



## Appeal Decision

Inquiry held on 9-12 January and 23-25 January 2024

Site visit made on 12 January 2024

**by John Dowsett MA DipURP DipUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> July 2024**

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**Appeal Ref: APP/D3125/W/23/3328652**

**Land west of Hailey Road, Witney OX28 1HL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by A2Dominion Developments Limited against West Oxfordshire District Council.
  - The Application Reference is: 19/03317/FUL.
  - The development proposed is described as the construction of 106 residential dwellings including access off Hailey Road; areas of open space; landscaping; and associated works.
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### Decision

1. The appeal is dismissed, and planning permission is refused.

### Preliminary Matters

2. This appeal is against the non-determination of a full planning application for 106 dwellings. After the appeal was lodged the Council resolved that it would have refused the planning application and provided 7 putative reasons for refusal. These related to compliance of the proposal with Policy WIT2 of the West Oxfordshire Local Plan 2031, adopted 2018 (the Local Plan) and the provision of required infrastructure related to the North Witney Strategic Development Area (NWSDA); the effects of the proposal on the surrounding landscape and the character and appearance of the area; the effect of the proposal on the operation of the highway network in the area; the effect of the proposal on air quality; and the effect of the proposal on archaeological remains. There were also differences of opinion between the parties in respect of the housing land supply position.
3. During the consideration of the planning application, the proposal was amended to reduce the number of dwellings. The description of the development on the planning application was changed from 110 dwellings to 106. It was agreed at the Case Management Conference that the description of the development should be that set out above.
4. It was also agreed at the Case Management Conference that matters relating to archaeology would be considered through written submissions. At the time that the appeal was made, there was an outstanding objection to the application from the County Archaeologist.

5. A geophysical survey was carried out on the appeal site followed by trial trenching. The trial trenching was carried out during the course of the Inquiry although the formal results were not available before the inquiry closed. The report of the archaeological investigation was subsequently provided which concluded that the appeal site has low archaeological potential.
6. The County Archaeologist confirmed that they accepted the contents of the report. Within this context I am satisfied that the appeal proposal would have no adverse effect on heritage assets, with particular regard to archaeological remains. This no longer forms a main issue.
7. A Section 106 Agreement and a Unilateral Obligation were submitted in draft form, discussed at the inquiry, and subsequently finalised.
8. The Council considered that because the appeal site forms part of the wider NWSDA allocated by Local Plan Policy WIT2, the proposal when taken cumulatively with the rest of the allocated site, falls within the description of a development in column 1 of Schedule 2, 10(b) (urban development projects) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). The Council adopted a Screening Opinion on 27 March 2020 which concluded that due to potential for likely significant cumulative effects, the development qualifies as an EIA development.
9. Following this, the appellant sought a Screening Direction from the Secretary of State who directed on 30 July 2020 that the development is EIA development within the meaning of the EIA Regulations. Subsequently the appellant produced and submitted an Environmental Statement (ES). A Supplementary ES was included within the appellant's evidence that sought to address representations submitted by an interested party, the North Witney Land Consortium. Following review, the ES is considered satisfactory in terms of Schedule 4 of the EIA Regulations. I have taken account of the ES accordingly.

### **Main Issues**

10. Based on the submitted policies, site visit, and the representations from the appellants, Council, consultees, and interested parties both in writing and at the inquiry, I consider the main issues in this appeal are:
  - The effect of the proposed development on the character and appearance of the area;
  - Whether the residual cumulative impacts of the development on the highway would be severe;
  - Whether the proposed development would make appropriate provision for the delivery of infrastructure required in connection with the development of the NWSDA;
  - The effect of the proposed development on air quality; and
  - Whether the proposed development would contribute to achieving a comprehensive development of the North Witney Strategic Development Area having regard to the provisions of the development plan.

## Reasons

11. The appeal site comprises a roughly triangular field extending to 3.3 hectares. It is located on the west side of Hailey Road on the north edge of Witney. The proposal is to erect 106 dwellings accessed from a single priority junction off Hailey Road.
12. The site forms part of a larger allocation of land on the north side of the town known as the NWSDA and is intended to deliver about 1,400 homes. Hailey Road separates the appeal site from the remainder of the NWSDA land. It is agreed that the principle of residential development on the NWSDA site is acceptable. With the exception of the appeal site, the balance of the land allocated for the NWSDA is controlled by a consortium of developers known as the North Witney Land Consortium (hereinafter the Consortium).

### *Character and appearance*

13. The site is located on the north edge of Witney immediately adjacent to the built up area. It comprises a field of improved grassland with hedgerow and tree boundaries to most of its perimeter. Immediately to the south of the site is a primary school and a modern development of housing at Schofield Gardens. Beyond this, further south on the west side of Hailey Road and running down towards Crawley Road and West End, is a large area of predominantly mid to later twentieth century housing. To the east of Hailey Road is a similar area of mid to later twentieth century housing running towards Woodgreen and New Yatt Road. The housing in the area is generally one or two storey in the form of semi-detached, detached or short terraces of dwellings. External materials are either brickwork or rendered walls with tiled pitched or hipped roofs.
14. At present the site is otherwise surrounded by agricultural fields with a small group of houses at the east end of Foxburrow Lane to the north of the appeal site. Groups of farm buildings are scattered through the surrounding countryside. Milking Lane, a bridleway, is located just to the west of the site and runs from Foxburrow Lane to Witney Road. West of Milking Lane, lies Foxburrow Community Woodland. Much of the countryside to the east of Hailey Road is covered by the local plan allocation for the NWSDA.
15. The proposed development comprises 73 houses and 33 flats. The houses would be of 8 different house types of two or two and a half storeys. The flats would be accommodated in three, predominantly three storey, blocks. All of the buildings would have external walls finished in reconstituted stone under pitched roofs covered with a grey tile. The development would be laid out as a group of irregularly shaped development blocks arranged along a distributor road branching into short culs-de-sac in the eastern side of the site and forming a loop in the western part. Two of the three block of flats would be located either side of the junction of the estate distributor road with Hailey Road. The third would be located further into the site, on the axis of this road at a T-junction. In the southern part of the site there would be an area of open space incorporating a children's play area and a surface water detention pond.

