

**WEST OXFORDSHIRE DISTRICT COUNCIL**

# **Rule 6 Statement**



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**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

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## **Appeal by Pye Homes Ltd**

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

**Erection of up to 169 dwellings;**

**with new Doctors' Surgery, to be up to 740 sq metres  
in size, with around 27 car parking spaces; with  
access from the Witney Road, plus open space, and  
associated works, Public Open Space, Vehicular  
Access, Landscaping and Associated Works**

**at**

**Land South of Witney Road, Long Hanborough**

**Appeal ref. APP/D3125/W/15/3129767**

**LPA Application ref. 14/01234/P/OP**

**6 October 2015**

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## **1 Introduction: Housing Land Supply Issues and the Emerging Local Plan**

- 1.1 This appeal relates to an application (ref. 14/01234/P/OP, “the underlying application”), for outline planning permission for *Erection of up to 169 dwellings; with new Doctors’ Surgery, to be up to 740 sq metres in size, with around 27 car parking spaces; with access from the Witney Road, plus open space, and associated works, Public Open Space, Vehicular Access, Landscaping and Associated Works* at a site (“the appeal site”) to the southeast of Witney Road adjacent that effectively comprises almost the whole of a single agricultural field in open countryside adjoining but outside the southwestern outskirts of the built up part of the large village of Long Hanborough.
- 1.2 The appeal is to be heard by public inquiry programmed to start on 16 February 2016.
- 1.3 The reason for refusal in this case refers to policies from both the adopted Local Plan and the emerging Local Plan and both the appellants and the LPA are likely to refer to the housing land supply position in assessing the weight to be given to the benefits/harms related to the appeal proposal.
- 1.4 However, in this context, the LPA would emphasise that both these matters are likely to be affected by the passage of time, for reasons that include the following:
- The Emerging Local Plan is progressing towards adoption, with an initial session considering strategic matters, including housing need and supply due to commence on 23 November 2015;
  - This is likely to be the subject of an interim report that may include significant comment on housing need; housing land supply and may specify an appropriate housing target and discussion of whether the LPA can demonstrate a 5 year housing land supply against this target;
  - Even aside from this, the housing land supply position may potentially be affected by new permissions granted (here including proposal with a resolution to approve subject to a legal agreement), progress at sites with such planning permission;
  - Some factors that affect assessment of the relevant housing target/ full objectively assessed need (“FOAN”) and the relevance of this target in a situation where an adopted housing target is expected to emerge from the Local Plan EiP may be affected by case law and/or changes to national planning policy/ guidance.
- 1.5 In presenting its evidence at and in advance of the inquiry, the LPA will therefore set out the most relevant, up to date evidence in relation to these matters, which may differ from when the original application was determined. It may in particular refer to:
- The status of the emerging Local Plan and its progress towards adoption

- The contents of the Inspector’s report on any part of any Examination in Public in relation to the emerging Local Plan that may have taken place between the submission of this statement of case and the date for submission of evidence
- Any documentation that affects the HLS (including any new HLS position statements that the LPA may produce) or the FOAN
- Any approved planning applications for housing (including approvals in principle subject to the signing of a planning obligation and permissions granted at appeal);
- Comments on progress at individual existing housing sites shown within the HLS, including as appropriate reports from developers;
- Some of the factors that affect consideration of the relevant housing target/ FOAN

1.6 The rest of this statement of case will be written in this context.

## **2 The Appeal Site and Surrounding Area**

2.1 The LPA will describe the appeal Site and the nearby Area in an appropriate level of detail and to the extent that it considers this relevant to the current appeal.

2.2 The LPA will in particular describe:

- the appeal site’s size and general location in relation to nearby roads including the main A4095 Witney Road to the northwest, which is a main route into Witney to the southeast and to Woodstock and Oxford to the northeast;
- The fact that the site comprises:
  - the whole of a small, narrow “teardrop”-shaped paddock/ small field (described in this statement below as “the paddock”) that backs onto Nos. 23 and 37 Witney Road; Nos. 34-45a *Hurdeswell* and Nos. 49, 55 and 57 *Marlborough Crescent*, two late twentieth century housing developments at the edge of Long Hanborough to the northeast of the site; and
  - The greater part of a much larger, irregularly-shaped field to the southwest (described in this statement below as “the main part of the site”), including the whole of the 180m frontage of this field onto the A4095, extending between 39 Witney Road and The Old Police House.

- The character and appearance and general characteristics of Long Hanborough and Freeland, with reference in particular to the existing and historic pattern of development within these settlements and their general size and facilities
- The pattern of development along the A4095 Witney Road at the western edge of the built-up part of Long Hanborough to the northeast of the appeal site, which the LPA will characterise as ending at No. 37 and No.39 on the southeastern side of Witney Road and No.46 on the northwestern side;
- The pattern of development along the A4095 Witney Road at the northern edge of Freeland, which it will characterise as having a short, mainly residential built frontage on the southeastern side of the A4095 at the end of mainly linear development along Wroslyn Road to the south, with the northeastern extent of Freeland on the A4095 being defined by a slightly set back commercial building in a its ending with a commercial structure);
- The fact that The Old Police House, with its curtilage and 16m frontage some 180m from the edge of the built up part of Long Hanborough and 225m from the built up part of Freeland, as defined above is the only built development between the two settlements along the A4095 and that it currently has the appearance and character of an isolated dwelling in the open agricultural countryside
- The site's current appearance and use(s) as a paddock/ small field and part of a single agricultural field in active use for growing arable.
- Its location in open countryside adjoining but outside the large village of Long Hanborough;
- The topography of land within and adjoining the site in general and perhaps detailed terms, with particular reference to its attractive, gently rolling character;
- Any watercourses close to the site, including the Chil Brook to the south;
- The appearance, height and character of existing field boundaries within or adjoining the appeal site;
- Existing trees and hedges within and adjoining the site, noting that within the site, these are mainly limited to planting on or close to the field boundaries, with reference to how any screening these may provide is likely to vary during the year.
- Typical boundary treatments found nearby, including traditional hedgerows, fencing and other means of enclosure within the site and nearby;
- Adjoining and nearby land uses and designations, including fields, field accesses, public footpaths and roads;

- The public viewpoints from which the development would be visible, with particular reference to such views as may exist from public footpaths nearby (including the public footpath to the north of Witney Road), from Witney Road itself and between dwellings in Marlborough Crescent and Wroslyn Road.
- Views into and across the site that would be affected by the proposal, including views from the public viewpoints identified and from nearby private land and properties, again with reference to how these may change at different times of year.
- Relevant classifications of the site and the nearby area as set out in the West Oxfordshire Landscape Assessment, the adopted and emerging Local Plan settlement hierarchies and the West Oxfordshire Design Guide.
- The site description as included within the West Oxfordshire Strategic Housing Land Availability Assessment (“the SHLAA”), as updated in August 2014.
- The LPA will note in particular in this context that the main part of the appeal site is identified within the SHLAA as part of site number 167 (land west of Long Hanborough), which although described as available and possibly achievable (subject to school capacity issue being resolved) is not considered suitable because, as stated in the SHLAA, “*Harm to landscape setting and separate identities of village and Freeland. Relatively distant from village facilities.*”
- The paddock/ small field is included separately in the SHLAA as site 168 *Land adjacent Hurdeswell*, which although considered both available and achievable is nonetheless not considered suitable because, as stated in the SHLAA, it is *Not well integrated with existing development; has limited development potential and is also awkward to develop because of shape of land, relationship to A4095 and need to provide continuation of adjacent green wedge.*”

2.3 The LPA further reserves its right to describe and/ or discuss any other aspects of the character and appearance of the site and the nearby area that it may consider relevant and/or appropriate to the planning considerations under discussion at this appeal.

### **3 The Appeal Proposal and Relevant Planning History**

3.1 The LPA will note that the application underlying this appeal (ref. 14/01234/P/OP), was received by the LPA on 21 August 2014 (from Mr Graham Flint of Pye Homes Ltd, the appellants), seeking outline planning permission (with all matters except access reserved) for a proposed development described in the Application forms as *Outline planning application for the erection of up to 169 dwellings, with access from the Witney Road, open space and associated works* and in the decision notice (further to subsequent amendments and what the LPA regards as greater accuracy) as:

***Erection of up to 169 dwellings; with new Doctors' Surgery, to be up to 740 sq metres in size, with around 27 car parking spaces; with access from the Witney Road, plus open space, and associated works, Public Open Space, Vehicular Access, Landscaping and Associated Works***

3.2 The LPA will describe the underlying application and related proposal (now the appeal proposal) in an appropriate level of detail, with reference to the commentary in the application and/or appeal submissions, including text and diagrams in the reasonably detailed design and access statement and Landscape and Visual Impact Assessment ("the LVIA") submitted with the application, both as dated August 2014.

