

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78

APPEAL RELATING TO LAND OFF PEPPARD ROAD, EMMER GREEN

PINS REF: APP/Q3115/W/17/3185997

**CLOSING SUBMISSIONS ON BEHALF OF
SOUTH OXFORDSHIRE DISTRICT COUNCIL**

1. At the outset of this inquiry (now some time ago) the following were identified as the main issues:
 - (1) The acceptability of the development in the location proposed having regard to planning policy and the Council's spatial strategy.
 - (2) The effect of the proposed development on the character and appearance of the area with specific reference to landscape.
 - (3) Whether or not adequate provision has been made for affordable housing, infrastructure contributions and mitigation for major wildlife sites.

2. Since then the Government has published the revised National Planning Policy Framework, with changes to the requirement of a five year housing land supply and the presumption in favour of sustainable development. The main issues in this appeal remain the same, however, and their resolution will inform the overarching questions: is the development in accordance with the development plan, and, if not, are there material considerations that justify a departure from it.

Acceptability having regard to planning policy

3. The development plan for the area currently comprises the South Oxfordshire Core Strategy 2012 (CD7.4) and the saved policies of the South Oxfordshire Local Plan 2011 (CD7.1). The Core Strategy's objectives for the settlements in the district are, broadly speaking, to maintain the character and distinctiveness of the towns and villages; to focus development at Didcot and the market towns of Henley, Thame and Wallingford; and to maintain the balance between the towns and villages (Objective 1).

4. Its housing objectives include providing for a range of housing development across the district that respects the scale of existing settlements and caters for residents' needs (Objective 2(iv)). It is also an objective of the Core Strategy to enhance and manage the natural environment (Objective 3(v)). These objectives are given effect in policies CSS1, CSR1 and CSEN1, among others.
5. Policy CSS1 states that proposals for development should be consistent with the overall strategy, which includes "... (v) outside the towns and villages, and other major developed sites, any change will need to relate to very specific needs such as those of the agricultural industry or enhancement of the environment."
6. Policy CSR1 concerns a particular category of housing – housing in villages. On its face it is not relevant to the appeal scheme, which is for development some distance from any village in the district, and need not be considered further. If, however, it were thought relevant, the appeal scheme is plainly inconsistent with it.
7. Policy CSEN1 states that the district's distinct landscape character and key features will be protected against inappropriate development and where possible enhanced. The effect on the setting of the Chilterns Area of Outstanding Natural Beauty will also be considered. The supporting text at para 14.2 refers to the South Oxfordshire Landscape Assessment SPG (CD9.9), which "describes the district as mainly rural with a high proportion of attractive countryside and details the landscape character of the district and how landscape influences settlement character. It divides the district into 11 local character areas and includes guidelines for landscape enhancement, planning and development." This document is used to assess proposals for development (para 14.3).
8. Although policy CSH1, which fixes the amount and distribution of housing in the district, is out of date, the above policies remain consistent with guidance in the revised Framework¹. In particular, para 9 tells us that planning policies (and decisions) should play an active role in guiding development towards sustainable solutions, but in doing so should take *local circumstances into account*, to reflect the character, needs and

¹ See, for example, paras 9, 77, 85, 103 and 170; Mrs Jarvis's supplementary proof paras 4.28-4.33.

opportunities of each area. Para 59 draws attention to the importance of a sufficient amount and variety of land coming forward *where it is needed*. Para 77 states that in rural areas planning policies and decisions should be responsive to *local circumstances* and support housing developments that reflect *local needs*. Thus, housing in a rural location should respond to local need, a spatial objective reflected in policy CSS1. If the Council can show a five year supply of deliverable housing sites, full weight should be given to it. There is no suggestion that the appeal scheme is a response to local need and in this respect is clearly contrary to both development plan and national policy.