### Landscape and visual effects

16. The development of the site would lead to a significant quantum of new development on the edge of the current built up area of the town. However, this needs to be taken in the context of the local plan allocation for the NWSDA which covers a significant area. The supporting text to Policy WIT2 of the Local Plan acknowledges that the development of the NWSDA will not have a significant landscape impact. It is not suggested that the proposed development would result in any important landscape features being lost.
17. The supporting text to Policy WIT2 sets out that the appeal site can accommodate around 100 new homes. The appeal proposal is for 106 dwellings. Although the supporting text does not form part of the Policy, it does set out how the policy is intended to be implemented. The allocation of land by Policy WIT2, and the quantum of development proposed by the scheme is very close to the indicative number set out in the supporting text. The site is well enclosed by established hedgerows on the boundaries and neither the site, nor the area around it is subject to any landscape designations.
18. Beyond the inevitable change from an undeveloped field to a housing development, there is little in the evidence that was put to me which would indicate that there would be a harmful effect on the landscape. Whilst the development of the site in advance of the remainder of the NWSDA would result in a greater effect in the short term, I have no reason to believe that in the longer term the rest of the NWSDA would not be developed. Thus, the appeal site would then be perceived in the context of the overall change to the landscape wrought by the wider development. The Council accept that little weight can be given to any perceived landscape harm.
19. In terms of visual effect, the Council are primarily concerned about views from the west. From Milking Lane, and from slightly more elevated viewpoints in Foxburrow Community Woodland, the existing residential development at Schofield Gardens to the south of the appeal site was apparent with roofs and upper storeys visible through the trees and hedge. However, these views were partially screened by vegetation and the outline of the built form was broken up. Combined with the relatively low density of the development, this forms a soft edge to the built up area which is viewed across an intervening field.
20. The visual effect of the proposed development would not be dissimilar to this current settlement edge, albeit creating a new settlement edge that projects into what is currently open land. However, this has to be taken in the context of the existing development and that the site is allocated. The Council suggested that the visual effect would be diminished by the development of bungalows at this edge of the site, citing the Local Plan Examination findings regarding development above the 100m contour. However, neither Policy WIT2, nor its supporting text, makes reference to development above the 100m contour being precluded. The proposed development would undoubtedly change the visual appearance of the area, but change is not necessarily synonymous with harm and the proposal would have an acceptable visual effect on the wider landscape.

## Urban Design

21. The Council also raise concerns in respect of the design of the proposed development, in particular the scale, height, massing, and appearance of the buildings at the site entrance, and the extent of hard surfacing within the development.
22. The West Oxfordshire Design Guide 2016 (WODG) encourages the use of landmark buildings and acknowledges that these can play a defining role in the character and identity of places and settlements. Nonetheless, this just refers to strong and characterful buildings, and not to size or height.
23. Taken in isolation, the proposed flats at the entrance to the development would be both taller and have a significantly larger massing than the existing housing nearby and also the proposed dwellings on the appeal site.
24. Blocks of flats are not a building typology present in the vicinity of the appeal site, nor are three storey dwellings. In this respect, the flat blocks at the entrance to the development would be an incongruous feature in the area and located on a prominent route into Witney. These would also appear disproportionately large compared to the terraced and detached two storey houses on the Hailey Road frontage of the site. This aspect would be exacerbated by the physical separation between the various buildings making up this frontage and the setting back of Plots 84 to 87 leading to a fragmented frontage to Hailey Road.
25. I accept that the proposed blocks of flat would be located on the lower lying portion of the site adjacent to Hailey Road. This would reduce their prominence in the wider landscape. Nonetheless, when viewed from Hailey Road travelling into or out of Witney, they would appear as large dominant features inconsistent with the predominant, surrounding, built form.
26. The Consortium's emerging masterplan illustrates marker buildings adjacent to the proposed new junction on Hailey Road which the appellant argues is justification for the 3 storey flats. However, the emerging masterplan is in draft, and it is also silent on the form and height of these marker buildings beyond illustrating them as having a larger footprint. There is no certainty that these would be 3 storey, or higher buildings and, because it is neither finalised nor agreed, I give the emerging masterplan very little weight.
27. My attention was also drawn by the appellant to other recent housing developments in Witney at Burford Road and Centenary Way. At Burford Road, the development is a block comprised of 3 storey flats and 2 storey terraced houses with rooms in the roofspace. This is located at the junction with Tower Hill on the south side of the road. At this point, on the north side of the road, open countryside gives way to built development. However, on the south side of the road, where the building referred to is located, there is very clearly two storey built development for some distance to the west. This continues up to the opposite side of the junction and then continues to the south along Tower Hill. Consequently, the perception is one of having been within the built up area for some time before encountering taller buildings as opposed to being at an entry point into the built up area.
28. At Centenary Way, higher density development and flatted development was located towards centre of the development. However, at the entry point from

Curbridge Road there were 2 storey detached houses, albeit that one had rooms within the roof space. At the access to the development from Downs Road, works were incomplete although the closest completed houses were similar two and two and a half storey dwellings.

29. Whilst these sites are also within Witney, and near the edge of the settlement, I observed that the contexts of these are very different from that of the appeal site and neither are directly comparable.
30. Turning to the matter of the extent of hard surfacing, the proposed development would follow a relatively conventional layout of a principal distributor road with smaller roads or culs-de-sac leading from it. The adequacy of the overall quantum of car parking provision is not in dispute.
31. Parking for the proposed 33 flats would be generally provided within parking courts associated with the buildings, although some flats would have parking accessed directly from the estate roads. Of the proposed 73 dwellings, 23 would have parking in-curtilage and the remainder, located on the principal route through the development and on the culs-de-sac running toward Hailey Road would have parking located to the front of the houses.
32. Parking located to the front of the houses would be present on much of the principal access road and central route though the estate. A lack of surface differentiation can act as a speed reducing measure. Nonetheless, in the proposal the extent of the hard surface on the central route, punctuated solely by a few trees, would combine with the fragmented building line to the east side of the route to result in a poorly defined and visually incoherent space. This space would be dominated by parked cars. This would not represent an attractive residential environment and would conflict with the guidance in the WODG.
33. This guidance expects that where streets are designed to incorporate on-street parking, sufficient trees, planting, and front garden space should be provided in order to balance the impact of parked cars, and to reinforce the spatial enclosure of the street.
34. My attention was drawn to the fact that this approach to parking has been used at the development at Centenary Way. I saw at this development that there were blocks of terraced housing with frontage parking. I recognise that there are a limited range of design opportunities for parking in relation to terraced houses, particularly as the WODG discourages the use of rear parking courtyards other than in connection with flatted developments. Nevertheless, the approach taken at Centenary Way resulted in a significant expanse of hard surfacing with little relief provided in the way of planting or other landscaping. It also resulted in a poorly defined residential environment with little or no demarcation between public and private space. I saw that parked cars were very prominent in the street scene, particularly in the narrower secondary streets. This resulted in parked cars and hardstanding areas being the defining feature of the street scene rather than the building frontages. From the submitted drawings, this would also be the case with the appeal proposal.



### Conclusions on character and appearance

35. In terms of the broader landscape effects, it is common ground that the wider NWSDA will eventually be developed and that this, in combination with the proposal, would not have a significant landscape effect which is recognised by Policy WIT2. The development when viewed from Milking Lane would not detract from the landscape setting of Witney and as such the proposal would not conflict with the relevant requirements of Policies OS2, EH2 and WIT6 which expect new development to protect the landscape character of the area and the setting of Witney.
36. However, the quality of the resulting development is also an important factor. The proposal would have a fragmented and incongruous frontage to Hailey Road. Within the site the principal routes would be dominated by parked cars and the central street would be a poorly defined space with a large expanse of hard surfacing. Although some design elements of the proposal are not inherently objectionable, taken as a whole, I find that the proposed development would not represent a high quality design as required by Policy OS4 of the Local Plan and the Framework. In this respect I find that the appeal proposal would cause harm to the character and appearance of the area notwithstanding the lack of any broader landscape harm.
37. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policy OS4 of the Local Plan, the Framework and the WODG which seek to ensure that new development is of a high quality of design that respects the historic, architectural, and landscape character of the locality; contributes to local distinctiveness; enhances the character and quality of the surroundings; and provides a safe, pleasant, convenient, and interesting environment where the quality of the public realm is enhanced.