3.3 The LPA will refer inter alia to (a) the number of proposed dwellings, (b) the indicative layout; (c) the individual and cumulative scale, massing, height and general appearance of the proposed buildings, (d); Indicative landscaping proposals within the site and close to its boundaries as referred to in the submitted detail (including the so-called "Landscape Masterplan" referred to in the LVIA) s; and (e) Views into and across the site and perhaps out from the site that would be affected by the proposal.

3.4 The LPA will note in particular that:

- The application was for outline permission with all matters reserved except access
- Access is to be from Witney Road broadly in the middle of that road frontage
- The application submissions included illustrative details of many aspects of the proposal, including site layout and landscaping within the submitted indicative Site Layout Plan, as referred to in both the Design and Access Statement and the LVIA,
- This layout was altered during the passage of the application to include a doctors' surgery with parking in the northernmost part of the site;
- It included a central green space and areas of open space close to the site's southeastern boundary (the lowest point of the site where SUDS flood water attenuation and surface water run off mitigation measures would be provided);

- The irregular southwestern boundary of the site would be formed by a new hedge that would run through the middle of a historic field;
- In general terms, the layout appears to reflect the unexceptional existing late twentieth century housing developments to the northeast within Hurdeswell and Churchill Way/ Marlborough Crescent, what appears to , positioning and scale of the proposal that is consistent with the submitted details (but also informed by the hedge that defines the boundary between the main part of the site and the paddock/ small field to the northeast and the requirement not to building within 6m of a drain that runs through this paddock.);

3.5 The LPA will *inter alia* note in relation to the design and access statement that:

- the application was for outline permission with all matters reserved except access
- A wide range of 2-storey 1-4 bedroom dwellings are proposed with 49% affordable housing will be provided (para 1.2 and elsewhere);
- The nearest bus stops are 400m from the site entrance (para 2.2)
- The development will also deliver contributions to local community facilities including schools, highways, transport, health and leisure facilities (2.2)
- The claim that the proposal would have “no adverse impacts” (2.10)
- *The [south] western boundary is undefined by exiting site features* 94.10.
- *The reference to the proposed development as presenting an opportunity for the next phase of growth within the village... with infill between the radial routes* (4.14)
- What the LPA reads as the aim to screen housing on the southwestern edge of the development *from the countryside and public realm views by a substantial band of indigenous soft landscaping of native trees and hedging* (4.15)
- The acceptance at para 5.1 that an initial proposal to develop the whole field would not have *integrated successfully with Long Hanborough or to create an appropriate entrance into the village*
- The claim that *bringing the development closer to the road was an improvement because the new proposal became more recognisable as part of the village; more fluid; would have better linkages into the village; and would create a more defined boundary* (5.2 and 5.3)
- The clear implication at section 6 that the consultation exercise with the local public was successful and led to alterations to the proposal to meet local concerns
- The limited comment in relation to design and scale in section 12
- The summary and conclusions at section 14

- 3.6 The LPA will *inter alia* note comment in relation to the following aspects of the LVIA:
- The reference within the site description at para 1.2.1 to the fact that the majority of the field boundaries follow the existing field patterns as *an indicator of character*
  - The reference to the Scope of the Study at para 1.4 as seeking to *ascertain that most suitable location for the massing type, visual appearance, character and layout of new development that has the least impact on the surrounding area....*
  - The classification of the site as being an “ordinary landscape” at para 3.8, which the LPA will disagree with for reasons that it will set out in detail
  - Its summary of landscape character and quality of the site and setting at para 3.9, which it will analyse in some detail;
  - Its assessment of sensitivity of receptors and key viewpoints in section 4 and its assessment, with particular reference to sensitivity of receptors and sensitivity to change includes assumptions with which the LPA will disagree (in particular as regards public and private viewpoints close to the site)
  - The references throughout to visibility of the undeveloped site as it is now, rather than visibility of the proposal and in particular the proposed dwellings
  - The effectiveness of mitigation, as referred to in section 7
  - Its assessment of magnitude and in particular significance of visual effects and impacts in section 8
  - He acceptance at para 8.6.1 that creating a comprehensive landscape scheme *is a fundamental part of ensuring that it will sit comfortably within its setting and minimising its potential impact,*
  - The conclusions in section 9, with particular reference to the assessment set out at para 9.1.5
- 3.7 The LPA will refer in this context to:
- The general design aims of the proposal;
  - The stated approach to landscaping and layout and the acknowledged importance of landscaping in terms of addressing harm that the LVIA in particular appears to accept would otherwise arise to the character and appearance of the nearby area;
  - The visibility of dwellings within the sites to the existing topography;
  - The visibility of the proposed dwellings, internal roads, parking areas, landscaped areas and public open space; and

- Alterations to the scheme made in response to comments from the general public that came forward as a result of attempts to consult with the local community in advance of submitting the underlying application.
- 3.8 The LPA may also comment on any substantive changes from the position when the application was determined that may be referred to in any new or amended plans or other documents that may be submitted in support of the current appeal (noting that the doctors' surgery was introduced during the passage of the application and that the appellants have for example already subsequently referred to an intention to submit an alternative scheme layout that they consider may reflect the distinctive character of Long Hanborough more closely and that they have also taken steps to support their claim that the proposed surgery is likely to be delivered in goodtime in practice).
- 3.9 Where relevant the LPA may also refer to other applications submissions, including other application submissions, including in particular the LVIA, Heritage Statement and Statement of Community Involvement;
- 3.10 The LPA will note that officers presented a report ("the Committee report") in relation to the underlying application to the 2 March 2015 meeting of the LPA's Uplands Planning sub-Committee ("the Committee"), having originally been deferred from the Committee's 3 November 2014 meeting.
- 3.11 It will refer to this committee report and will note that this included:
- A brief summary of the responses received from statutory and other consultees
  - An extensive, structured summary of the many points made in the very many responses (now very much more than the 450 letters of objection referred to) from interested members of the public, almost all objecting to the proposal.
  - A similarly extensive summary of the appellants' (then the applicants') case;
  - A discussion at paragraphs 5.7-5.12 of the weight to be given to existing adopted Local Plan housing policies (in particular policy H7) that explains why although the LPA considered that it could demonstrate a 5 year HLS officers nonetheless did not give full weight to the housing policies of the adopted Local Plan in assessing the application and why the proposal could be considered acceptable in principle (insofar as it adjoins a designated service centre) but ***only provided that the development represents sustainable development as defined by the Local Plan and NPPF and that there would be no significant and demonstrable adverse impacts that would outweigh the potential benefits of the scheme.***
  - A comprehensive planning assessment at section 5 that discussed the planning harm(s) and planning benefits that it considered likely to arise from the proposal

and that concluded *There are still too many uncertainties surrounding this proposal for officers to be persuaded the proposed benefits of the scheme, outweigh the identified harms, which it identified as including officers' views that The development as proposed will not form a logical compliment to the settlement pattern and by reason of its design is likely to become isolated from the village core leading to a unsustainable development that harms the setting and character of this village and does not take the opportunity to secure good design.*

3.12 The LPA will confirm that the Committee resolved to refuse the proposal, in line with officer recommendation, which was done on 6 March 2015 for the following reason:

- 1 *By reason of the scale of development both in its own right and in combination with other planned and approved schemes, the failure to address the education and healthcare implications for the village, the failure to take the opportunity to create a locally distinctive development, the coalescence of the settlements of Long Hanborough and Freeland and the precedent for further encroachment into the open countryside around the village the proposed development represents a disproportionate addition that will damage the social and environmental character and sustainability of the village and urbanise the road between the settlements of Long Hanborough and Freeland with inappropriate ribbon development.***  
***As such the proposals are contrary to policies BE2 and H7 of the adopted plan, H2 and OS1 of the emerging plan and paragraphs 14, 64 and 66 of the NPPF. These are considered to represent significant and demonstrable harms that substantially outweigh the benefits of the scheme.***

3.13 The LPA will note that details of this case are already with the Inspectorate.

3.14 The LPA will however emphasise that this reason for refusal was drafted in the expectation that (as stated within the Committee report) a legal agreement could address the burden on infrastructure and services that would otherwise arise from the proposed dwellings and would meet a requirement for 50% affordable housing.

3.15 It will emphasise in this context that:

- This expectation is also reflected in the County Council response to the proposal and that of the District Council's Leisure Services and Housing Departments.
- The appellants also recognise the need to address this planning harm, both in the appeal forms (which states that a legal agreement will be provided) in their appeal Statement of Case, which refers to this point at its paragraphs 1.4, 3.18, 6.8 and

7.55 (paragraphs 6.8 and 7.55 refer to the relevant paragraphs of the Committee Report). And in their originally submitted design and access statement (paras)

- The LPA expects to conduct positive and constructive talks regarding an appropriate legal agreement with the appellants' legal representatives shortly and is optimistic that this matter can be resolved well before the start of the inquiry
- However, at present the LPA is unaware of any such agreement even in draft form.

