as *significant*, then *moderate* for the economic benefits is appropriate.

10.12 Similarly, I consider that on this sort of verbal scale, providing a children's play area and open space/ recreational routes must be given less weight than the direct economic benefits of building 134 dwellings in landscaped grounds (including the play area and open space/ recreational routes), particularly because:

- The open space containing the children's play area in the southeastern corner of the site was greatly reduced in size when the plans were amended;
- The proposal envisages providing pedestrian/ cycle access from this part of the site to the effectively adjoining main open space within the Bovis Homes estate; and from there to the Ripley Avenue equipped play area/ playing fields;
- As such, there would appear to be good accessibility to play facilities even without the LEAP at the appeal site
- Whilst the grounds and the recreational routes within them [if well maintained in future] would no doubt add to the quality of living conditions within the estate, they would also result in significantly lower density development involving greater landscape harm; and

- Whilst a recreational route may be convenient for some, I have doubts about how well used it might be given that it is short, screened from the surrounding countryside and given the opportunities to access the natural beauty of the AONB/ NL nearby.

- 10.13 For all these reasons, I consider that ascribing Moderate weight to give to this benefit is excessive and that it should be given lower weighting, perhaps *at most modest*.
- 10.14 The next benefit identified in the report (and set out in the table above) was ***pedestrian links between the current scheme and the adjoining Bovis Homes development***, again **given moderate weight**; and described in the report as ensuring that ....*the development is permeable with the existing settlement and encourages sustainable travel options*.
- 10.15 Again, I regard it as generally positive to enable movement into Ripley Close and thereby into the village centre and/or the school; but nonetheless seen in isolation, I regard this as far less beneficial than the direct economic benefits of building a large housing scheme, which I regard as one of the main benefits of new housing.
- 10.16 I also note that these benefits appear to depend on the routes out into the village already created within the Holloway Lane estate; so that I am uncertain how much weight should be given to the new access points rather than the through routes created in the adjoining site.
- 10.17 In any case, however, I consider that this benefit should be given less weight than the *moderate* weight the report suggests and again consider *at most moderate* more appropriate
- 10.18 The weight to give to provision of *Financial contributions to local services/infrastructure through a Section 106 agreement* has been a question debated on many past occasions; but I note in particular that: (1) these are effectively *necessary* by definition (or certainly by application of the CIL Regs 122(2) tests) so that without them the proposal would be refused; and (2) they only offset the additional burden on infrastructure arising from the new residents (again by applying the relevant tests) so there should be no net benefits to existing residents required; which all act to reduce the weight to be given to this benefit.
- 10.19 Noting further that the report does not appear to give a specific weighting to this asserted benefit(s), it seems reasonable to me to conclude that if these contributions are the subject of a satisfactory planning obligation [noting that, as specified in RfR2, this has still not actually happened], they should be ascribed no more than at most modest weight.
- 10.20 The report gives *the Biodiversity net gain* [of 10.03% habitat units and 101.18% in hedgerow units] that would be achieved *Moderate* weight; which I again regard as clearly overstated compared to the direct economic benefits of the entire construction project, even *commensurate with the [large] scale of development*, again leading me to conclude that this should be seen as a lower level of benefit, worthy of no more than modest-moderate weight.