### *Whether the residual cumulative impacts of the development on the highway would be severe*

38. It is proposed that initially the development would be accessed by a simple priority junction from Hailey Road. It is common ground that this access arrangement is acceptable subject to the repositioning of the 30mph speed limit. It is also common ground that there are no highway safety objections to the internal layout and circulation routes within the proposed development. The principal matter in dispute is the effect of the proposed development on traffic movements through two junctions on Bridge Street in central Witney.
39. The town is divided by the River Windrush and within the town there is only a single crossing point for through vehicular traffic. The configuration of roads and junctions around the town results in north-south journeys within the town, and from settlements to the north of Witney to the A40 westbound, being funnelled through this single crossing point and the Bridge Street corridor.
40. The Bridge Street corridor is a stretch of two way single carriageway between a mini roundabout at of High Street, Mill Street, and Bridge Street and a double mini roundabout at Bridge Street, West End, Woodgreen, and Newland. Traffic from five routes feeds into this stretch of road through the two junctions. The majority of vehicle movements arising from the proposed

development would be on Hailey Road and West End, flowing through the double roundabout junction.

41. It is accepted that there are currently queuing and delay issues on the network and that the proposed development would in the short term result in longer queues and lengthier delays prior to the implementation of the infrastructure improvements required as part of the NWSDA. It is also not in dispute that once the NWSDA allocation is built out, the associated infrastructure would mitigate the effect of the associated traffic and result in an improvement in central Witney, although there is an element of disagreement over what highways infrastructure is required.
42. The Transport Assessment (TA)<sup>1</sup> and later traffic note<sup>2</sup> show that in the short term, the roads that are operating close to capacity at present, will be operating over capacity by 2026. This is because of the impacts of committed development traffic and background traffic growth.
43. The Systra Report in the TA recognises that in some modelled scenarios the queues of vehicles predicted extend beyond the boundary of the model. However, information in respect of vehicle numbers beyond the modelled extents and projected queue lengths was provided at the inquiry. This showed that beyond the modelled period in both the morning and evening at West End there would be 150 and 90 vehicles respectively queuing beyond the modelled extent. The maximum queue length would increase by 115 and 230 metres respectively.
44. During the time that the inquiry was sitting, I had the opportunity to observe the traffic conditions in the area at various times of day. Whilst at most times traffic was relatively free moving, I saw that at peak times it was slow moving and that there were lengthy queues, particularly on the A4095 Woodstock Road, B4022 West End, and to a lesser extent on the A4095 Mill Street.
45. From my observations and from the technical evidence submitted, at peak times there is congestion on the network at present, and even if the proposal does not proceed, the double mini roundabout at the junction of Bridge Street, West End, Woodgreen, and Newland will be over capacity by 2026.
46. It is predicted that the proposed development would generate some 55 two-way movements in the weekday morning and evening peak hour periods, equating to around one vehicle per minute, with approximately 95% of the trips travelling to/from the south via Hailey Road and West End. Of itself this is not a large number. However, this traffic be using an already congested route and passing through a junction which will be overcapacity by 2026. This can only increase congestion and delay on the network.
47. Additionally, there were elements of the traffic modelling which are anomalous. For example, in some modelled scenarios journey times decrease when additional traffic is added to the model. The appellant accepts that these results are nonsensical. Furthermore, the journey times reported are simply those within the boundaries of the model and do not consider waiting times to enter the model. Although the overall journey times could be derived from the general network statistics within the Systra Report, these provide average data for all routes over a three hour period rather than peak hours on

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<sup>1</sup> Core Documents CD A12 and CD A13

<sup>2</sup> Core Document CD A33



key routes. In the light of this, I do not have confidence in the appellant's predicted effects of the development on traffic flows through the Bridge Street corridor.

48. Owing to the effect of the Covid 19 pandemic, an additional assessment of the junctions carried out in September 2023 by the appellant. This shows a reduction in vehicle numbers from the pre-Covid levels reported in the TA . However, this was based on a single days traffic count. Whilst it is normal for Manual Classified Counts to be carried out on a single day, supplementing these with automatic traffic counts over at least a two week period provides greater validity of evidence. Therefore, although there may have been a reduction in vehicle movements in a one day traffic count, this does not demonstrate with certainty that this is a long term trend or as a direct result of the pandemic.
49. Consequently, when considering the network will be over capacity before this development is even built out, the impact of placing additional traffic on this network without any mitigation would be severe. I also cannot be certain that the modelled journey times and consequent delays are reliable.
50. The proposal would therefore conflict with Policies T2 and WIT2 of the Local Plan which when read together expect new development to demonstrate an acceptable degree of impact on the local highway network.

*Whether the proposed development would make appropriate provision for the delivery of infrastructure required in connection with the development of the NWSDA*

#### Highways Infrastructure

51. Policy T2 of the Local Plan identifies a number of strategic highway infrastructure schemes are proposed to be safeguarded and delivered as part of the committed and allocated urban extensions identified in the Local Plan. These include, amongst others, the West End Link Road and Northern Distributor Road which are both associated with the NWSDA.
52. The West End Link Road (WEL) would provide a new crossing over the River Windrush from the south end of Hailey Road to the A4095 Mill Street. The Northern Distributor Road (NDR) would run through the main part of the NWSDA site from Hailey Road and join the A4095 Woodstock Road. This, in conjunction with proposed new slip roads to the A40 at Shores Green would allow through traffic to or from the north to bypass Witney Town centre.
53. Local Plan Policy WIT2 expects development of the NWSDA to be phased in accordance with the timing and provision of supporting infrastructure and facilities including the essential delivery of the WEL and the NDR. The delivery of the WEL and NDR are also identified as priorities for delivery in Policy WIT6 which sets out the broad development approach to the Witney sub-area of the District.
54. The TA, the transport section of the ES<sup>3</sup>, and the later Transport Note all include the WEL as part of the required mitigation for the NWSDA. The traffic modelling in these documents indicates that if the WEL, the NDR and public

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<sup>3</sup> Core Document CD A31