3.16 As such, **until a satisfactory legal agreement is in place, the LPA will consider this an additional reason for refusal** over and above what is in the reason for refusal.

#### **Relevant Planning history**

3.17 The LPA will note that the committee report does not refer to any other directly relevant past planning history at the appeal site., which has historically been undeveloped open countryside in use as agricultural fields

3.18 It will note, however, in particular that, a recent application for a very similar development is currently being considered.

3.19 The LPA may however, also refer to other applications/ appeals nearby including applications for housing schemes in Long Hanborough and Freeland (including application ref. 14/1102/P/OP for 53 dwellings at land to the East of Church Road, Long Hanborough and 15/02135/OUT for up to 29 dwellings at Land Between Wychwood House and Malvern Villas, Freeland) that have been favourably received by Committee and that the LPA considers relevant to the issues under discussion at this appeal and to any other appropriate and relevant applications, appeals and/or court decisions, inside and outside the District.

#### 4 **Relevant National Planning Guidance**

4.1 The LPA will discuss the national government advice it considers most relevant to these appeals, including:

- The *National Planning Policy Framework* (“the NPPF”, March 2012);
- The *Planning Practice Guidance* (“the PPG”, March 2014);

4.2 It is likely in particular to discuss the following sections and paragraphs of the NPPF:

<b>Section/ Topic</b>	<b>Paragraphs</b> (NB others may also be referred to)
<b>Ministerial Foreword</b>	Importance of high standards of design Protection of the built, natural and historic environment, and economic, environmental and social progress Importance of sustainable development and finding ways to enhance and improve the places in which we live our lives
<b>Achieving sustainable development</b>	7-9 (Definition of sustainability) 14 (presumption in favour of Sustainable Development) 17 (Core Planning principles, all bullet points, including recognition of intrinsic character and beauty of the countryside)
<b>S.6 Delivering a Wide Choice of High Quality Homes</b>	47-49 (LPAs should significantly boost HLS, achieve certain targets; can make realistic allowance for windfalls 53 (opportunity for LPAs to impose policies to resist inappropriate development of residential gardens )
<b>S.7 Good Design</b>	56-57 (Great importance of high quality inclusive design) 58 (list of principles to be applied to policy making and decision taking bullet points 1, 2, 3, 4 and 6) 59 (design codes) 61 (high quality and inclusive design goes beyond aesthetic considerations...) 64 (Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.) 66 (expectation that applicants will work closely with those directly affected by their proposals to evolve designs that take account of the views of the community)
<b>S.11 Conserving and Enhancing the Natural Environment</b>	109 (protection of valued landscapes) 111 (encourage use of brown field sites) 117, 118 (importance of biodiversity)
<b>Decision-taking</b>	186 (positive approach to decision taking) 187 (LPAs should look for solutions rather than problems) 196 (plan-led approach statutory)
<b>Planning Conditions and Obligations</b>	203, 204, 206 (importance of conditions and obligations and relevant tests)
<b>Annex 1: Implementation</b>	215 (due weight to be given to relevant policies in existing plans according to their degree of consistency with the NPPF) 216 (weight to be given to emerging policies)

- 4.3 The LPA may also refer to any other parts of the NPPF that it considers relevant and appropriate, as may be raised by the appellants or third parties or for any other reason.
- 4.4 It will in doing so refer explicitly to those paragraphs of the NPPF referred to directly or indirectly in the third reason for refusal.
- 4.5 In discussing the relevance of this national government advice/ policy to the issues under discussion in the current appeal, the LPA will also refer to the guidance and clarification provided in relation to the above parts of the NPPF within the Planning Practice Guidance (“the PPG”), as continuously updated including in particular, the sections on Appeals; CIL; Housing (needs and land availability assessments); Use of planning Conditions; Planning Obligations; and perhaps the sections on transport assessments and travel plans.

#### Other Government Advice/ Legislation/ Statistics

- 4.6 The LPA will discuss other planning and perhaps other advice and legislation, as it considers relevant and appropriate, including the advice in the PPG relating to conditions and planning obligations and the relevant parts of the CIL Regulations.
- 4.7 The LPA will also refer to relevant national statistics as appropriate, including the 2008, 2011 and 2012 ONS household projections, as referred to in the PPG and elsewhere.
- 4.8 The LPA may refer to such Government circulars; ministerial statements; and letters or other communications from ministers and/ or national government bodies as it considers relevant to the planning considerations under discussion at this appeal.

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

- 5.1 The LPA will note that Section 38 (6) of the Planning and Compensation Act 2004 (as confirmed more than once within the NPPF referred to above) requires decision makers to determine applications in accordance with the policies of the development plan unless other relevant material planning considerations indicate otherwise.
- 5.2 The LPA will confirm that in this case the West Oxfordshire Local Plan 2006 (“the Local Plan”, as adopted June 2006) represents the development plan.
- 5.3 The LPA will discuss the relevant development plan policies referred to in the reasons for refusal and any supporting text within the Local plan, as follows:

<b>Policy</b>	<b>Topic, Policy Text and relevant paragraphs from the supporting text</b> (although, other paragraphs may be referred to)
<b>Built Environment Policy BE2:</b>  <b>General Development Standards</b>	<p><i>New development should respect and, where possible, improve the character and quality of its surroundings...</i></p> <p><i>Proposals should clearly demonstrate how they will relate satisfactorily to the site and its surroundings, incorporating a landscape scheme and incidental open space as appropriate.</i></p> <p><i>A landscape scheme accompanying detailed proposals for development should show, as appropriate, hard and soft landscaping, existing and proposed underground services, a phasing programme for implementation and subsequent maintenance arrangements.</i></p> <p>Criteria for all new development include (a) they should be <i>well-designed and respect the existing scale, pattern and character of the surrounding area</i>; (b) <i>new buildings should be designed to respect or enhance the form, siting, scale, massing and external materials and colours of adjoining buildings, with local building traditions reflected as appropriate</i>; (d) <i>existing features of importance in the local environment are protected and/or enhanced</i>; (e) <i>the landscape surrounding and providing a setting for existing towns and villages is not adversely affected</i>; and (f) <i>in the open countryside, any appropriate development will be easily assimilated into the landscape and wherever possible, be sited close to an existing group of buildings.</i></p> <p>Supporting text paras 3.12-3.22</p>
<b>Housing Policies H4-H7:</b>  <b>Locational Housing Supply policies</b>	<p>Although not referred to in the reasons for refusal, this “nested suite” of strategic locational housing supply policies sets different criteria for acceptability of housing in principle in different locations (H4 is the most restrictive and applies to small settlements and open countryside and H7 is the least restrictive and applies in service centres, such as Long Hanborough). The LPA may also refer to these policies as it considers relevant to discussing the adopted housing policies of the Local Plan.</p> <p>Supporting text paras 5.55-5.70</p>
<b>Housing Policy H11:</b>  <b>Affordable Housing</b>	<p>Sets out the basis on which affordable housing will be sought as part of residential development schemes</p> <p>[NB the later adopted Affordable housing SPD is also relevant]</p> <p>Supporting text paras 5.77-5.92</p>
<b>Built Environment Policy BE1:</b>  <b>Environmental and Community Infrastructure</b>	<p><i>Development will not be permitted unless appropriate supporting transport, service and community infrastructure is available or will be provided and appropriate provision has been made to safeguard the local environment. Contributions will be sought from developers and/or landowners in accordance with Government advice.</i></p> <p>Supporting text paras 3.5-3.11</p>

5.4 The LPA will refer to the supporting text, including those paragraphs listed above as relevant and appropriate.

### The Emerging Local Plan

- 5.5 The LPA will note that the following policies of the emerging Local Plan were referred to in the reason for refusal:
- OS1 (***Presumption in Favour of Sustainable Development***); and
  - H2 (***Delivery of New Homes***)
- 5.6 It will discuss the relevance of these policies to the planning considerations under discussion at this appeal and will similarly identify and discuss such other policies of the emerging Local Plan that it also considers relevant, as appropriate.
- 5.7 The LPA will set out the current stage reached by the emerging Local Plan as it progresses towards adoption and the implications of its progress in terms of the weight to be given to its policies and to those of the adopted Local Plan.
- 5.8 As noted, above, it may be that the Local Plan EiP has been carried out, is anticipated or is actually ongoing and/or that the EiP report is anticipated or has been published – and depending upon this, it may significantly affect the policy position.
- 5.9 Indeed, if the EiP has been completed and particularly if the EiP report has been published, these policies (or more precisely the final/ recommended form of these policies) may have attained great weight and if this is the case, the LPA will reassess its evidence accordingly.
- 5.10 Similarly, in relation to HLS issues, the progress of the emerging Local Plan may clarify the relevant housing target for the District and perhaps some other matters relating to housing land supply at specific sites, including likely areas for the future expansion of existing settlements, including Long Hanborough.
- 5.11 The LPA has included the relevant policies of the emerging Local Plan with its questionnaire response.