- 10.21 I would further emphasise that one of the characteristics of this proposal is the large amount of open space/ planting within the site, which in my opinion brings planning disadvantages in terms of landscape harm in particular as well as benefits; but that in that context, I would certainly see this as a reason to expect higher levels of biodiversity net gain.
- 10.22 Moreover, I have even greater reservations about the weightings given to Sustainability measures and provision of up to 7 “self build” plots.
- 10.23 In this context, as regards Sustainability measures, I am well aware of the importance of trying to address climate change and the District Council’s decision to declare a climate emergency.
- 10.24 However, I am also aware that individual developments, even reasonably large development as proposed here can in themselves make very little impact on climate change, unless they can provide a leading example to other developers on how to provide more efficient homes that will then influence development more widely.
- 10.25 In this case, as set out in the report: (A) *The applicant has submitted a 'Sustainability Statement' which states that the proposed dwellings would be built to meet the 2025 Future Homes Standards, delivering net zero ready homes, which reduce carbon emissions by at least 75% beyond current regulations;* (B) *.....it is suggested that the buildings would be designed to make use of sustainable materials to reduce the environmental impact of construction and waste minimisation strategies would be employed throughout the construction.;* (C) *The potential methods and techniques incorporated into the final design and layout of the proposals will help deliver a development that would reduce fuel use and greenhouse gas emissions, minimise energy use and input of raw materials and incorporates principles of energy conservation in relation to the design, siting and orientation of the buildings;* (D) *The applicant states that this will be achieved through a combined fabric, energy efficiency and low carbon renewable energy approach such as; triple glazed windows, heat recovery systems, provision of solar PV on all homes and air source heat pumps;* and (E) *A number of other measures are proposed such as water efficiency, landscaping, and the provision of cycle parking and a pedestrian footway/cycleway. All to be secured by condition to ensure they are delivered on site.*
- 10.26 However, these do not appear revolutionary or innovative and although all worthy and indicative of a positive approach to this very important global concern, I do not believe this benefit should be given the same weight as providing up to 134 homes, including up to 54 AH units; or even the direct economic benefits of construction.
- 10.27 As such, it seems reasonable to me that this benefit should be given **at most modest-moderate** weight, using moderate as the appropriate weight for economic benefits.
- 10.28 Finally, I have great doubts about giving **More than Significant** weight to the provision of 5% (up to 7) of the homes as 'self-build' plots should be, seemingly even if seen in isolation.

- 10.29 I note in making this claim that this was based on a carefully set out reading of an appeal decision relating to a proposal for two dwellings where the Inspector concluded that providing those two dwellings as self build custom housing ("SBCH") was worthy of *significant* weight; and that because the current appeal proposal would bring forward more SBCH plots, this must be given *more than significant* weight.
- 10.30 I believe this logic should be resisted, which appears to rely on importing another decisionmaker's verbal scale, which had been applied to a different order of proposal into the planning balance without any form of calibration when all the other weightings reflect the individual case officers' assessments and, as such, are more likely to be internally consistent.
- 10.31 Applied to the circumstances of this case, I believe it should be regarded as a generally illogical conclusion from this seemingly logical exercise to suggest the benefits of providing 7 SBCH plots exceeds the social benefits of providing 134 dwellings and/or up to 54 AH units.
- 10.32 Indeed, in my opinion, the planning benefits of this small number of SBCH units would be very small in comparison, perhaps as low as *modest*.
- 10.33 In this context, I would further emphasise that:
- The imperative for meeting the demand for SBCH plots arises in non-planning law;
  - The benefits of SBCH housing appear to me to be very limited;
  - In particular, once a SBCH dwelling is approved, the restriction then that it must be occupied by the designer appears to have very little planning justification at all compared to it being occupied by another household who value the design; and have effectively chosen it through the process of selecting it and buying it;
  - This would also enable the designer to build another pseudo-SBCH dwelling and sell that into the market, thereby boosting economic activity and the HLS rather than being the end of a 1-dwelling process, as appears to be envisaged for genuine SBCH homes.
  - Moreover, providing SBCH plots does not guarantee that SBCH homes will be built. I await to read the terms of the planning obligation [or possibly condition] but most/ perhaps all such obligations that I have seen include clauses that enable the plots to be built out as ordinary housing in various circumstances.
  - I note here that the Inspector referred to in the committee report (see full details of Appeal ref. APP/D3125/W/21/3274197, relating to an application for outline planning permission with all matters reserved except for access for *the provision of Self-Build and/or Custom Housebuilding plots for 2 detached dwellings* at Land to the rear of Brock Cottage, Burford Road, Brize Norton at Appendix 6) comments in discussing the planning balance at paragraph 34 of the decision that *the statutory SBCH duty, and the identified economic and social benefits would cumulatively amount to substantial weight in the balance*:

34. However, the Council has fallen well short of granting suitable planning permissions to meet the identified SBCH demand. Although the contribution to SBCH supply would be small, the extent of the shortfall, the statutory SBCH duty, and the identified economic and social benefits would cumulatively amount to substantial weight in the balance. For the reasons indicated, the harm to the character and appearance of the area would be small. As a result, material considerations would be of sufficient weight to indicate that the appeal should be determined otherwise than in accordance with the development plan and planning permission should be granted.