9. The NPPF also tells us (at para 170) that planning policies and decisions should contribute to and enhance the natural and local environment by (among other things) protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan), and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Although para 170 uses a variety of terms to describe the steps that should be taken to contribute to and enhance the natural and local environment – “protecting”, “enhancing”, “recognising”, “maintaining” – within a chapter headed “Conserving and enhancing the natural environment”, the features of the environment referred to in para 170 will need to be considered and given weight in the planning balance, as Miss Richardson accepted in relation to the intrinsic character and beauty of the countryside.
10. Policy CSEN1 accords with the Framework – no one has suggested otherwise. There has, however, been much unresolved debate about the extent to which the environmental policies in the Local Plan - policies G2, G4 and C4 – accord with the NPPF. In the Council’s submission the issue of consistency ought to be dealt with looking at the substance of the policies, not simply their form. Development plan policies adopted before the Framework was published should not be expected to mirror its wording. And as an expression of national policy, one would not expect the Framework to dictate the precise wording of local plan policies drafted in response to local circumstances. Having regard to the substance of the policies in issue, it is submitted that they are consistent with the environmental and rural housing policies in the Framework and can be given full weight.

11. It is common ground that the appeal scheme is contrary to the adopted spatial strategy². It is also contrary to the environmental policies in the Local Plan and Core Strategy. As development outside the district's towns and villages, it also conflicts with the emerging Local Plan (policy STRAT1). It is speculative development that serves no local need. In principle, therefore, it is contrary to both current and emerging development plan policy and to national policy in the Framework.
12. The appellant seeks to address this conflict in three ways. First, it is said by Miss Richardson that despite the various breaches of important development plan policy, the appeal scheme is in fact in accordance with the development plan, read as a whole³. This assertion appears to be based (at least in part) on the mistaken belief that contingency policy CSC1 supports the appeal scheme. It does not (as Miss Richardson conceded in cross examination). Nor does policy CS1 (agreed by all parties to be out of date) because the version of the Framework it is based on has ceased to exist as Government policy.
13. The other arguments advanced by the appellant are that the most important development plan policies are out of date; and there is no five-year supply of deliverable housing sites. Accordingly, says the appellant, the tilted balance in para 11(d) of the Framework is triggered and this justifies a departure from the development plan. It is to these two arguments I now turn.

Are the most important policies out of date?

14. It is probably too much to hope that one day the Government will produce a version of the Framework that is clear, internally consistent and fully thought-through. Until that day arrives, it will be left to Inspectors and ultimately the courts to try to divine what the Framework is getting at.
15. In para 11(d) of the Framework, the tilted balance is triggered where (inter alia) "the policies which are most important for determining the application are out-of-date".

² Updated Statement of Common Ground (August 2018), para 4.4.7. As the development is not in accordance with the distribution strategy in the Core Strategy, it also fails to meet the requirements of policy CSC1(iii).

³ Updated proof paras 6.4.6, 6.4.9.

Does this mean that the tilted balance is triggered where one of a number of such policies is out of date, or all of them, or the majority of them? On the face of it, it is the second of these interpretations, otherwise the phrase would have been “a policy which is most important for the determination of the application is out-of-date”, or “one or more of the policies which are most important for determining the application are out-of-date”. This interpretation also accords with the statutory priority given to the development plan. After all, why should the tilted balance be engaged where there are up to date important policies in the development plan that would otherwise determine the application? In exploring this issue in cross-examination Miss Richardson referred to footnote 7, which is concerned with situations where there is no five-year housing land supply or the housing delivery test is not met, but this footnote casts no light on the broader application of para 11(d).

16. In the Council’s submission, the natural meaning of that paragraph is that where there are a number of what can be described as policies which are most important for determining the application, it is only where they are all out of date that the tilted balance is engaged. That is not the case here. Even if it were found that some of the Local Plan policies are out of date, the Core Strategy policies CSS1 and CSEN1 (which were found sound following publication of the original NPPF in 2012) remain in accordance with the Framework and are up to date.

Is there a five-year housing land supply?