#### Other Relevant Considerations within West Oxfordshire District

- 5.12 The LPA will also refer to such other related planning documents and publications, as it considers relevant to the appeal proposal, including:
- The ***West Oxfordshire Design Guide*** noting its status as an adopted supplementary planning document and the LPA's view that it represents a design code in the terms of the NPPF;
  - The long established ***West Oxfordshire Landscape Character Assessment*** (“the Landscape Assessment”, published 1998) which assesses and characterises landscape within the entire District (including land close to and within the appeal site) and that also deals with certain “key settlements” (including Long Hanborough)

in more detail. The LPA will note that this document is not adopted and was produced in 1998 but will emphasise that in its opinion, it remains relevant and helpful and has informed development control decisions over many years.

- The recently published ***Oxfordshire-wide SHMA***;
- The **West Oxfordshire Strategic Housing Land Availability Assessment** (“the SHLAA”), as updated in August 2014
- The adopted supplementary planning document ***Affordable Housing***

5.13 In relation to Housing Land Supply issues, the LPA will exhibit and discuss its April and September 2014 and February 2015 published interim HLS position statements, other related documents from the LDF evidence base (including documents commissioned by the LPA to consider the objectively assessed need for the District and how this might differ from that put forward in the SHMA) and any further public documents issued in relation to its HLS position that may be published between the current date and the date for submitting proofs of evidence.

5.14 The LPA will describe the status and calculation methodology of any such documents with particular regard to relevant national Government advice.

## **6 Consistency of the Development Plan Policies referred to in the Reasons for Refusal with the NPPF/ the PPTS**

6.1 The LPA will set out and justify its view that the policies referred to in the reasons for refusal are broadly consistent with the relevant policies and advice in the NPPF and the PPG, particularly in relation to the issues under discussion at this appeal.

6.2 As such, the LPA will argue that these policies should be accorded almost full weight.

## **7 Amplification of the LPA's Reasons for Refusal**

7.1 The LPA will state that in its view with reference to the planning concerns referred to in the reasons for refusal and set out in more detail in the committee report, the main planning issues in this case are:

- **Whether the proposal would comply with policy H7 of the adopted local plan on a site that the SHLAA considers unsuitable for development**
- **Impact on visual and social character and value of the site due primarily to:**
  - **Loss of attractive, good quality landscape**
  - **Impact on public views**
  - **Impact on private Views**
  - **Urbanising Impact on the road between Long Hanborough and Freeland**
  - **Coalescence of the two adjoining historically distinct settlements of Long Hanborough and Freeland,**
  - **Failure to Respond to the Traditional, Distinctive Qualities of Long Hanborough, especially as regards Existing Housing**
- **Social Impacts on the character of the village, taken with other large scale developments approved or proposed within Long Hanborough**
- **Whether adequate provision has been made to address/ offset the additional burden on infrastructure and services that the proposal would cause in relation to the following matters :**
  - **Education and Healthcare**
  - **Affordable housing and Other Infrastructure/ Services**
- **Whether the proposal would create a Precedent for Future Development more difficult to resist, the cumulative impacts of which would be even more Harmful**
- **Would any planning benefits of the proposal be sufficient (individually or cumulatively) to offset the planning harm associated with the proposal?**

7.2 The LPA will deal with each of these in turn before considering the planning balance.

7.3 In considering the benefits of the proposal, the LPA will consider how the weight to be given to any such benefits should be reduced if the Inspector agrees that the LPA has more than five years HLS (and perhaps if it has close to a 5 year HLS and has significantly boosted its housing land supply and complied with the other requirements of paragraph 47 of the NPPF since the NPPF was published) and/or whether or not the development represents sustainable development in the terms set out in the NPPF.

- 7.4 The LPA will consider each of the main planning issues in turn and will set out its key planning concerns in each case.

**Compliance with policy H7 of the adopted local plan on a site that the SHLAA considers unsuitable for development**

- 7.5 The LPA will set out the terms of policy H7, which it will note is a locational housing supply policy relating to service centres (such as Long Hanborough) that *inter alia* does not permit new housing in the open countryside adjoining such settlements.
- 7.6 It will assert that the proposal is, as such, clearly directly contrary to this adopted policy.
- 7.7 The LPA will accept, as set out in the committee report that the policies of the NPPF and those of the emerging Local Plan do not seek to preclude housing on the edge of settlements (where necessary, in the terms of policy H2 of the emerging Local Plan) and that the LPA considers that in order to meet the LPA's housing needs it will be necessary to develop some greenfield sites on the edge of settlements.
- 7.8 It will accept that all of these considerations act to reduce the weight given to policy H7.
- 7.9 However, it will argue (and may refer to recent case law including in particular in doing so) that the weight to be given to this policy is increased by the extent to which the LPA can demonstrate a full 5 year housing land supply (or decreased by the level of any shortfall that may be identified) – but that it will nonetheless attract weight as a part of the statutory development plan.
- 7.10 In this context, the LPA will emphasise that (primarily because of the suitability of its highly attractive, rolling countryside for grazing sheep, the economic importance of the wool trade for many hundreds of years and the availability of oolitic limestone and stone slates) the District is very fortunate to have a large number of very attractive villages set in very attractive countryside that have a high proportion of attractive historic vernacular stone buildings of all sizes and functions that have survived often several centuries.
- 7.11 In this context, the LPA will emphasise that policies such as H7 have many planning purposes beyond controlling housing supply and that many of these other purposes, including in this case protecting the setting of the District's villages; protecting the open intrinsic character and beauty of the open countryside and preventing the creeping coalescence of adjoining settlements are consistent with the policies of the NPPF,
- 7.12 As such and in this context, the LPA will argue that weight should be given to policy H7 in situations where proposed new housing would adversely affect the setting of an attractive, historic villages; where it would involve building on attractive open

countryside and where it would build out the greater part of a field that is critical to maintaining the separation between adjoining settlements, all of which the LPA considers would apply in this case.

### **Impact on the Character and Appearance of the Nearby Area**

- 7.13 In assessing Impact on the Character and Appearance of the Nearby Area, the LPA will set out its concerns under the above listed sub-headings and may rely upon the evidence of different expert witnesses in relation to these two issues.
- 7.14 In doing so, the LPA will acknowledge that the proposal is in outline and that the size, design, massing and layout are (at least to some degree) still reserved and in particular that landscaping details have also still to be agreed.
- 7.15 **In assessing landscape and visual impacts**, the LPA will note that a landscape and visual impact assessment (“the LVIA”), dated November 2014 was submitted with the underlying application.
- 7.16 It will confirm that it regards this LVIA as a significant document and will frame its evidence on this issue with regard to the contents and conclusions of the LVIA.
- 7.17 The LPA may choose to engage a qualified landscape architect or other appropriate expert witness to assist it in presenting its case in this respect to the inquiry.
- 7.18 The LPA will identify any weaknesses in the LVIA and will explain why it considers that the conclusions of the LVIA should not be relied upon entirely and why, in particular, it considers that:
- The LVIA understates the visual and landscape significance of the appeal site as it currently is;
  - The LVIA understates the visual and landscape impacts of the proposal and the related harm that would arise from it in these terms
- 7.19 The LPA will identify the key public viewpoints from which the site is visible and from which it considers the detrimental landscape and visual impacts of the proposed large scale residential development on the will be most apparent and most harmful.
- 7.20 The LPA will also note affected private viewpoints, including views across the site from private land, including nearby dwellings.
- 7.21 In this context, the LPA will assess the existing character of the area in an appropriate level of detail, with reference to the beneficial characteristics of the site and nearby area that it considers good, well designed new development should seek to

complement and enhance and the less attractive qualities that it considers new development should seek to avoid.