- transport improvements implemented, this will reduce delays and queueing at the junctions on the Bridge Street Corridor once the NWSDA is built out.
55. The Appellant originally proposed a monetary contribution towards the provision of the WEL, but resiled from this position before the inquiry started. This is because Oxfordshire County Council (OCC) were reviewing highways options for central Witney and the Consortium is not proposing to fund the WEL either.
  56. However, the Pell Frisschmann report<sup>4</sup> strongly indicates that the WEL will be part of the future highway strategy for central Witney. There is nothing else before me which indicates that other options exist or are being actively considered. Furthermore, whilst the Consortium has indicated that it is not proposing to fund the WEL, this application is undetermined. Consequently, I cannot accept the appellant's proposition that the WEL is shrouded in uncertainty.
  57. The delivery of the WEL be necessary to support additional housing growth in the area. This includes the appeal proposal. Moreover, the appellant's other supporting information<sup>5</sup> relies on the inclusion of the WEL as part of the required mitigation for the NWSDA as a whole. Thus, if the proposal does not make a proportionate contribution it would fail to deliver the necessary infrastructure associated with the NWSDA allocation.
  58. In the short term, the effect of the appeal proposal on the highways network might be considered temporary, even if it is severe. However, in the longer term, these temporary adverse effects would fail to be adequately mitigated if the delivery of the WEL was not achieved. This would have a long term severe adverse effect on the highway network within Witney.
  59. The appellant is proposing to contribute towards the provision of the NDR. Whilst OCC are broadly in agreement with this contribution, it has reservations about how it has been calculated. This is because it has been calculated based on a pro-rata contribution from 1400 dwellings. The Consortium indicated that its proposal would amount to 1250 dwellings for the whole of the NWSDA, meaning there would be a potential shortfall in contributions.
  60. OCC also expressed reservations about the failure to contribute towards the proposed roundabout junction of the NDR with Hailey Road. This would provide access to both the appeal site and the remainder of the NWSDA to the east of Hailey Road. The appellant considers that there is no strategic uplift involved in this junction as it is merely required to access the wider NWSDA. Whilst cost estimates (subject to a strategic uplift) were provided for the NDR, no estimates were provided for the costs of the roundabout junction.
  61. The roundabout junction is not required to provide suitable access to the appeal site if it were to be developed in isolation. Nevertheless, I cannot accept the appellant's proposition that there is nothing strategic about the roundabout junction. It is simply not logical that the NDR can be considered strategic infrastructure, but the junction of the NDR with the existing highway

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<sup>4</sup> Inquiry Document ID M22: Witney Bridge Street Area Options Appraisal Report Final July 2023

<sup>5</sup> Transport Assessment (Core Documents CD A12 and CD A13) and Environmental Statement (Core Document CD A31)

network is not. Moreover, the appellant is also cognisant of this because the design of the scheme sought to accommodate an access from the roundabout.

62. The Highway Authority consider that the junction facilitates the NDR. For the reason set out above I agree with this position. It would form a part of the strategic infrastructure.
63. A combined footway/cycleway to west side of Hailey Road is proposed. The appellant considers that this represents a proportionate contribution to the provision of the WEL in infrastructure terms. However, the provision of a comprehensive network for pedestrians and cyclists with good connectivity is a requirement of Policy WIT2, in addition to the provision of the WEL. It is also a scheme included in the Witney Local Cycling and Walking Infrastructure Plan 2023 as a medium term priority.
64. This would provide an element of infrastructure that is required by Policy WIT2 and would be entirely funded by the appellant. Nonetheless, the Appellant has not provided any assessment to demonstrate that it could compensate for the requirement for the WEL in terms of mitigating the traffic effects of the NWSDA, or that it would lessen the short term impact on the highway network of the proposed development in isolation. Additionally, the estimated cost of providing this is significantly less than the contribution to the WEL identified by Oxfordshire County Council as being the required from the scheme. Consequently, the provision of the segregated footway/cycleway cannot be seen as a direct replacement or substitute for a financial contribution towards the WEL.
65. I therefore find that the proposal would not make appropriate provision for the delivery of highways infrastructure required in connection with the development of the NWSDA which the site forms part of. This would conflict with Policies T2, WIT2 and WIT6 of the Local Plan.

#### Other Infrastructure

66. Policy WIT2 also expects the development of the NWSDA site to provide biodiversity enhancements, appropriate green infrastructure including allotments, a new primary school, financial contributions towards secondary school capacity, make provision for flood alleviation measures, and any required upgrades to the sewerage infrastructure to accommodate the new development.
67. Policy WIT6 expects development in the Witney sub area of the district to ensure that new development makes appropriate and timely provision for essential supporting infrastructure, including new transport, education, health, green infrastructure and other community facilities.
68. The submitted UU commits to contributions towards infrastructure. These include contributions that would be payable to OCC in relation to education, household waste and recycling, and various highways and transport works, including contributions to public transport and redesignating part of the route of the A4095.
69. I have had regard to the Regulation 122 Compliance Statement<sup>6</sup> submitted by OCC. I am satisfied that the contributions set out in the UU meet the tests

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<sup>6</sup> Inquiry Document ID M16

set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) and Paragraph 57 of the Framework e.g. they are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to the development.

70. The District Council also identified affordable housing; custom and self-build housing; community art and well-being; sports hall provision, swimming pool, and outdoor sports facilities improvements; contributions to the NHS; provision and maintenance of public open space within the site; biodiversity net gain; green infrastructure; allotments; flood alleviation measures; environmental enhancement; burial grounds; and community facilities as areas of infrastructure which required a contribution to be made by the proposal. In addition, the appellant offered a financial contribution towards a replacement village hall and sports pavilion in Hailey Village and, as set out above, is proposing to provide a two way segregated cycle track on Hailey Road to connect the appeal site to West End.
71. Policy H3 of the Local Plan expects new residential development in the Witney area to provide 40% of the new housing as affordable housing. The Section 106 Agreement sets out that 49 of the proposed dwellings on the appeal site would be provided as affordable housing (equating to 46%) and specifies a mix of house types and tenures. This mix and range of tenures is acceptable to the Council and would meet the requirements of Policy H3.
72. Local Plan Policy WIT2 requires 5% of the developable plots to be set aside for custom or self-build housing. The Section 106 Agreement includes a clause in respect of making available and marketing 5 plots on the development as such. The description of the proposed development did not include custom or self-build housing and therefore this obligation is necessary in order to meet the requirement of Policy WIT2. However, the scheme only proposes 5 plots which equates to 4.7% of the total and would not be policy compliant.
73. In addition, because the matter of custom and self-build housing was not addressed prior to the appeal being made and evidence submitted, the appellant has sought to retrofit this to an established layout and suggests that the development of these could be controlled through a condition. A condition was suggested which states that on the specified plots, further details of the layout of each plots and the detailed design and landscaping shall be submitted to the LPA for approval. Several of the selected plots are small and awkwardly shaped. Whilst custom or self-build housing need not be large, the size and irregular shape of the plots would restrict the design and layout options for them. In addition, the suggested condition does not mention custom or self-build housing or require design guidance to be prepared for these. The condition gives insufficient certainty over what a prospective developer would be required to do in order to discharge the condition and thus fails the test of precision set out in the Framework and the Planning Practice Guidance. I therefore find that the proposal would not make suitable provision for custom or self-build housing and would not meet the requirements of Policy WIT2 in this regard.
74. A community art and well-being contribution is included in the Section 106 Agreement. This is, nonetheless, disputed by the appellant because there is a lack of development plan support. I agree that this is the case. In addition,