17. The revised Framework continues to require local authorities to identify and update annually a five-year supply of specific deliverable housing sites⁴. The requirement against which the supply is to be assessed has changed, however; in this appeal it is the local housing need figure. This means the number of homes identified as being needed through the application of the standard method set out in national planning guidance, or a justified alternative approach⁵. If the standard method is used, the Council and appellant are agreed that there is a five-year housing land supply⁶. But the appellant contends for a different local housing need figure, said to be a justified alternative.

⁴ Para 73 of the NPPF.

⁵ NPPF glossary.

⁶ See the Statement of Common Ground on Housing Land Supply dated 29.8.18 at para 2.2 and table 4.2.

18. The Government, the six Oxfordshire local authorities and the local enterprise partnership have entered into the Oxfordshire Housing and Growth Deal, under which the authorities have agreed to: the submission and adoption, subject to the inspection process, of a joint statutory spatial plan covering all five district councils in Oxfordshire, by 2021; and to plan for and support the delivery of 100,000 new homes between 2011 and 2031, backed up with a credible plan for delivery, outlining interim milestones and targets as agreed with the HCA and Government⁷. In return, the Government have agreed to provide the authorities with up to £215m funding, and to explore options to grant the authorities certain time-limited planning flexibilities, subject to consultation where appropriate. The appellant's case is that the Council is now committed to planning for, and permitting, a fixed proportion of the 100,000 homes, including a share of Oxford City's unmet need, and that this commitment should be translated into a higher local housing need figure than the standard method provides.

19. As this part of the appellant's case is based on the growth deal, it is necessary to look at some of its features. The growth deal is recorded in two documents, an Outline Agreement and a Delivery Plan (CD13.26). The Delivery Plan states at para 1.2.3 that the deal will be underpinned by the development of an Oxfordshire Joint Statutory Spatial Plan (JSSP), building on the existing Local Plans, the Oxfordshire Infrastructure Strategy and Oxfordshire Local Transport Plan. The JSSP will set the strategic long-term direction for planning. It will also build on the extensive assessment of the infrastructure development required to support growth in housing and the economy expected over the next 25 years. Key objectives are to clarify the countywide growth picture and explore greater opportunities to engage in collective decision making, and to avoid incremental, speculative and unplanned development.

20. The figure of 100,000 homes in the period 2011-2031 is drawn from the 2014 Strategic Housing Market Assessment (SHMA)⁸. It significantly exceeds the local housing need figures for the Oxfordshire authorities derived from the standard method and is not based on any up to date assessment of need.

⁷ Oxfordshire Housing and Growth Deal – Outline Agreement, para 2.

⁸ See the Outline Agreement at paras 24 and 25.

21. Although neither the outline agreement nor the delivery plan breaks down the 100,000 headline figure by authority area, the appellant relies on the SHMA and a Memorandum of Co-operation (CD13.25) between five of the six Oxfordshire authorities to arrive at a supposed requirement for South Oxfordshire. Included within the appellant's calculation is a proportion of Oxford City's assumed unmet need. If the appellant's approach is accepted, it is common ground that the Council cannot identify a five-year supply of housing sites⁹.
22. There are a number of objections to this approach, which can be summarised as follows:
- The growth deal is essentially an agreement between Government and the Oxfordshire authorities that commits the parties to various actions, but which is not itself intended to influence planning decision-taking.
 - The growth deal does not apportion housing numbers to individual authority areas, nor does it require local plans to achieve the delivery of 100,000 homes by 2031.
 - The growth deal expressly recognises the risk that the ambitious housing target will encourage speculative development and seeks to avoid this risk through certain "flexibilities and freedoms".
 - In these circumstances, there is no justification for seeking to treat the growth deal as providing a justified alternative assessment of local housing need for the purposes of para 73 of the Framework. Indeed, it would be contrary to the express intentions of the deal to do so.
23. The first objection concerns the nature and intended effect of the growth deal. The Outline Agreement has this to say about its "interface" with the planning system:
- "This deal, and any distribution of funds via it, does not constitute HMG weight or approval for any scheme which is subject to the planning system.
- In addition, it does not alter any of the statutory functions, duties and rights of HMG or Local Planning Authorities, and in particular the functions of the Secretary of State in relation to plan-making or decision-taking. Nor does it imply any favourable treatment for any specific scheme or plan."