### **Loss of attractive, good quality landscape**

- 7.22 In this context, the LPA will refer to the various tables within the Appellants' "LVIA", including the Landscape Quality Table at para 3.8; sensitivity of receptors to change and sensitivity of the site to change set out under para 6.2.1; the Magnitude Ratings table under para 8.1.2; and the overall Significance Ratings table under para 8.4.3.
- 7.23 The LPA will set out certain reservations about the extent to which this document is genuinely a landscape and visual impact assessment (given its stated aims, which the LPA will characterise as finding the best mitigation approach that doesn't unduly affect the development of the site) and the lack of clear provenance for some aspects of the underlying methodology and certain clear doubts about the approach taken to the viewpoints chosen, the apparent premise that if the site cannot currently be seen from a given viewpoint then there will be no visual impacts (an opinion with which the LPA will strongly disagree); the viewpoints chosen, the direction of view in at least one particular case; the use of only summer photographs and the extent to which the photographs reflect the actual views obtained on site.
- 7.24 However, notwithstanding all these reservations, the LPA will note that the LVIA concludes that the proposal would have a slight adverse impact on the basis of its assumptions/ assessments that the site is of an ordinary quality in landscape terms and that the only public viewpoint affected would be at the entrance onto Witney Road and the main private viewpoints affected being those from nearby dwellings.
- 7.25 The LPA will argue *inter alia* that (1) the quality of the landscape is greater than that assumed (assessed against what the LPA regards as the generally semi-quantifiable criteria set out within the LVIA); (2) the magnitude of impact would be greater than that stated (on a similar semi-quantifiable basis); and (3) the development would be visible from a much wider area of public viewpoints (including the public footpath to the north and effectively the whole of the Witney Road frontage rather than just at the entrance).
- 7.26 In particular, as regards quality of the existing field, the LPA will argue that it possess an attractive, gently rolling topography, that it has retained its historic field boundaries, defined by generally good-to-very good quality hedgerow field boundary treatments (which the LVIA identifies as an indicator of character) to the southwest and that the development would represent the type of development that this type of landscape is identified as being sensitive to in the West Oxfordshire Landscape Assessment.

- 7.27 Moreover, the magnitude of change is not just increased by the fact that this attractive, historic field would be built over by 2-storey housing, but the remaining undeveloped part of this field will no longer have its historic shape or size.
- 7.28 Moreover, whereas the existing southwestern field boundary is currently clearly visible from rear windows of dwellings in Wroslyn Road within Freeland to the southwest and Hurdeswell, Marlborough Crescent and other dwellings in Long Hanborough to the east – and is identifiable in these views as effectively defining the central line where the fields that bound the housing in Freeland meet the fields that bound the edge of Long Hanborough – and, as such the narrowing of the separation between the two settlements would be very obvious from these windows, both visually and physically.
- 7.29 On this basis, the LPA will argue that the slight adverse impact suggested within the LPA very significantly understates the true harm that would arise in these terms.

### **Impact on public views**

- 7.30 As noted, the LPA will argue that the development would be clearly visible throughout the year from the footpath on the northern side of Witney Road all the way along the site frontage.
- 7.31 It will argue that this is a well-used footpath connecting Long Hanborough and Freeland that is also used as a cycle route by cyclists who prefer not to travel on a busy road without a dedicated cycle lane.
- 7.32 The LPA will contend that just as the 2-storey Old Police House is visible and becomes increasingly more visually prominent as it is approached from the northeast (from Long Hanborough), so the 2-storey dwellings that would populate all parts of the site beyond a 10m planting strip would be highly visible, even when the planting was in full leaf.
- 7.33 The LPA will also draw the Inspector's attention to the public footpath to the north, which has a very well trodden appearance, with an established semi-permanent surface of what appears to be compacted mud and from which there are views of the Old Police House, the spire of the church in Church Hanborough and dwellings in the near part of Witney Road, Hurdeswell and Churchill Way/ Marlborough Crescent at eaves level and below.
- 7.34 The LPA will argue that houses in the new development would be nearer than these existing dwellings and would therefore be more visible in the same views.
- 7.35 It will note that these views would be visible above the existing 5m hedge and therefore would be clearly visible throughout the year and that the receptors would include walkers on the footpath who are visiting the area specifically to walk the footpath

network and enjoy the attractive scenery that helps attract so many tourists to the Cotswolds every year and local residents with a pride in the appearance of the area in which they live, many of whom are likely to take an active interest in the nearby area.

- 7.36 In both cases, the LPA considers that when the hedges along both sides of the A4095 Witney Road, which in this areas appear to be mainly composed of native, deciduous species are likely to permit.
- 7.37 As such, the LPA will contend that those using the footpath and the pavement on the northern side of Witney Road are generally high sensitivity receptors, in the terms of the LVIA, again increasing the associated harm.
- 7.38 Finally, in this context, the LPA will note that the basic approach to mitigation in the “Landscape Masterplan appears to rely on screening from boundary hedgerows, reinforced to a depth of 10m on the northern boundary away from the entrance (and perhaps in front of the surgery, where the LPA will suggest that, primarily for commercial and directional reasons, those managing the surgery may want to be seen clearly rather than hidden away).
- 7.39 The LPA will set out its reservations about this approach, for reasons that will include the following:
- Native hedgerow plants and trees are mainly deciduous and would not ordinarily be more than 2-3m high (as appears to be proposed along the sites southwestern boundary, as the LPA reads the LVIA);
  - As such, they would not be sufficiently tall to be effective screens except perhaps at very close distance at any time of year – although they would be significantly less effective as screens when the plants were not in full leaf;
  - The only possibility of achieving genuine screening would appear to require a significant proportion of trees – although the LPA cannot see how a coppice could be created in a 10m strip or how a hedge higher than 5m could be created in a relatively narrow planting strip without significant gaps between trees, which would greatly reduce their effectiveness as a screen;
  - Moreover, many future residents might see mature trees as not particularly compatible with dwellings so that the LPA would have reservations about any arrangement that located trees in private gardens or in locations where residents might be inclined to remove them e.g. to improve light or views to their dwellings

- The LPA is doubtful that the landscaping would really involve mature tree planting (as stated in the LVIA) and, presuming this is the case, any trees would take a significant period of time to become established

### **Impact on private Views**

- 7.40 The LPA will acknowledge that these views are represented broadly accurately within the LVIA, except that it will argue that the magnitude of change would be greater and that the proposal would have a more adverse impact on what it regards as at least a good quality landscape in the terms of the table under para 3.8 of the LVIA.
- 7.41 The LPA will further argue that the people looking out from the affected windows would be highly sensitive receptors who currently effectively see the two fields separating their village from the adjoining village and that this is likely to increase their concerns and the associated detrimental impacts of the proposal, as discussed further below.

### **Urbanising Impact on the road between Long Hanborough and Freeland**

- 7.42 The LPA will acknowledge that the proposal would represent development in some significant depth (and indeed that the developed area would be significantly deeper than the width of the entire frontage).
- 7.43 However, the LPA will argue that, as seen from Witney Road and perhaps particularly looking linearly along Witney Road as the road may often be seen by passing traffic, the proposal would result in the entire 120m frontage between 39 Witney Road and the Old Police House (effectively approximately half of the currently open land between the western edge of Long Hanborough and the start of Freeland) being entirely filled in a way that would effectively appear to be a continuous built frontage.
- 7.44 The LPA will argue that this would appear similar to a continuation of the village along the A4095 and will observe in this context that Long Hanborough retains a very clear sense of having a primarily linear form along the A4095, despite the later development in depth on both sides of the road.
- 7.45 In that context, the LPA will argue that the additional development will appear as an extension of this ribbon development on the southern side of the road (and that, notwithstanding the LPAs strong belief that even 10m deep frontage planting would not disguise the depth and extent of development within the site effectively, if the Inspector was to be persuaded of this, it would emphasise this impression of linear form even further.

7.46 The LPA will argue that this replacement of open land experienced by large numbers of people along a main public road would represent a very significant magnitude of change experienced by sensitive receptors from a range of public viewpoints.

7.47 In that context, the LPA will further contend that this would represent a very significant adverse impact, as it considers the openness of the land that separates the two settlements of Long Hanborough and Freeland is one of the most important, beneficial characteristics of this part of the setting of Long Hanborough in particular, (and arguably Freeland as well)

### **Coalescence of the two adjoining historically distinct settlements of Long Hanborough and Freeland**

7.48 The LPA will argue that the proposal would lead to the creeping coalescence of Long Hanborough and Freeland for reasons that will include following:

- The settlements are currently separated by two fields, with clearly defined edges to the built up part of each settlement
- This gives a strong sense of separation, with each fields adjoining one settlement and “belonging to it” as a clearly (and historically) defined area of open agricultural land separating the settlement from its neighbour;
- The new western built edge of the new development and thereby of the expanded Long Hanborough would be an entirely arbitrary new hedge line that bore no relationship with any historic field pattern;
- Whilst it would leave a 250m gap between the two settlements and whilst the LPA notes that the appellants appear to believe that this is sufficient to maintain a physical gap, this seems entirely arbitrary to the LPA, especially as there seems no obvious reason why the other half of this field might not be put forward for further development at a later stage;
- In any event, the LPA does not accept that a 250m distance represents a sufficient separation to preserve the setting of the two villages even if no further development came forward.
- Certainly, the LPA considers it clear that seen from the nearest houses in Freeland, the gap would be very significantly reduced, with the Old Police House, which is currently effectively an isolated rural dwelling standing almost midway between the two villages now clearly part of Long Hanborough
- This “creeping coalescence is of significant concern to the LPA, as it