I read this as giving *substantial* weight to the total benefits of the proposal, including the *identified economic and social benefits* likely to arise from the proposed construction of 2 dwellings [which on my analysis would be very similar for 2 non-SBCH dwellings in the same location], rather than assigning those benefits all to providing two SBCH units.

Moreover, this is based on that Inspector's personal verbal scale applied to that proposal; and, indeed, whilst the case officer does not set out a verbal scale, the term *substantial* is not used elsewhere in the report and the officer appears to equate this with *significant*, which again does not appear soundly based.

- 10.34 For all these reasons, I believe it is reasonable to conclude that the provision of 7 SBCH plots should be given very much less than the weight ascribed to it in the report; and in my opinion *modest* weight would seem entirely justified.

#### Summary on Weight for Benefits

- 10.35 I have set out above why I consider it would be justified to conclude that lesser weight than that assessed and set out in the committee report should have been given to the benefits discussed.
- 10.36 To assist in summarising these differences, I have adapted my earlier table (below) to show how this would act to reduce the overall weightings:

Benefit	Weight (Report)	Weight (LPA)
Provision of up to 134 dwellings to the LPA's housing stock, ....in light of the lack of a 5YHLS and the Government's objective of significantly boosting the supply of homes (paragraph 60 of the NPPF)	<b>Significant</b>	<b>Significant*</b>
Provision of 40% affordable housing (up to 54 homes)	<b>Significant</b>	<b>Significant**</b>
Economic benefits to the local area during the construction phase and when the development is occupied by future residents by increasing the spending power in the area.	<b>Moderate to Significant</b>	<b>Moderate</b>
A children's play area and open space/recreational route	<b>Moderate</b>	<b>At most Modest</b>
Three pedestrian links between the current scheme and the adjoining Bovis Homes development, described in the report as ensuring that ....the development is permeable	<b>Moderate</b>	<b>At most Modest</b>

<i>with the existing settlement and encourages sustainable travel options.</i>		
Financial contributions to local services/infrastructure through a Section 106 agreement are required. The report comments that: <i>While these are required to mitigate the impact of the scheme, this is a positive impact.</i>	<b>Unspecified positive</b>	<b>Modest</b>
Biodiversity net gain would be achieved.	<b>Moderate</b> <i>.....commensurate with the scale of development</i>	<b>Modest-Moderate</b> Noting that the site is unusually large for this scale of development
Sustainability measures	<b>Significant</b>	<b>Modest-Moderate</b>
Provision of 5% (up to 7) of the homes as 'self-build' plots..	<b>More than Significant</b> With regard to a recent appeal decision	<b>Modest</b>

\* But note this includes the 134 dwellings include the 54 AH units and depends on the HLS position

\*\* But note this double counts some of the benefits of the 134 homes, as noted

- 10.37 Taken across the piece and understanding that members would have fully recognised the providing up to 134 homes, including up to 54 AH units must be given significant weight (on the case officer's verbal scale), I think that it is clear they had every right to conclude that the overall benefits of the proposal should be given significantly less weight than was given in the report.

#### Additional Benefits claimed by the Appellant

- 10.38 I note that in relation to benefits, the Appeal statement of case ("the SoC") states merely at paragraph 6.55 that: ***The Appellant will identify a range of benefits arising from the proposed residential development, on a social, economic and environmental basis, and will also identify any potential adverse impacts.***
- 10.39 I have no particular reason to believe that these asserted benefits, when identified, will go very far beyond what was set out in the committee report but I reserve the right to comment on any additional material benefits, as necessary and/ or appropriate.
- 10.40 Notwithstanding this, I note also that the LVA claims various landscape and visual benefits; and that the SoC states in a similar context that: *Additional tree and shrub planting would increase vegetation cover within and adjacent to the site, and provide additional green infrastructure links across the Site, to the benefit of new and existing residents and biodiversity.*

10.41 I have commented already on why in my opinion little weight should be given to claimed LV benefits; and I have also set out my opinion that the higher than normal levels of undeveloped land within the site has planning disbenefits as well as any claimed benefits.