⁹ Statement of Common Ground on Housing Land Supply, para 2.2 and tables 4.4 and 4.5.

24. Paragraph 65 states: “Unless and until the joint statutory spatial plan for Oxfordshire is produced, submitted and then adopted, all existing plans and national policy continue to provide the basis for decision-making in Oxfordshire”. Having regard to these statements and to the future plan-making work required by the deal, it would be quite wrong to treat the deal as providing a justified alternative assessment of local housing need for decision-making in Oxfordshire today.
25. Not only is this not the purpose of the deal, there is nothing in the deal that tells us how the 100,000 housing figure is to be apportioned between authority areas. That is a matter for the participating authorities to determine, first in their local plans, and subsequently in the JSSP. It is true that the SHMA assessed unconstrained need in each authority area, based on 2011 interim household projections¹⁰, but it did not say how much housing should be provided as a consequence. As it stated at para 9.63: “The SHMA does not set housing targets. It provides an assessment of the future need for housing. Government guidance and advice is explicit that the SHMA itself must not apply constraints to the overall assessment of need, such as environmental constraints or issues related to congestion and local infrastructure. This does not mean that these issues are not important. They are very relevant in considering how much development can be sustainably accommodated and where new development should be located.”
26. The deal adopts the headline figure of 100,000 homes by 2031 from the SHMA, but nowhere does it suggest that authorities have agreed (or are obliged) to accept the breakdown of need in each area. Instead, the Delivery Plan states (at 3.2.3, last bullet):

“MHCLG support the completion of the current suite of Oxfordshire Local Plans and recognise this is required to enable Oxfordshire to meet the Deal commitment of submitting Local Plans by 1st April 2019. Their intention (as set out in the recent white paper) is to amend planning guidance so that where a plan is based on an assessment of local housing need in excess of that which the standard method would provide, then the working assumption is that the approach adopted would be sound unless there are compelling reasons to

¹⁰ See paras 1.16 and 1.17 of the SHMA.

indicate otherwise. As the assessments of housing need in Oxfordshire Local Plans based on the 2014 Strategic Housing Market Assessment are higher than the Local Housing Need figures, **they could be used**, subject to an appropriate update, as a basis for any local plans that will be submitted for examination, prior to the adoption of the JSSP. The existing arrangements which allow Local Plans to set housing requirements at a lower figure based on capacity or policy constraints will continue to operate” (emphasis added).

27. It is one thing to say that Oxfordshire authorities will be at liberty (once the planning guidance has been appropriately amended) to use the SHMA (subject to an appropriate update) as a basis for their local plans if they wish. It is quite another to say - as the appellant does - that the SHMA, without any update, provides a justified alternative assessment of local housing need today for the purposes of decision-taking.

28. There is also the difficulty thrown up by Oxford City’s apparent inability to meet the housing needs of its own area (as quantified in the SHMA). Mr Tiley contended that this had been addressed by the Memorandum of Cooperation, which (he said) now formed part of the deal. The paragraph (7.1.2) in the Delivery Plan on which Mr Tiley relies says:

“The Oxfordshire Growth Board provides a well-established and formal partnership framework and structure, to facilitate and enable joint working on economic development, strategic planning and growth and to deliver cross boundary programmes of work within government timescales - including agreeing the detailed contents of specific priorities, plans, projects and programmes. This has included effective delivery of the City Deal and Local Growth Deals, the Strategic Economic Plan and apportionment of unmet need in compliance with the Duty to Cooperate.”