- Moreover, a separation of two fields
- 7.49 The LPA will argue that this would give rise to significantly harmful visual and social impacts for reasons that will include following:
- Residents care about their communities and respect and value the differences between them that makes each settlement individually unique;
  - In cases where settlements have become intertwined, this has either happened very slowly over a long period of time so that “twin” settlements have slowly and “naturally” merged or else they have been forced upon each other by large scale developments that frequently do not have any particular sense of belonging to either settlement.
  - Whilst the LPA will recognise that developments at the edge of settlements such as Long Hanborough are no longer unacceptable in principle and whilst it will be able to set out many examples of new sites (including some sites originally considered unacceptable in the SHLAA) where it has considered edge of settlement development acceptable under the new national planning policies and guidance, it will emphasise that this is far from saying that all such sites are acceptable and that each site must be assessed on its merits;
  - In that context, it will emphasise that for many years in the green belt and elsewhere, protecting the individual identities of settlements has been a clear and clearly valid planning concern that it does not consider has been changed by recent national planning policies or guidance.
  - In this case, the LPA will argue strongly that the two settlements are already close enough that any large scale development in the intervening area and certainly as large scale a development as the current appeal proposal would be excessive.

### **Failure to respond to the Traditional, Distinctive Qualities of Long Hanborough, especially as regards Existing Housing**

- 7.50 The LPA will characterise the new development as shown on the submitted layout plan and as acknowledged in the design and access statement as largely reflecting the slightly generic, “of their time” late twentieth century developments to the east and southeast of the site at Hurdeswell and Churchill Way/ Marlborough Crescent.
- 7.51 Other than this and despite including significant references to the historic development of the village within their design and access statement, the LPA will argue that the proposal as seen in the layout plan reads essentially as an almost entirely generic modern development, where it fully anticipates standardised, generic house designs.

- 7.52 The only obvious exceptions to this that the LPA can identify are the retention of the internal hedge that separates the “paddock” from the main part of the site (which the LPA is uncertain is an important or historically relevant element of the overall site, given that the “paddock” is such an unusual, narrow shape that is grassed and almost “horsicultural” in character compared to the much larger, clearly agricultural field to the southwest) and the orientation and alignments of dwellings within this paddock that appear to respect a requirement not to build over a sewer.
- 7.53 The LPA considers Long Hanborough to be a historic village. It has a historic core, with many listed and unlisted historic vernacular buildings and a very distinctive character, reflecting a clear architectural tradition that has established itself over some 300 years.
- 7.54 However, the LPA does not consider that Hurdeswell or Churchill Way/ Marlborough Crescent reflect that character to any significant degree at all, certainly in layout terms.
- 7.55 As such, the LPA considers that their layout would be a poor and inappropriate starting point for a design approach to developing what it regards as a highly important, highly sensitive site at the edge of the village close to the adjoining village of Freeland
- 7.56 The LPA will confirm its position that it does not regard any large scale development of this site as acceptable given the concerns set out above.
- 7.57 However, notwithstanding this overarching point, the LPA will emphasise in the narrow context of design and layout, that a large scale development on an undeveloped plot generally presents a significant opportunity to follow a new, largely unrestricted urban design approach, rather than simply broadly reflecting existing layouts close to the site, however well designed these may be (noting that in this case, the LPA does not regard the layouts in question as reflective of local character).
- 7.58 The LPA will further emphasise that in its opinion, even for an outline application, an indicative layout should be underpinned by a thorough understanding of the site and the nearby area and an overarching idea of how that understanding should inform the design approach taken.
- 7.59 The LPA can find significant elements of the design and access statement that discuss local form, materials and the historic development of the village. However, there is much less information about how the new proposal would reflect these existing historic characteristics and the LPA will comment that it finds the criticism of the previous, larger development of the whole field that is said to have informed the current proposal rather hard to follow and is unconvinced that the current scheme is necessarily an improvement on the original proposal in all the ways claimed.

- 7.60 The LPA will acknowledge that the application is in outline and that layout and appearance are still reserved matters.
- 7.61 However, it will emphasise that, as set out in its West Oxfordshire Design Guide and other urban design advice, considering the local context from the outset is a vital input to any successful design– and will argue that this is just as true for outline applications.
- 7.62 In this context, the LPA notes that the appellants’ statement of case refers to a new layout being produced to demonstrate that other alternative layouts would be possible that might be more appropriate.
- 7.63 The LPA will reserve comment on any such alternative proposal that may come until it has seen it but it would emphasise that at this stage, it considers that the design approach was poorly considered and did not reflect the distinctiveness of the village, as stated in the committee report and reason for refusal.

**Social Impacts on the character of the village, taken with other large scale developments approved or proposed within Long Hanborough**

- 7.64 As stated in the reasons for refusal, the LPA’s concerns in this regard relate to the scale of the proposed development.
- 7.65 The LPA will set out the level of increase to the number of residents in Long Hanborough that would be likely to arise as a result of the proposal.
- 7.66 It will recognise that in the medium term, this may bring additional benefits to the village.
- 7.67 However, in the short term, it will emphasise that in its opinion, this is likely to lead to very significant social and other practical problems to the village in terms of integrating the new residents in a way that would make them feel welcomed and able to participate actively in their new community for all the following reasons:
- Excessive pressure on places at the village primary school;
  - Inadequate healthcare facilities
- [NB subject to the possibility of properly considered, fully acceptable and legally secure means of addressing these problems in a timely manner being brought forward between now and the inquiry, as discussed below]
- Additional congestion in the village and competition for parking spaces at the shops / recycling centre/ school access at the junction of the A4095 and Rieley Close
  - Likelihood that as a separate development at the edge of the village without easily accessible links to the village centre, some residents will become socially isolated

7.68 The LPA will argue that these are illustrations of some of the social disbenefits that large scale development in a relatively small settlement from excessive levels of new housing, with many, perhaps all of the primary school age children at the new development currently potentially likely to have to attend an alternative school in a nearby village, generating additional, longer trips that would almost certainly have to be undertaken by car and various other social disbenefits, as identified above.

7.69 The LPA will argue that these are further sources of harm that should be taken into the planning balance and will further emphasise that these problems are likely to be exacerbated if further additional housing schemes did come forward as a result of this decision acting as a precedent or otherwise (noting that 50 dwellings have recently been approved in principle in the village).

**Whether adequate provision has been made to address/ offset the additional burden on infrastructure and services arising from the proposal**

7.70 The LPA will set out its position in relation to the Education and Healthcare and Affordable Housing and other Infrastructure/ services separately/ and in both cases will refer to the up to date position when proofs are exchanged.

**Education and Healthcare**

7.71 The LPA will rely on up to date indications of pressing over capacity within the village in relation to both healthcare and primary education to the effect that significant additional provision would be required to accommodate the additional requirements placed on these facilities, especially in the short term.

7.72 It will comment in particular that children in the village already have to attend schools in other villages, where there are also capacity issues and that the existing surgery is also beyond its capacity.

7.73 The LPA will argue that unlike other areas of infrastructure where additional burdens can be met by providing monetary contributions, education and healthcare are so important to daily life and the problems so significant that in this case underprovision cannot be addressed purely financially and more radical solutions are required.

7.74 The LPA will emphasise that it recognises the efforts made by the appellants to find effective methods of bringing forward additional capacity, by providing the new surgery within the site and a new “school playing field” to enable the existing school site to be more actively developed and it understands that the existing surgery and the local educational academy (comprising a number of nearby schools) have indicated that they regard these solutions as potentially acceptable.

- 7.75 However, there remain doubts about how the delivery of the surgery will be achieved in a timely fashion and there are concerns about accessing the new school field (which requires planning permission for school use, which has not as yet been sought, as the LPA undemands it).
- 7.76 For these and other similar practical reasons, as set out in the committee report, the LPA will emphasise that at the time of writing this statement, further assurances are still in its view required to ensure that it can rely on these purported “solutions” coming forward in a reliable, timely fashion.
- 7.77 The LPA will recognise that the appellants are attempting to make progress in relation to these concerns and is grateful to them for keeping them informed.
- 7.78 However, until all outstanding issues are addressed to its satisfaction, the LPA retains an objection to the proposal in these terms.