- there are no specific details regarding what the contribution would be spent on. Whilst there would be merit in seeking to facilitate a broader social interaction between the new residents on a development, this contribution is not necessary to make the proposal acceptable in planning terms.
75. Contributions towards sports halls, swimming pools, and outdoor sports provision are also included in the Section 106 Agreement. These were also disputed by the appellant. A development of the size proposed would inevitably lead to a greater demand for such facilities and the contributions sought are based on a well-established set of guidelines that are regularly used by the Council. The swimming pool and sports hall facilities at Windrush Leisure Centre in Witney are identified as requiring upgrading. Playing pitches in need of upgrading are set out in the West Oxfordshire Playing Pitch Strategy. The appellant questioned the value of the approach of funding proportions of facilities, however, it is common practice to pool contributions from several schemes to ultimately improve facilities. I am satisfied that this contribution is necessary in order to make the scheme acceptable.
  76. Linked to the above contributions, the appellant argued that these were mutually exclusive to the contribution towards the replacement of Hailey village hall and sports pavilion. However, this contribution was offered by the appellant in response to the representations made by the Parish Council. It was not sought by the Council. The site does lie within the Hailey Parish Council administrative area although Hailey village is some distance from the appeal site. The village is a settlement with its own identity and its facilities would be used by residents of Hailey rather than residents from the new development. This contribution would not be necessary to make the appeal proposal acceptable.
  77. In respect of contributions towards primary care provision, the appellant contested that this was not necessary, but it has been included in the Section 106 Agreement. The NHS Oxfordshire Clinical Commissioning Group requested the contribution commenting that primary care is at capacity in Witney and requires additional infrastructure to provide capacity for population growth. Lack of capacity in the Primary Care system has consequences for both new and existing residents and the contribution would be directly related to the development. There are four GP practices whose catchment area includes the site. Funding would be allocated to these by the Clinical Commissioning Group to enhance the capacity of existing health infrastructure. It is therefore a necessary contribution and would meet the relevant tests.
  78. The provision of and future maintenance of public and other open space within the development is agreed by both parties as necessary infrastructure. Arrangements for this are included in the Section 106 Agreement.
  79. Biodiversity net gain was included as a potential infrastructure requirement. The evidence indicates that 10% biodiversity net gain can be achieved through offsetting. A condition has been proposed to this effect which includes the submission of a scheme for offsetting biodiversity impacts and the provision of any necessary legal agreements to guarantee its delivery. Off site gains should ideally be secured either through a planning obligation or a Conservation Covenant (when they apply). This would be a tripartite obligation with a scheme that is on the register and within a Local Nature

Recovery Strategies area. This would properly secure policy compliant BNG, in this instance, requiring the Council and appellant to precisely agree to the delivery and location of the off site BNG.

80. The Council are of the view that biodiversity credits could be provided within the wider NWSDA. Local Policy EH3 expects all major developments to demonstrate a net gain in biodiversity and Policy WIT2 seeks biodiversity enhancements as part of the NWSDA development. The appeal proposal would meet the requirements of Policy EH3 and there is nothing in the evidence which would suggest that any biodiversity credits could not be used towards the wider NWSDA site.
81. The Council also suggests that essential infrastructure includes green infrastructure, allotments, flood alleviation measures, an environmental enhancement area, burial ground expansion and contributions to a community facility. The appellant has not agreed to these points, and they do not feature in the Section 106 Agreement.
82. Some of these are requirements of Policy WIT2 of the Local Plan. Policy WIT2 does not specifically mention cemeteries or community facilities, although the latter are mentioned in Policy WIT6 which addresses the broader development in the Witney area.
83. Green infrastructure, allotments, and flood mitigation are policy requirements for the development of the NWSDA as a whole. The appeal proposal does not make provision for these beyond the small contribution from public open space. The Council has not suggested an amount for these contributions. Equally, the appellant has not offered a sum. Nevertheless, these are policy requirements which have not been addressed. This underscores the need for a comprehensive masterplan which identifies what is required and when and how it is to be provided.
84. The appeal proposal would not provide sufficient custom or self-build housing or contribute sufficiently towards green infrastructure, allotments, and flood mitigation required for the wider NWSDA. Together with the lack of a contribution towards the provision of the WEL, the proposal would not make appropriate contributions to the infrastructure identified in Policy WIT2 or required in connection with the development of the NWSDA. This would not comply with the relevant requirements of Policies WIT2, WIT6, and T2.

*The effect on air quality*

85. It is agreed that the effects of the proposal on air quality at the appeal site and vicinity as a result of construction activity and the occupation of the site are not significant. Suitable site management during the construction period would minimise any effects.
86. However, the area of Bridge Street and part of High Street which includes both the mini roundabout and the double roundabout was designated as an Air Quality Management Area (AQMA) in 2005 due to exceedances in the levels of Nitrogen Dioxide (NO<sub>2</sub>) over the relevant objective of an annual mean of 40µg/m<sup>2</sup>.
87. The evidence indicates that during 2020 NO<sub>2</sub> concentrations within the AQMA fell below the UK objective level, most likely due to travel restrictions during



the Covid 19 pandemic. The levels increased slightly in 2021 and 2022 but remained below 40µg/m<sup>2</sup>. No precise figures were available for 2023 and I do not consider that it can be assumed that these reduced levels will continue into the future, particularly as the highways evidence indicates that traffic in the area will increase.

88. The ES<sup>7</sup> indicates that in the short term there would be exceedances in NO<sub>2</sub> at some sensitive receptors in the AQMA. There is however a discrepancy in the data provided for the 2024 year in that the exceedances in the scenario where the appeal proposal does not go ahead are greater than where it does. The reason for this could not be explained and cannot be attributed to re-routing of vehicles on the network as other road infrastructure required for this would not be in place.
89. The most recent Air Quality Assessment dated December 2023<sup>8</sup> does not, show any exceedances, instead predicting small increases as a result of the proposal. None of these increases would result in either an exceedance or a significant change. However, all of the assessments in respect of air quality are based on traffic flows provided by the appellant's transport consultant. Nevertheless, the most recent air quality assessment uses different base years and assessment years from the most recent figures in the transport evidence, which itself in any event does not quantify Average Annual Daily Traffic (AADT). Consequently, I cannot be certain that the traffic data used in the most recent air quality assessment, which suggests much lower AADT flows than those used in the previous versions, is reliable.
90. As set out above in the transport section, the traffic flows and delay times within the AQMA, the boundaries of which are within the model used in the Systra assessment in the TA, are not reliable due to inconsistencies in the outputs which were not adequately explained in the evidence. Even if I were to accept the appellant's argument that the WEL is not necessary or will not be provided in the short term, it is inevitable that additional vehicles arising from the development would enter the AQMA because the alternative route provided by the NDR would also not have been provided.
91. In this context, the proposal would not result in any improvement to air quality on the Bridge Street corridor. That said, the evidence indicates that where exceedances are predicted, these would occur regardless of whether the proposed development were to proceed and would occur at a small number of locations within the AQMA. Despite the appellant's claims, in the absence of alternative routes, the number of vehicles entering the Bridge Street corridor would not be reduced. However, there would be no new exceedances in the short term as a result of the proposed development proceeding in advance of the wider NWSDA. Overall, the effect of the appeal proposal on air quality in the short term would be a broadly neutral one.
92. In the longer term, the ES indicates that there would be improvement in air quality within the AQMA. This is, however, predicated on the basis that all of the road infrastructure improvements required in connection with the NWSDA, and the East Witney Strategic Development Area are in place. These include the provision of the WEL which together with the NDR and the Shores Green

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<sup>7</sup> Core Documents CD C2 – C11, Appendix 3.