29. Whatever view one might take about the need for public bodies to trumpet their past achievements in a quasi-contractual document, this paragraph is pure puffery. No reasonable reader would understand the passing reference to “apportionment of unmet need in compliance with the Duty to Cooperate” as imposing on South Oxfordshire District Council a current obligation to accept the apportionment of Oxford City’s

unmet in the September 2016 Memorandum of Co-operation, a document which the Council has chosen not to sign. Whether that apportionment will form part of the emerging local plan or the JSSP will be determined in due course, but in the meantime the growth deal does no more than set timetables for the submission of local plans and production of the JSSP. Their contents is for the participating authorities to decide.

30. Given the ambitious housing target that the deal seeks to support, there is an obvious risk that the time taken to assemble the necessary supply of sites will be exploited by promoters of speculative development schemes. The growth deal recognises this, as the following passages from the Outline Agreement and Delivery Plan make clear:

“45. Oxfordshire’s proposals seek to align funding, transport, infrastructure and strategic planning locally. To improve this alignment and enable additional housing and growth including the agreement of a joint statutory spatial plan:

- Government recognises that planning for this level of ambition takes time to result in increased delivery on the ground, and that these ambitions should be supported during the preparation of the JSSP. Therefore, we will explore options to help ensure that the existing housing land supply position is not undermined, and explore the impact of unplanned development whilst maintaining delivery as measured by the proposed housing delivery test. ...” (Outline Agreement)

“1.2.3 This deal will be underpinned by the development of an Oxfordshire Joint Statutory Spatial Plan (JSSP), building on the existing Local Plans, the Oxfordshire Infrastructure Strategy and Oxfordshire Local Transport Plan. The JSSP will set the strategic long-term direction for planning. It will also build on the extensive assessment of the infrastructure development required to support growth in housing and the economy expected over the next 25 years. Key objectives are to clarify the countywide growth picture and explore greater opportunities to engage in collective decision making, and to avoid incremental, speculative and unplanned development.” (Delivery Plan)

“3.1.5 In many parts of the County unplanned speculative development in relatively unsustainable locations is raising significant community concerns, contributing relatively little to infrastructure, and diverting planning resources away from the delivery of planned strategic sites. A framework of planning freedoms and flexibilities will allow the Councils to focus on plan preparation and proactive action on housing delivery.” (Delivery Plan).

“3.2.3 Government deliverables: Planning flexibilities to support transition to JSSP

- Land Supply requirements - for the duration of the development (from commencement of s 28 process to adoption) of the JSSP a 3-year land supply will be applied in Oxfordshire, subject to local consultation.
- Bespoke Housing Delivery Test measures for Oxfordshire will apply for 3 years following submission of the JSSP. Subject to the outcome of the White Paper consultation, the rates for November 2018 and November 2019, which are 25% and 45%, and which trigger the presumption in favour of sustainable development would remain as set nationally, but the figure from November 2020 would be a bespoke Oxfordshire figure subject to the submission of the JSSP by March 2020. MHCLG will work with Oxfordshire Districts to agree the levels for the bespoke delivery test for local consultation (see below).
- Application of these arrangements within national planning guidance will require changes through a formal process to secure the flexibilities set out above. MHCLG officials will make the necessary arrangements for this. The agreement of the deal set out in this document depends on these flexibilities being achieved.
- The milestones attached to the work on the JSSP are contingent on securing the planning flexibilities outlined above and Government will seek to have these in place by the July JSSP milestone of creating a JSSP project Board to begin the S28 process. Oxfordshire will review the availability of necessary planning freedoms and flexibilities, at its July 2018 Growth Board meeting. Should the review of JSSP progress result

in changes to the milestones of the JSSP work, this will be without prejudice to the remainder of the Deal and the Oxfordshire partners shall not be liable for clawback of any capacity funding incurred on the JSSP up to that stage.” (Delivery Plan)

31. In light of these expressions of concern and the measures the Government has consulted on in order to reduce the scope for exploitation of the higher housing target, it would be a perverse outcome for the deal to be used in this appeal as justification for an alternative local housing need figure to support unplanned development.
32. For all these reasons, the Council submits that for the purposes of para 73 of the revised Framework the local housing need figure is properly derived from the standard method. Against that figure, it is agreed that the Council can demonstrate a five year supply of deliverable housing sites.