### **Affordable housing and Other Infrastructure/ Services**

- 7.79 As noted above, the LPA considers that these matters can be addressed by providing contributions and on-site affordable housing, the details of which should be secured in a binding, legally secure planning agreement and understands that the appellants are prepared to meet its requested contribution and level of affordable housing in full.
- 7.80 As such, the LPA did not make reference to these matters in its reason for refusal and anticipates that this issue will be addressed in advance of the inquiry.
- 7.81 Nonetheless, the LPA will argue that contributions towards infrastructure and services upon which the appeal proposal would place an additional demand are required to help to mitigate 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 facilities, libraries, health, day care, museums, waste management and perhaps other services and that any such mechanism must be legally secure and satisfactory in all other respects.
- 7.82 The LPA perhaps with the assistance of witnesses with knowledge of the various services and infrastructure areas will demonstrate that the requests made comply with the test set out in the CIL Regulations and in particular that they are necessary in planning terms and reasonable in planning and all other respects.
- 7.83 The LPA will note that the appellants have set out at section 7 of their Statement of Case and intention to address these issues by
- entering into constructive dialogue to agree obligations for on and off site provisions that are reasonably related in scale and kind to the proposed development and that

meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010, and

- o providing a draft planning obligation or Unilateral Undertaking(s) that they anticipate will address the relevant policies of the Local Plan;

7.84 Whilst, the LPA is optimistic that this will provide a positive way forward to resolve this issue and that the necessary bilateral or multilateral S106 agreement(s) or unilateral undertaking(s) can be finalised and agreed ahead of the Inquiry, there is currently no unilateral undertaking or S106 agreement or other mechanism to provide the necessary contributions and/ or affordable housing and will refer to the terms of the NPPF and relevant legislation to argue that without an appropriate mechanism the appeal proposal remains contrary to relevant development plan policies and SPD.

7.85 The LPA would further emphasise that a completed planning obligation of whatever type must be before the inquiry to address this point (rather than a draft).

### **Precedent for Future Development**

7.86 The LPA will set out why it considers that the proposal would create a precedent that would potentially lead to increased levels of the types of planning harms already discussed for reasons that will include following:

- o A number of the harms identified relate to problems that would be further exacerbated by additional development, including impact of the social stability of the village; creeping erosion of the separation between Long Hanborough and Freeland; loss of attractive open countryside; and pressure on education and healthcare infrastructure.
- o The appellants themselves describe the proposal as potentially the first step in a new phase of development of the village;
- o Moreover, even without speculating on the extent to which other landowners/ developers might be encouraged to bring forward other sites adjacent to Long Hanborough forward should this appeal not be dismissed, there would appear to be no reason why the current appellants might not pursue further development in the southwestern half of the field that contains the main part of the current appeal site;
- o Similarly, development on the northern side of the A4095 has already been mooted and approving the current appeal proposal would again appear likely to increase the chances of further proposals coming forward in that location (which could potentially be a significantly larger site)

### **Planning Benefits of the Appeal Proposal and the Planning Balance**

- 7.87 The LPA will emphasise that as a matter of course it always takes account of the positive planning benefits in determining any proposal that comes before it.
- 7.88 In this case, it will accept that the proposal would lead to an increase in the supply of housing and of affordable housing that is deliverable, achievable and likely to come forward in the next five years should the appeal not be dismissed - **subject to clear assurances and/or compelling evidence on this point from the developer.**
- [NB in this context, the LPA will argue that any likely delays in the deliverability of the proposed dwellings should be taken to reduce the weight given to these positive planning benefits significantly/ very significantly depending to a degree on the likely extent of any such delays.]
- 7.89 The LPA will however, emphasise that such assurances/ evidence should as a minimum address the need to factor into any timetable the requirement to carry out any necessary mitigation measures in relation to traffic impacts, ecology, sewerage, flood risk and any other potential impacts of the proposal where such mitigation is proposed.
- 7.90 **Subject to these assurances/ evidence**, the LPA will also accept that the appeal proposal would give rise to:
- **Some economic benefits**, directly through stimulating the house building sector of the development industry and indirectly in the future through additional consumers in the local and wider economy using local shops and services; and
  - **Some social benefits** through providing additional housing and in particular affordable housing – although the LPA considers that the environmental harm caused to the setting of the village and the erosion of the separate identities of the two villages would in this case also lead to social disbenefits.
- 7.91 The LPA will refer to certain other possible benefits, including all those claimed for the proposal within the appellants statement of case
- 7.92 The LPA will comment on the weight to be given to these matters individually and will note in particular that:
- **All these benefits (including provision of affordable housing) rely upon the delivery of the houses. As such, the weight to be given to them would be very significantly reduced if the housing is not actually delivered in good time;**
  - **In this context, the LPA notes that the appellants do not appear to identify a delivery timeline for the proposed dwellings**
- [NB the LPA is unaware of any reasonable, effective formal means of requiring development to be carried out in a stated period, even if this had been specified]

- **The LPA will emphasise that it considers itself to be in a healthy and rapidly improving position in HLS terms; and**
- **Open space and recreation and play facilities within the development represent a small proportion of the entirely open land that is to be developed and that would thus be lost permanently;**
- **Moreover, the purported “benefit” from this open space and recreation and play facilities would effectively only benefit future residents of the development rather than the local community more broadly and would only meet what the LPA sees as a need of the development;**
- **The LPA similarly does not see any “benefits” accruing from any mitigation measures that may come forward as contributions towards services and infrastructure, as the amounts of these contributions are calculated specifically to attempt to exactly meet the value of the planning harm that would otherwise arise as set out in the second reason for refusal ;**
- **Indeed, the LPA will note in that context that it anticipates that the submitted unilateral or multilateral undertaking envisaged at this point would contain a clause so that any contributions that were not CIL compliant would not be payable – whether or not this meant that the proposal would then put an additional un-addressed burden on infrastructure and/or services;**
- **In this context, the LPA will emphasise that even as applied to the surgery, and noting that there has been recent negotiation with the local surgery that appears to be moving forward the likely delivery of the new surgery as proposed, the LPA would see this as addressing new demand and, indeed, as stated in the committee report, it would want to see clear assurances on the matter of timeliness of delivery.**
- **As regards good design, the LPA will note that (1) the proposal is in outline, with design reserved; (2) it requires good design of ALL new development; and (3) it sees very little in the Indicative Layout and/or in the submitted design and access statement to provide any obvious understanding of local character in particular; so that (4) it most certainly does NOT accept that there is any reason to believe at this stage that the proposal would lead to the type of “exceptional design” that it might see as a true planning benefit.**

7.93 As such, in this context (and noting in particular that these purported benefits were all considered in the committee report that concluded that the proposal was unacceptable in planning terms), the LPA will emphasise that in its opinion none of these claimed

“benefits” should be given very significant weight and in particular that none would adequately offset the harm caused in landscaping, heritage and other terms from developing this field on the edge of the conservation area, as discussed above.

- 7.94 The LPA will set out its up to date HLS position at the time of submitting proofs of evidence and its assessment of the appropriate level of objectively assessed need (“OAN”) for the District and/or the housing target from the emerging Local Plan (in which context it will set out the progress of the emerging Local Plan at that time) and will show that it can demonstrate a full 5 year supply of specific deliverable sites.
- 7.95 It will set out its position in relation to its 6-10 year and 11-15 year HLS targets, and will show that it has a very healthy position with reference to developable sites in the SHLAA and elsewhere and with reference to an appropriate allowance for windfalls.
- 7.96 In this last context, the LPA will demonstrate that its approach to windfall housing is consistent with national government advice in the PPG and elsewhere and will argue that it may understate future provision. It will note that its allowance excludes housing on greenfield land, including private gardens, as set out in the NPPF/ PPG but will note that although the NPPF identifies an opportunity for LPAs to restrict new dwellings within residential curtilages, the emerging Local plan does not contain any such policies so that it would appear likely to be a further source of housing land not included within the LPA’s published HLS).
- 7.97 The LPA will explain that for very many years it has consistently been able to demonstrate a 5 year HLS measured against whatever targets have been set.
- 7.98 It will argue from this and the relatively short period of relatively limited recent under provision that a 5% buffer is appropriate in terms of the paragraph 47 requirements.
- 7.99 The LPA may argue that the PPG advice that encourages persistently underperforming LPAs to absorb any shortfall over a 5 year period (and that therefore appears to encourage the use of the Sedgefield methodology rather than the Liverpool method), does NOT apply to it, as it has typically outperformed its housing targets in the past.
- 7.100 In this context, the LPA may refer *inter alia* to a recent court decision to confirm that Liverpool is an appropriate methodology that is not explicitly considered unacceptable in current national government advice – and, indeed, it will argue that consistency of approach is an important feature of any well considered methodology [in this context, the LPA will also emphasise that for a typically outperforming LPA, the “Liverpool” methodology brings houses forward faster].