<sup>8</sup> Core Document CD L2, Appendix 4

slip roads would allow for the diversion of some through traffic in particular heavy goods vehicles away from the area covered by the AQMA.

93. I have concluded previously that the failure of the proposal to make a proportionate contribution to the provision of the WEL would prejudice its delivery. Although the provision of other road infrastructure would allow for a degree of re-routing of vehicles, the absence of the WEL casts doubt on the veracity of the ES findings in the longer term. This is because it assumes the WEL will be implemented. This compounds my concerns about the lack of comprehensive development.

*Whether the proposed development would contribute to achieving a comprehensive development*

94. It was originally intended that the Council would produce a masterplan for the NWSDA, and the other strategic sites allocated in the Local Plan, which would be adopted as supplementary planning documents. However, due to resourcing implications, the Council is no longer pursuing that approach. The expectation is now that the developer, or developers, of the site would produce a masterplan.
95. Policy WIT2 of the Local Plan seeks to create a sustainable, integrated, community that forms a positive addition to Witney. It is common ground that this policy is one of the most relevant to the proposal. Policy WIT2 sets out a number of criteria against which proposals within the NWSDA will be assessed.
96. Criterion b) expects comprehensive development to be led by an agreed masterplan. Comprehensive development is not defined in Policy WIT2 or its supporting text, although the other criteria in the policy indicate what may need to be considered or included. In its generally accepted use, comprehensive means "including or dealing with all or nearly all elements or aspects of something", or "of large content or scope"<sup>9</sup>.
97. The planning application for the appeal site was not accompanied by a masterplan for the NWSDA site. Nor is there an agreed masterplan for the remainder of the NWSDA allocation.
98. A masterplan would identify the urban design principles for the NWSDA, necessary infrastructure and timings for this, open space and facilities, traffic management and mitigation, public transport routing, drainage, affordable housing, and custom/self-build housing. Without this, comprehensive development a sustainable and integrated community cannot be provided. This is because there is no joined up thinking to the whole allocation, nor a yardstick against which to measure the individual and cumulative effects of the proposals.
99. The appellant argues that there is not a requirement for the Council to agree any masterplan. This is based on a statement in a report to the Council's Executive in respect of an addendum to the existing masterplan for the West Eynsham SDA<sup>10</sup>. I disagree. The report details that the Council can decline or approve it. The policy requirement is clear that a masterplan is required.

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<sup>9</sup> Oxford Dictionary of English, Third Edition, Oxford University Press, 2010

<sup>10</sup> Core Document CD K13

100. Criterion c) of Policy WIT2 requires that development is to be phased in accordance with the timing of supporting infrastructure and facilities including the essential delivery of the WEL and NDR. In the absence of an approved masterplan, it is difficult to see how phasing in relation to the provision of this infrastructure would be determined.
101. The appellant's position is that the site is one small part of the NWSDA and could essentially be considered as the first phase. Whilst the development of the site in isolation may not make the rest of NWSDA unviable or make delivery a physical impossibility, merely not preventing something is not synonymous with comprehensive development as required by Policy WIT2. There is some merit in the appellant's argument that with a large development such as the NWSDA there will be effects before the supporting highways and other infrastructure is provided. Nevertheless, this argument only holds water if the supporting infrastructure is ultimately provided as planned.
102. The proposal would not make appropriate provision for the delivery of highways infrastructure to mitigate the impact of traffic associated with the development. This would undermine the ability to delivery comprehensive development of the NWSDA.
103. The ES relies on provision of WEL as part of the measures to mitigate against driver delay and adverse effects on air quality in the operational phase<sup>11</sup>. It concludes that these effects would be significant for the scheme in isolation. This contradicts the appellant's highways and planning evidence that the WEL is not necessary. Although, in isolation, the appeal scheme would have a neutral effect on air quality, the failure to provide the WEL would undermine the air quality mitigation for the wider NWSDA and there would be resultant severe effects on the highways network.
104. In addition, the proposal would not make appropriate contributions to other green infrastructure and allotments or to flood alleviation. All of the large, shared, infrastructure would have to be accommodated off site. If the appellant does not contribute proportionately to this there would be an increase in the cost burden for the rest of the NWSDA and a risk that it may not be fully delivered.
105. The funding calculation for the NDR and some other infrastructure is questionable. This is because Policy WIT2 allocates the NWSDA for 1,400 homes but the Consortium's application is for 1,250 in total. This includes the appeal site. The appellant's contributions for the NDR are based on a pro-rata of 1,400 and thus are lower than would be required if only 1,250 dwellings are now proposed. Whilst I accept that the final number of dwellings would be determined through subsequent detailed applications, the likely reduced quantum of housing does cast uncertainty over whether the future infrastructure will be adequately funded. This is exacerbated by the fact that as there is no agreed masterplan for the NWSDA which would identify the infrastructure requirements, estimated costs and how these would be apportioned.
106. Moreover, the lack of agreed masterplan leads to uncertainty over the final number of houses and what appropriate contributions to other required

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<sup>11</sup> Core Document CD C2-11 Environmental Statement, Chapters 2 and 3

infrastructure should be. This casts doubt over whether the proposal would contribute to achieving a comprehensive development.

107. In the absence of an agreed masterplan, there is no certainty that the development would contribute to comprehensive development of the NWSDA as there is nothing against which it can be measured and assessed. This notwithstanding, the proposal specifically would not contribute towards the provision of essential infrastructure, specifically the WEL. No compelling evidence was put to me that the WEL would not be required in future scenarios for transport in Witney. In addition to this, the appeal proposal would not provide the required quantum of custom/self-build housing or make appropriate contributions to shared infrastructure such as environmental enhancements, allotments and flood alleviation required for the overall NWSDA.
108. In the absence of an overall masterplan for the NWSDA, the design objectives for its development and for character areas within it are not yet established. The development has been designed with large buildings at the entrance that are positioned in relation to a priority junction. However, this is not the final form of the junction and indeed the proposal reserves land that would be required to convert the priority junction into a leg of a future roundabout. Fixing large and permanent built elements at an important nodal point in the overall development at this stage would undermine the ability to achieve a cohesive, attractive, and distinctive built form. This would be necessary to establish a unique sense of place at a principal entrance to the NWSDA and at one of the northern entrances to Witney.
109. Although it would not be inherently harmful to the landscape setting of Witney, the design and built form of the development would be harmful to the character and appearance of the area and from the evidence before me I cannot be satisfied that it would result in an overall integrated design with the remainder of the NWSDA.
110. The absence of a masterplan may delay housing delivery on the NWSDA. Nevertheless, that housing needs to be appropriately designed and laid out and requires the necessary supporting infrastructure in order to be a sustainable development. This requires masterplanning to ensure that the development functions well and adds to the quality of the area for the lifetime of the development.
111. Given the above I conclude that the appeal proposal would not contribute to achieving a comprehensive development of the NWSDA. It would not comply with the relevant requirements of Policy WIT2 of the Local Plan.