(2) Effect on character and appearance

33. The appeal site encompasses three arable fields defined by hedgerows, together with mature oak trees and copses. It is an attractive piece of land in good condition and forms part of the open countryside. It is adjoined to the south by the built-up area of Emmer Green, which is seen within and against a dense backdrop of vegetation, comprising Clayfield Copse, trees around the site perimeter and a remnant of oak woodland that has been retained within the built-up area. The riding stables and rugby club to the west of Peppard Road are set back from the road and are screened by vegetation. To the south-east of Kiln Road, Clayfield Copse and Blackhouse Wood screen views from the vicinity of Dunsden Green towards the built up area of Caversham Park.
34. The South Oxfordshire Landscape Character Assessment locates the site within the Chilterns Plateau with Valleys character area and the Semi-Enclosed Dipslope character type (LCT). The site is substantially characteristic of the LCT, for which the recommended management strategy is “conserve”. Much of the surrounding area falls within the Open Dipslope LCT, and there is some intermixing of characteristics; for example, the southern part of the site is more elevated, providing extensive northward views from the footpath that runs towards Bryant’s Farm.

35. The site is visible from Peppard Road, from the countryside to the north and east, and from the properties forming the settlement edge. As part of the countryside, the site contributes to an abrupt change in character at the settlement edge, which is clearly defined and well vegetated. The footpath that crosses the site gives extensive views of the land around.
36. The Chilterns AONB lies about 0.75km to the north-east of the site. The site is inter-visible with the boundary of the AONB and forms part of the countryside that separates it from the settlement edge. As agreed in the statement of common ground, the site falls within the setting of the AONB.
37. An issue between the parties is whether the site is, or forms part of, a valued landscape for the purposes (now) of para 173 of the NPPF. In assessing this matter the landscape witnesses drew on the *Stroud*¹¹ judgment of Ouseley J given in 2015. On 18 July 2018 in *CEG Land Promotions II Ltd v Secretary of State for Housing, Communities and Local Government* [2018] EWHC 1799 (Admin) at paras 54-60 Ouseley J returned to the issue in a judgment that wholeheartedly endorsed the following analysis given by the Inspector whose decision was before him:

“65 In coming to a view as to whether or not a site falls to be classified as a valued landscape within the terms of the Framework, it seems to me that one first has to consider the extent of the land which makes up the landscape under consideration before examining whether or not there are features which make it valued. Developments and appeal sites vary in size. For example it is possible to conceive of a small site sitting within a much larger field/combination of fields which comprise a landscape and which have demonstrable physical characteristics taking that landscape out of the ordinary. The small site itself may not exhibit any of the demonstrable physical features but as long as it forms an integral part of a wider 'valued landscape' I consider that it would deserve protection under the auspices of paragraph 109 of the Framework. To require the small site itself to demonstrate the physical features in order to qualify as a valued landscape seems to me to be a formulaic, literal approach to the

¹¹ *Stroud DC v SSCLG* [2015] EWHC 488 (Admin), extract at Mr Berry's appendix 6.

interpretation of the question and an approach which could lead to anomalies. It could lead to individual parcels of land being examined for physical characteristics deterministic of value. Adjoining parcels of land could be categorised as valued landscapes and 'not valued landscapes' on this basis.

66. Further I do not accept that the Stroud case is authority for the proposition that one must only look to the site itself in seeking to identify demonstrable physical characteristics. In examining matters Mr Justice Ouseley confirmed that the Inspector was entitled to come to certain judgments about the factors and evidence in relation to matters outside the confines of the site itself. When assessing what constitutes a valued landscape I consider it more important to examine the bigger picture in terms of the value of the site and its surroundings. That is not to borrow the features of the adjoining land but to assess the site in situ as an integral part of the surrounding land rather than divorcing it from its surroundings and then to conduct an examination of its value.