- 7.101 The LPA will nonetheless emphasise that its updated February 2015 interim HLS position statement shows 6.0 years HLS calculated on a “Sedgefield” basis.
- 7.102 The LPA will address any other relevant HLS methodology or other technical issues as necessary and/ or appropriate.
- 7.103 The LPA will explain that it has every confidence in its housing land supply figures in terms of the methodology used to calculate the figures and the individual sites that make up the overall housing land supply subject to any necessary adjustments to individual sites, which it will explicitly identify and quantify.
- 7.104 The LPA will refer to its recent HLS position statements (as published in April 2014, September 2014 and February 2015) to demonstrate that it has already *significantly boosted its HLS* as required under paragraph 47 of the NPPF.
- 7.105 It may refer to approvals/ resolutions to approve and/or progress at sites with such approvals, appeal decisions that postdate the February 2015 HLS position statement.
- 7.106 It may also refer to any additional guidance, advice, appeal decisions, case law or other matters that it considers have a bearing on HLS considerations, as appropriate.
- 7.107 The LPA will argue that the planning benefit to be given to provision of additional dwellings should reflect the need for those dwellings and if there is no shortfall (or only a small shortfall), this “benefit” should not be given significant planning weight compared to the planning harm of building those houses in an inappropriate location.
- 7.108 Furthermore, the LPA will argue that in any event the appeal proposal would not represent sustainable development as defined in the NPPF for the following reasons:
- The NPPF requires that economic, environmental and social benefits be achieved jointly and simultaneously; and
  - The current appeal proposal would in the LPA’s view, lead to very clear and very significant environmental harm for the reasons set out above; and
- 7.109 The LPA will argue from this that the presumption in favour of sustainable development does not apply to the appeal proposal.
- 7.110 The LPA will further emphasise that in this context, the committee report considered these issues in some detail and concluded that the benefits from the proposal were clearly and demonstrably outweighed by the planning harm that it would give rise to.
- 7.111 The LPA will argue that its concerns regarding the acceptability of the appeal proposal in planning terms demonstrably and significantly outweigh any positive benefits in terms of providing additional market and affordable housing at the appeal site, in this

visually, socially and historically important and sensitive location and noting that there are a large number of other sites that have been identified through the SHLAA and the emerging Local plan process that are not compromised in these ways.

- 7.112 The LPA will set out why (subject to any relevant factors that may affect the housing land supply position that may take place before the inquiry commences) it considers that it can demonstrate a 5 year housing land supply and will argue that as a result only limited planning benefits should be accorded to the proposal to weigh against the clear and significant harm associated with it.
- 7.113 It will further argue that the impacts on the character and appearance of the site and nearby area and on the setting of the two adjoining villages in particular are such that the appeal proposal does not represent sustainable development and that, as such, the paragraph 14 presumption in favour of sustainable development and balancing exercise are inappropriate.
- 7.114 Nonetheless, the LPA will confirm that even if the Inspector is not satisfied that it can demonstrate a 5 year housing land supply and the appellants can demonstrate that the dwellings would come forward within 5 years, it would still contend that the appeal should be dismissed, on a paragraph 14 balancing exercise given the nature of the harm identified in this case.

## **8 Response to the Appellant's Statement of Case**

- 8.1 The LPA will set out its case in full under the headings listed in the previous section of this statement and will seek to take due account of the appellants' submissions both as made with the application and in support of the appeal.
- 8.2 However, whilst it does not anticipate commenting in any great depth on these submissions in isolation, the LPA reserves its right to respond to the Appellant's Statement of Case and/or other submissions and, in particular any submissions that may postdate the submission of the LPA's Statement of Case (i.e. this document) to the extent that it considers this appropriate and relevant.

### **Statement of Common Ground**

- 8.3 The LPA is optimistic that an agreed Statement of Common Ground will be available well in advance of the public inquiry.

## 9 Conclusions

- 9.1 The LPA will respectfully request that for the reasons that it will by then have set out in detail, the appeal should be dismissed.

## 10 Conditions

- 10.1 The LPA will argue that no conditions could offset the harm that it contends would arise in this case for the reasons referred to above particularly as regards the impacts on the landscape and visual quality of the nearby area and on what it regards as a visually sensitive part of the setting of the village from the southwest.
- 10.2 However, and without prejudice to the strength of its objections to the appeal proposal, the LPA notes that for the purposes of this appeal, the appellants have produced a list of 18 *Suggested Draft Planning Conditions* at appendix B to their statement of Case.
- 10.3 The LPA notes that these appear to follow suggestions from various consultees.
- 10.4 Whilst supporting these conditions, the LPA's would suggest consideration be given to imposing additional conditions in the following areas:

Condi on No.	Matters Covered	LPA's Comments
1	Time Period Apply for approval of Reserved Matters in a standard timeframe	Standard
2	Reserved Matters: RMs to be agreed before development commences; development to be carried out in accordance with approved details	Standard
3	Approved Plans: No more than 169 dwellings	Standard
4	Affordable housing Pre-Commencement details	Possibly Acceptable in principle But would prefer a specific S.106
5	Site investigation / contaminated land Site Investigation; risk assessment; method statement and remediation strategy	Possible past use of fertilisers

6	Tree Protection Measures Carry out development in accord with Oct 2014 Arboricultural report	To protect hedgerows
7	Habitat Protection Measures No Dev until habitat protection measures agreed, measures to be carried out and retained	Standard
8	Nesting Birds No clearance in nesting season in preparation for development until nesting survey and no development in areas where there are nesting birds during nesting season	Standard
9	Construction Method Statement No development, until a Construction Method Statement has been approved by the LPA. Approved Statement to be adhered to	Standard
10	Flooding and Drainage Carry out development in accord with FRA	Standard
11	Flooding and Drainage No development, except the site access until a sustainable surface water drainage scheme including future maintenance and management details is approved by the LPA. Development to be implemented in accordance with approved details.	SUPD
12	Landscape Implementation Planting, etc shown in the approved landscaping details to be carried out in the first planting season. Trees or plants lost within 5 years of completion of the development to be replaced in next planting season	Standard
13	Travel Plan Interim and final travel plan, including objectives, targets, mechanisms and measures to achieve targets and implementation timescales, monitoring and review provisions and provide for the appointment of a travel plan co-ordinator) approved by LPA and final travel plan implemented	As referred to by appellants
14	Job Training Prior to the commencement of development a scheme for the creation of job training opportunities shall be submitted for approval to the local planning authority	

10.5 The LPA reserves the right to request alterations to the wording in relation to conditions identified as acceptable in principle and to suggest further conditions where appropriate and where they meet the relevant NPPF tests.

10.6 In addition, the LPA would wish to see conditions covering the following matters:

- Estate road access constructed prior to works commencing on site
  - Boundary treatment details, including measures that may be contained within the landscape scheme/ management plan that may be agreed at reserved matters stage to support and protect boundary hedgerows (except along the eastern boundary where the LPA considers the recently planted line of trees are unattractive, inappropriate and indicative of a wilful desire to )
  - Construction Working hours
  - Management/ maintenance of the open space within the site if this cannot be dealt with through the expected planning obligation
- 10.7 The LPA is optimistic that a final version of an agreed set of conditions (perhaps including some disputed conditions) may be agreed with the appellants prior to the inquiry and perhaps prior to submitting of proofs of evidence.

## **11 Documents**

- 11.1 Whilst, the LPA reserves the right to refer to other documents as may become relevant during the course of these proceedings, to assist all parties at this stage of proceedings, the documents that the LPA expects to refer to are as follows:
- The adopted West Oxfordshire Local Plan 2011
  - The emerging West Oxfordshire Local Plan 2031
  - The West Oxfordshire Design Guide 2006
  - The West Oxfordshire Landscape Assessment (1998)
  - The West Oxfordshire SHLAA, as updated August 2014
  - The 2014 Oxfordshire SHMAA
  - The LPA's recent and historic monitoring reports and Housing Land Supply Position Statements, including the April 2014, September 2014 and February 2015 interim HLS position statements (also including any future housing land supply position statements or other related documents that the LPA may produce before the inquiry)
  - The NPPF
  - The PPG
  - The CIL Regulations (including in particular Regs 122 and 123 and perhaps the definition of infrastructure as taken from the Planning Acts)

- The Town and Country Planning (Local Planning) (England) Regulations 2012
- The CLG/ONS interim household projections for West Oxfordshire and Oxfordshire
- Photographs of the site and nearby area, as necessary/ appropriate
- Aerial Photographs of the site and surrounding area.
- Planning history for this site together with Committee Reports relevant to this application and issues pertinent to the Councils case, correspondence between the appellants, their agents and the LPA, comments of consultees and third party representations relating to the planning application underlying this appeal.
- Planning history Appeal Decisions and Court Decisions on other sites, within and outside the District, together with plans, committee reports, decision notices and photographs as may be pertinent to the LPA's and/ or the Appellants' case.
- Any Inspector's reports available relating to the Emerging Local Plan EiP
- Such other documents as may be required to support the Council's case or rebut the appellants' case.

# **Appendix R6.1**

The LPA's

Affordable Housing SPD