Related Issues: Deliverability and Viability and implications for Weight

10.42 In my opinion, the current appeal proposal would appear likely to lead to an increase in the deliverable HLS of up to 134 dwellings and up to 54 AH units on the basis that the approved dwellings would be *deliverable, achievable and likely to come forward in the next five years should the appeal not be dismissed* ; and it is my understanding that the committee and the report assumed that the full 134 dwellings would be deliverable and would therefore add immediately to the LPA's 5-year deliverable HLS.

10.43 However, my experience recently has indicated that many HLS consultants might question this assumption for an unallocated site with outline planning permission (which in advance of detailed approval falls within part (b) of the NPPF definition of deliverability), without the *clear evidence that housing completions will begin on site within five years* needed in the definition.

10.44 In this case, I note both the appellant's willingness to agree to a reduced time limit condition as indicating that the proposal is likely to be delivered in the next 5 years; and that the committee report set this out for members, who therefore understood that 134 dwellings were deliverable.

10.45 However, to make good on this aspect of the proposal, I think it would be very helpful to see clear evidence and/or assurances on deliverability and viability from the appellant and/or its representatives, ideally a including timeline for the various stages leading to completion of the dwellings [including sewage treatment upgrades to comply with Thames Water's recommended condition(s) where necessary] and/or a trajectory showing build rates in each year.

10.46 In this context, I would emphasise that if some or conceivably all of the approved dwellings were not regarded as deliverable, this would further reduce the weight that they should be given [NB in my opinion, this would also apply if the level of contributions was in doubt].

10.47 However, in the absence of clear evidence of likely delays and in anticipation of reassurances on the issue of deliverability and viability from the appellant, my evidence has been prepared on the basis that the proposal would be deliverable in full within the current 5 year period (i.e. by the end of March 2027) and that the full 134 dwellings with 40% AH units and all necessary financial contributions would be provided, as committee members assumed when determining to refuse the appeal application [NB thus, if the Inspector should conclude that this was not the case for any reason, this would suggest that the committee decision was even more reliable].

## **11     The Planning Balance(s)**

- 11.1     As noted above, the LPA considers that it can demonstrate a full 5-year deliverable HLS; and that its policies are up to date under the application of paragraph 225 of the NPPF.
- 11.2     On that basis, footnote 8 does not apply and the paragraph 11(d)(ii) is not engaged; and in my opinion, the correct approach to the balance should be as follows:
- The key strategic locational policies of the Local Plan should be considered first effectively in isolation [because one of the most important aspects of the “plan-led” system is to identify from a strategic point of view whether a site is suitable for the proposed development; and if it is not then the LPA consider that it is clary and directly contrary to the Local Plan].
  - As such, if the proposal is directly contrary to policies H2 and OS2 then it should fail a paragraph 12 policy balance immediately;
  - Additionally, if the Inspector considers this necessary, other non-strategic policy breaches should be assessed against relevant polices, first applying paragraph 139 to test whether the proposal represents “poor design” [noting that I consider that paragraph 135 of the NPPF effectively sets out the breadth of this term and the factors that the government considers make up good design, including the requirement that developments: should *function well and add to the overall quality of the area.... over the lifetime of the development*] and should be *sympathetic to local character and history, including the surrounding built environment and landscape setting.....*] and refuse the proposal if it is poor design; and then other policy breaches should be considered and given weight, the totality of which should be weighed against the overall benefits as material considerations in an overall paragraph 12 balance.
- 11.3     Taking each of these in turn:
- Spatial Strategy Balance
- 11.4     As stated above, if the Inspector should conclude that the appeal proposal conflicts directly with the key strategic policies of the Local Plan on the basis that policies OS2 and/or H2 remain up-to-date, then I have concluded above that the proposal would not represent limited development when seen cumulatively with the Holloway Lane development; and it would fail to comply with policy H2, as it comprises undeveloped, unallocated land adjoining a village.
- 11.5     As such, it is unacceptable in principle, as it fails to comply with the Local Plan spatial strategy and the appeal site is therefore unacceptable in principle for the proposed housing scheme and the appeal should therefore be dismissed without further consideration.