67. As already indicated I find some difficulty in ascribing the term landscape to an appeal site comprising one large agricultural field. To my mind the term 'landscape' denotes an area somewhat wider than the appeal site in this case. In this regard I note the reference of my colleague in the Loughborough appeal to the GLVIA definition of landscape as '*an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors*'. I endorse the view that '*it is about the relationship between people and place, and perceptions turn land into the concept of landscape*'."

38. This is the same approach adopted by Mr Radmall in the present appeal¹² in an assessment that is both careful and thorough. For the reasons he gives, it is submitted that the site is properly seen as part of a valued landscape.
39. The appeal scheme of up to 245 dwellings and ancillary development is of a significant scale. Mr Radmall estimates that built development would occupy about 61% of the site, with the remainder comprising green infrastructure. While most of the dwellings would be two-storey, between 30-40% could be of 2.5 storeys. New points of access would be created from Peppard Road and Kiln Road. Inevitably, the open agricultural

¹² Proof paras 4.4-4.12.

character of the site would change radically, and views to and from the site would be harmed. In the language of the professionals, these would amount to substantial adverse effects.

40. The appellant concedes there would be some harm, but its LVIA, and its witness, Mr Berry, assert that the harm would be moderate at worst because housing is not uncharacteristic of the area¹³. In the Council's submission this rather misses the point. While there is undoubtedly housing in the area, there is also countryside, and it is the character and appearance of the appeal site as countryside that would be lost.
41. No good purpose would be served simply repeating Mr Radmall's detailed assessment of the effects of the proposals on character and appearance or his critique of the LVIA's findings. You, Sir, will form your own judgment based on your site visit and the photographic and other materials provided by the parties. Mr Radmall has produced modelled views of the development from four locations¹⁴ which give an idea of the likely visual effect of the development, and you have numerous photographs taken by the parties.
42. In summary, it is the Council's case that the loss of countryside and the suburbanising effect on local views would be demonstrably harmful and have been under-reported in the LVIA and in Mr Berry's evidence. In combination, these effects will be significantly detrimental to the character and appearance of the area, and thereby to the setting of the rural settlements within it and to the setting of the AONB. The scale of encroachment into this valued landscape would neither protect nor enhance its key attributes. The proposals would constitute an arbitrary extension of the settlement edge into an attractive area of countryside, for which there is no landscape justification, and would conflict with policies G2, G4 and C4 of the Local Plan, policy CSEN1 of the Core Strategy and para 170 of the NPPF.

(3) Has adequate provision been made for affordable housing, infrastructure contributions and mitigation for major wildlife sites?

¹³ See Mr Berry's proof at paras 5.16-5.23.

¹⁴ Appendix 3.

43. On this third issue, the Council accepts that the planning obligation, proposed conditions and Community Infrastructure Levy will make adequate provision for affordable housing, infrastructure contributions and wildlife mitigation.

Concluding submissions

44. The appeal scheme would undoubtedly bring economic and social benefits in the form of market and affordable housing, construction jobs, increased economic activity and the provision of infrastructure of wider public use. But it would achieve these benefits on a site in the open countryside, away from any existing settlement in the district, in substantial breach of development plan and national policy. There would be major harm to the character and appearance of the local area – a valued landscape in the Council’s view – and some harm to the setting of the Chilterns AONB.
45. The Council is able to demonstrate a five-year supply of deliverable housing sites in accordance with para 73 of the revised Framework. Applying the statutory presumption in favour of the development plan it is submitted that the appeal should be dismissed, but even if the tilted balance were found to be engaged the adverse impacts of the proposed development would clearly and demonstrably outweigh the benefits when assessed against the policies of the Framework.
46. Accordingly, the Council requests that the appeal be dismissed.

Robin Green

Cornerstone Barristers

31 August 2018