### **Other Matters**

112. The Council's most recent Housing Land Supply Position Statement dated October 2023 sets out that the Council can demonstrate a 5.4 year supply of housing land. The appellant disputes this and, instead suggests that the Council can only demonstrate a 3.66 year housing land supply.
113. It is common ground that the relevant 5 year period is 1st April 2023 to 31st March 2028 and that the basic annual requirement for housing is 570 dwellings per annum.

114. It is agreed that the Council's basic requirement, calculated using the Standard Method is 2,850 homes. The appellant initially added 64 units to account for past shortfall in housing delivery. However, the Standard Method factors in past under-delivery and this addition should not be included. There are also some inaccuracies in the small sites and this supply should be reduced by 20 units.
115. The dispute between the parties principally centres around 6 large sites. The starting position of the Council is a supply of 3,111 homes.

#### Land North of Witney Road, Long Hanborough

116. Outline planning permission was granted in February 2023 for up to 150 homes. The planning obligation for this site has been signed and conditions discharge applications were submitted undecided at the time of the inquiry. Whilst the timescale for the submission of reserved matters and commencement of development was shortened on the outline planning permission, there is no evidence of when the reserved matters might be submitted, nor the discharging of any other conditions attached to the planning permission.
117. A condition attached to this permission also prevents occupation until the sewage upgrade works are completed, scheduled to be finished in March 2025. However, this would not prevent houses from being commenced or completed.
118. Thus, whilst there has been some progress toward site assessment work but there is no indication of when the required works will commence. Research carried out by Lichfields in "Start to Finish" (2<sup>nd</sup> Edition 2020)<sup>12</sup> suggests an average time of 1.9 years from reserved matters approval to completions starting. Based on the evidence, I consider that it is unlikely that this site would deliver 150 houses within the relevant period. However, given that there is some evidence of progress toward delivery, it would be reasonable to assume that 50 units might be delivered in the five year period.

#### REEMA North, Carterton

119. This site has full planning permission for 200 units which has been implemented. The extant permission is unlikely to be pursued, but there is an email from the developer involved that suggests the delivery of 217 dwellings within the 5 year period. Given the history and circumstances of the site, there is clear evidence that housing completions will begin on site within 5 years. However, the scale of the delivery is ambitious, and determination of the planning application is likely to take longer than suggested by the developer. For this reason, delivery from the site of 100 dwellings in the next 5 years would be realistic.

#### Eynsham Nursery Site, West Eynsham SDA

120. The appellant argues that this site should be discounted entirely as these dwellings address the unmet housing need for Oxford City. Although the Local Plan sets out in the supporting text that the West Eynsham SDA will deliver around 1,000 new homes by 2031, a proportion of which (550 homes) will contribute towards meeting the housing needs of Oxford City, Policy EW2

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<sup>12</sup> Core Document CD K4

does not identify specific sites for these. Nothing else was presented to me which would indicate that this site was intended specifically to do so. I therefore consider that this site is deliverable.

#### Derrymere Farm, West Eynsham

121. This was subject to an outline planning application in 2020 for 180 units. An appeal against non-determination was lodged but subsequently withdrawn. Improvements to the A40 are required for this site to proceed and this is reliant on Housing Investment Fund (HiF2) funding. Confirmation of such funding has not yet been received. At present there is no planning application for this site and no clear timetable for one being submitted. Given the uncertainties over the potential timescale for development this site should not be counted toward the 5 year supply.

#### Land north of Hill Rise, Woodstock

122. This is an allocated site under Local Plan Policy EW4. A hybrid planning application for the development of this land was granted permission at appeal in October 2023, comprising full permission for 48 dwellings and outline permission for a further 132 dwellings. The appellant contends that this site should be excluded because, at the base date, the Council was contesting the appeal. However, at the base date, the hybrid planning application had been refused and the appeal had been lodged. The site is allocated and there is clear evidence that the development of the site was being actively pursued, albeit the Council had taken issue with the detailed design of the scheme. In these circumstances, it is not unreasonable to consider that the site would still be deliverable, particularly as the matter of design would have most likely been resolvable and there is no evidence to indicate that other more fundamental matters were in dispute. The contribution of 180 homes from this site should therefore be included on the 5 year supply.

#### Banbury Road, Woodstock

123. This is the subject of a resolution that the Council is minded to approve an outline planning application for up to 235 houses subject to the completion of a Section 106 agreement. At the inquiry, the Section 106 was yet to be finalised. Although the Council have provided a delivery trajectory from the developer, this dates from September 2022. There is no indication of either when the permission will be granted or timescales for the submission of reserved matters. As such there is no clear evidence that that completions will begin on the site within 5 years and the site should not be counted towards the five year supply.

#### Housing Land Supply Conclusion

124. Having regard to the above, I find that there is a supply of 2,446 homes amounting to 4.29 years. Consequently, the Council cannot demonstrate a deliverable five year housing land supply and the proposal has to be considered in the light of Paragraph 11(d) of the Framework.

#### **Planning Balance**

125. I have found that the appeal proposal would not contribute towards providing a comprehensive development of the NWSDA and that taken in isolation the proposal would cause harm to the character and appearance of the area and



would have an adverse effect on the proper operation of the highway network. These are important matters that lead me to conclude that the appeal proposal is contrary to the development plan when taken as a whole.

126. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is capable of being a material consideration.
127. Paragraph 11 d) of the Framework sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
128. The appeal proposal would create some economic benefits during the construction period, through the investment required to deliver the scheme and the support of employment in the construction trades. There is no evidence that the proposal would result in the creation of new, permanent, jobs but it would support the continuation of existing jobs in the trades and supply chain. Moderate weight can therefore be given to this.
129. It is a requirement of Policy WIT2 that the development provides biodiversity enhancements. The Local Plan does not set a target for biodiversity net gain and the application pre-dates the introduction of the mandatory 10% biodiversity net gain for major developments. Although the proposal would provide a 10% net gain, it is a requirement in order to make the proposal policy compliant and does not exceed what is now the mandatory target. As such this is a neutral factor.
130. The provision of the cycle route on Hailey Road would improve conditions for cyclists by providing segregated cycling facilities. Nonetheless, the proposed link terminates at the end of Hailey Road on the north side of West End and does not include an appropriate crossing facility. Cyclists would either have to negotiate West End, which is narrow and congested at peak times, or to try to cross West End via the existing crossing point. This is essentially a gap in the splitter island adjacent to the roundabout. It acts as a pedestrian refuge but is not long enough to safely accommodate a bicycle. I am also mindful that the Woodford Mill footpath and crossing is not always available due to flooding from the Windrush and, indeed, was flooded and impassable at the time I visited the site. In these circumstances cyclists would have to negotiate West End regardless. This fails to enable links to the existing pedestrian and cycle route which links West End to Mill Street at Woodford Mill.
131. The appellant suggested a condition could be imposed to secure this crossing point. Such a condition would involve land that is some distance from the appeal site and not within the control of the appellant. The works to create a crossing point would also be entirely within the highway. As a planning permission cannot authorise works within an adopted highway, it would be necessary for these works to form the subject of an agreement under Section 278 of the Highways Act 1980. The Planning Practice Guidance advises that in exceptional circumstances, such as where there is clear evidence that the delivery of the development would otherwise be at serious risk, it may be appropriate to impose a negatively worded condition requiring a legal agreement to be entered into. In this case, it is not argued that there are

such exceptional circumstances or that the delivery of the scheme is dependent on this crossing point.