### Paragraph 139 “Design” Balance

- 11.6 In my opinion, unless paragraph 11(d)(ii) is engaged, then if the Inspector should conclude that the threshold of good design [never mind beauty] has not been reached, it would seem to me that under the operation of paragraph 139 of the NPPF any such balance must fall against the appeal proposal.
- 11.7 Finally, if a **Paragraph 11(d)(ii) “tilted balance”** was thought necessary for any reason, I would emphasise that this is the basis on which the LPA determined the proposal and indeed, this is clear from the wording of RfR1, which states: ***While the development would provide up to 134 dwellings to include 40% affordable homes and 5% self-build plots; economic benefits, a children's play area, open space/recreational route, pedestrian and cycle links, biodiversity net gain, and sustainability measures.....The adverse impacts identified would significantly and demonstrably outweigh the benefits.***
- 11.8 My assessment of weight are set out above and I give significant weight to the main benefits of the proposal (which I see as providing market and affordable homes) but I give very significant weight to the breach of the strategic policy OS2 [NB if paragraph 11(d)(ii) is engaged this would appear to remove my objection in principle under policy H2] and significant weight to landscape harm; and moderate weight to visual and heritage harms.
- 11.9 I therefore conclude that the “tilted balance” also falls against the appeal proposal.

## **12 Conclusions**

- 12.1 I believe that I have demonstrated in detail above why the committee had good planning reasons to take a different approach to that recommended to them in the case officer's committee report; and in particular to give significantly greater weight to several of the harms identified in that report and to give significantly less weight to several of the benefits to those assessed in the report.
- 12.2 On that basis I consider the committee's decision was fully justified even in the context of what was then understood to be a very significant HLS shortfall and a recognised need for affordable housing; and even applying the paragraph 11(d)(ii) “tilted balance”.
- 12.3 As such, and for the other reasons set out above (and noting that in my opinion, the “titled balance” no longer applies and the proposal is on that basis directly contrary to the Local Plan spatial strategy), I would invite the Inspector to agree with the LPA's assessment and accordingly dismiss this appeal.

### **13 Statement of Common Ground**

- 13.1 Several statements of common ground (“SoCGs”) have already been signed between the LPA and the appellant that I hope will be of assistance to all parties; and I am optimistic that a full complement of SoCGs will be available well in advance of the public inquiry.

### **14 Documents**

- 14.1 I anticipate that a set of core documents will be available well in advance of the public inquiry.

### **15 Suggested Conditions**

- 15.1 In my opinion, the Committee was well aware of the opportunities to use conditions to address various harms likely to arise from the proposal, including the use of conditions intended to control landscaping details, drainage systems and sewage infrastructure upgrades.
- 15.2 As such, it seems to me the Committee had concluded before making its decision that no conditions could offset the harm it considered would arise in this case for the reasons discussed above.
- 15.3 However, and without prejudice to the strength of its objections to the appeal proposal, I hope to agree a set of conditions with the appellant on behalf of the LPA that the parties consider should be imposed should this appeal not be dismissed (with any remaining points of difference between the parties identified as appropriate) prior to the inquiry.
- 15.4 Whilst the LPA nonetheless reserves its right to re-word, amalgamate, omit or otherwise alter any such conditions for what it may regard as good planning reasons and that it will explain in advance of and/or as necessary at the inquiry; and/or to suggest additional conditions that it considers meet the requisite tests in the NPPF, I have set out at Appendix 7 an initial list of conditions based on those recommended in the committee report [but altered where relevant as shown in **bold**]