132. Although the cycleway would provide a wider benefit beyond the residents of the new estate, it would not represent a significant improvement in the cycle network and carries only moderate weight.
133. The Framework seeks to significantly boost the supply of housing and notes that it is important that the needs of groups with specific housing requirements are met. The evidence before me indicates that there is a need to increase the supply of affordable housing in West Oxfordshire and the Framework sets out that major developments should provide at least 10% of the total units as affordable houses. The Framework does not however, attach, any kind of premium to affordable housing.
134. The appeal scheme would deliver 106 dwellings including 49 affordable homes. This would go some way to meeting the Council's shortfall in housing supply although the shortfall is not as large as the appellant suggested in its appeal submissions. Nevertheless, the delivery of housing and particularly affordable housing is an important consideration and carries substantial weight.
135. Policy H3 of the Local Plan sets clear proportions of affordable housing which is expected to be incorporated into housing developments of more than 11 units in the District. The proposal would provide 46% of the units as affordable housing which is greater than the 40% sought by Policy H3.
136. The need for and the requirement to provide affordable housing is built into the Council's policies and housing requirements. Nonetheless, the proposal would provide a small number of additional affordable units over and above the policy requirements and this adds a moderate amount of additional weight in favour of the scheme.
137. Weighed against this, the scheme would not be led by an agreed masterplan and would not contribute to achieving a comprehensive development of the NWSDA. This would undermine the Council's approach of providing a significant amount of housing from a number of strategic sites whilst appropriately mitigating the effects of those developments. This weighs heavily against the proposal.
138. The design of the scheme would cause harm to the character and appearance of the area. Given the potential lifespan of the development this harm would be significant and enduring. Although this harm may be slightly moderated in the fullness of time as and when the wider NWSDA is developed, the poor visual and spatial relationship with current and future alignment of Hailey Road, and the unattractive, car dominated internal street scenes would be immutable. The Framework is clear that development that is not well designed should be refused. This weighs significantly against the development.
139. It is accepted that there will be some short term harm arising from increased vehicle movements from the development and I have found that in the context of the existing traffic situation that this harm would be severe. In addition, the failure to provide adequate financial contributions towards for required and essential transport infrastructure would compromise the ability

to mitigate these effects in the longer term and the ability to mitigate the traffic effects of the NWSDA development overall. This weighs very heavily against the proposal.

140. The failure to make appropriate contributions to other required infrastructure would undermine the comprehensive development of the NWSDA and its ability to provide additional housing. This weighs significantly against the proposal.
141. The delivery of housing and affordable housing is an important consideration, but it is not an objective to be pursued at any cost or to the exclusion of other concerns. Whilst the Council has a shortfall in housing land supply, this is not so significant that it would justify permitting the appeal scheme and causing the identified harms. The adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

### **Conclusion**

142. For the above reasons, I conclude that the appeal should be dismissed, and that planning permission should be refused,

*John Dowsett*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Mr R Warren KC – Counsel for the Appellant  
 Mr K Dijkstra – Dijkstra Planning (UK) - Planning Consultant  
 Mr B Thomas – i-Transport - Highways Consultant  
 Mr C Pullan – Pegasus Group - Urban Design Consultant  
 Mr D Lampard – Lichfields - Infrastructure Consultant  
 Mr M Taylor – Lichfields - Housing Land Supply Consultant  
 Mr J Buckley – Air Quality Consultants  
 Mr A Woolcott – Solicitor to appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Greaves – Counsel for the LPA  
 Mr C Wood – Senior Planner West Oxfordshire DC  
 Mr R Bhosa – Transport Development Lead Oxfordshire CC  
 Dr S McPherson – Senior Officer for Air Quality Publica/West Oxfordshire DC  
 Mrs O Parsons – Place Planning & Co-Ordination Team Leader Oxfordshire CC

INTERESTED PARTIES:

Mr T Burden – Turley on behalf of the North Witney Land Consortium  
 Mr G Lewis – On behalf of Windrush Against Sewage Pollution  
 Mr N Hyde – Local Resident

DOCUMENTS

ID M1	Appellant’s opening points
ID M2	LPA opening points
ID M3	Signed Overall Statement of Common Ground
ID M4	Signed Housing Land Supply Scott Schedule Statement of Common Ground
ID M5	Windrush Against Sewage Pollution Statement
ID M6	Windrush Against Sewage Pollution Statement - Figures
ID M7	Windrush Against Sewage Pollution Statement – Gateshead MBC v SoS for Environment
ID M8	Windrush Against Sewage Pollution Statement – KC Opinion sewage capacity with regard to planning
ID M9	Witney Local Cycling and Walking Infrastructure Plan
ID M10	WODC Cabinet Report 13/07/22 – Approval of Funding for West End Link Study
ID M11	Mr Burden’s (Turley) Statement
ID M12	Tag Unit M1.2 – Data Sources and Surveys – Department of Transport.
ID M13	Stagecoach Objection Letter
ID M14	WODC Regulation 122 Statement
ID M15	WODC Regulation 122 Statement Appendices

ID M16	OCC Regulation 122 Statement
ID M17	WODC Rule 6 Statement
ID M17b	WODC Rule 6 Statement Appendices
ID M18	Appellant's Position on WODC and OCC Reg 122 Requirements January 2024
ID M19	Air Quality Addendum 20 December 2023
ID M20	R (University Hospitals of Leicester NHS Trust) v Harborough DC [2023] EWHC 263 (Admin)
ID M21	R (Worcestershire Acute Hospitals NHS Trust) v Malvern Hills DC and others [2023] EWHC 1995 (Admin)
ID M22	Witney Bridge Street Area Options Appraisal Report Final July 2023 (Pell Frischmann)
ID M23	Witney Bridge Street Area Options Appraisal Report Appendix A Node and Link VoC Results
ID M24	Witney Bridge Street Area Options Appraisal Report Appendix B Sifting Criteria
ID M25	Witney Bridge Street Area Options Appraisal Report Appendix C LinSig Results
ID M26	Witney Bridge Street Area Options Appraisal Report Appendix D Bridge Street Concept Design
ID M27	Witney Bridge Street Area Options Appraisal Report Appendix E Cost Breakdown
ID M28	A2D Background Information
ID M30	Ecological Impact Assessment January 2024
ID M30b	Ecological Impact Assessment Appendix 4 Data Search Results
ID M31	Biodiversity Metric Appendix 6
ID M32	LPA Closing
ID M33	Appellant Closing