

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING AND COMPULSORY PURCHASE ACT 2004

PLANNING ASSESSMENT
ON BEHALF OF

IFFLEY CROWD FUND (ICF)

PLANNING APPLICATION No. 22/03078/FUL
FULL PLANNING PERMISSION FOR THE ERECTION OF 32 DWELLINGS
(CLASS C3) AND VEHICULAR AND PEDESTRIAN ACCESSES

ON LAND AT
MEADOW LANE, IFFLEY
OXFORDSHIRE

10th February 2023

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- Appendix [11] Report on Flood Risk and Drainage Strategy by Katrina Robinson on behalf of FOIV.

1.0 INTRODUCTION AND OUTLINE OF OBJECTIONS

1.1 Introduction

1.2 MWA is instructed by Iffley Crowd Fund ('ICF') to summarise objections to a proposed development by OXPlace (the 'Applicant') of 32 dwellings (Class C3) on land at Meadow Lane, Iffley which is subject to planning application No. 22/03078/FUL submitted to Oxford City Council (The 'Council') as Local Planning Authority.

1.3 In preparing this report, MWA has relied upon a series of technical, topic-based assessments prepared on behalf of Friends of Iffley Village ('FOIV'), which critically evaluate the documents which have been submitted in support of the planning application as well as undertaking independent assessments of the predicted impacts. These reports have also been submitted to the Council in support of a raft of objections to the proposal. In summary these reports are as follows:

Table 1.1: Topic based reports in support of objections to App. No. 22/03078/FUL¹

Report	Consultant
Landscape and Visual Assessment (February 2023)	Alison Farmer Associates (AFA)
Response to Application Proposals – Heritage (January 2023)	Orion Heritage Ltd (Orion)
TA Technical Audit (February 2023)	Velocity Transport Planning Ltd (Velocity)
Review of the Flood Risk Assessment and Geotechnical Reports (January 2023)	Water Resource Associates (WRA)
Independent Ecological Impact Assessment (February 2023) and Ecosystem Services Assessment (February 2023)	Bioscan

1.4 These reports in summary confirm that the submitted application proposes housing on a site which is wholly unsuitable and which would not secure a sustainable form of development. As we demonstrate in this report, although the Applicant places overriding weight on the site's allocation under Policy SP42 of the Oxford Local Plan 2036 (2020) ('OLP'), a review of the evidence base which underpins this allocation, is substantially deficient and is not well founded. In particular, there is a notable absence of the technical analysis which is contained within the reports in Table 1.1. In addition a series of further reports have been submitted by local residents which must also be considered by the Council and given due weight in the determination of the application. We refer specifically to two of these reports prepared on behalf of FPIV:

- Traffic Impact Assessment prepared by P.G.Hart BSc (Eng) CEng (attached as **Appendix [9]**)
- Air Quality Assessment Document (attached as **Appendix [10]**)
- Report on Flood Risk and Drainage Strategy by Katrina Robinson on behalf of FOIV (attached as **Appendix [11]**).

1.5 Moreover, as required by law², the development plan must be read as a whole. Upon proper analysis the proposal conflicts with the OLP and does not benefit from the presumption in favour of

¹ Submitted on behalf of FOIV.

² For example - *City of Edinburgh Council v Secretary of State for Scotland* [1997] 1 WLR; *R v Rochdale Metropolitan Borough Council ex parte Milne* [2000] EWHC 650 (Admin).

development as set out with the National Planning Policy Framework (NPPF)(July 2021). Indeed as we demonstrate in Section 3, Footnote 7 to paragraph 14d) of the NPPF provides a clear reason for refusing the development proposed.

1.5 Structure of the report

1.6 Our report is set out as follows:

- | | |
|-----------|---|
| Section 2 | A review of the submitted planning application is provided. |
| Section 3 | This section provides a summary of the main issues raised by the development and provides an assessment against the degree to which it conflicts with the OLP and the NPPF. As confirmed in Planning Policy Guidance ‘Determining a planning application’ (March 2014) ³ , the latter represents up to date Government policy and is an important material consideration. Where a local planning authority does not follow the NPPF, ‘clear and convincing reasons for doing so are required’. |
| Section 4 | This outlines our overall assessment of the planning balance. In essence having regard to the duty under Section 70(2) of the Town and Country Planning Act 1990 and 38(6) of the Planning and Compulsory Purchase Act 2004, the proposal conflicts with the development plan when read as a whole and there are no material considerations which indicate that permission should be granted. In this case the relevant part of the development plan is the Oxford Local Plan 2036 (2020). |
| Section 5 | In this section we outline the basis upon which planning permission should be refused. |

³ Paragraph 006 ID: 21b-006-20190315.

2.0 THE SUBMITTED PLANNING APPLICATION: IDENTIFIED DEFICIENCIES

- 2.1 In respect of the submitted planning application, there is a requirement under the Town and Country Planning (Development Management Procedure) Order 2015, for the submitted information, including plans and supporting documents to provide the Council and the public with accurate information in respect of what is proposed.
- 2.2 The following deficiencies have been identified with the submitted application which confirm that the conclusions reached by the Applicant in respect of its compliance with the development plan and national policy, cannot be relied upon because they are not based on well-founded analysis and a comprehensive assessment of the available evidence. On this basis alone the application should be withdrawn and the errors and omissions corrected. Alternatively it should be refused based on the inadequate information having been submitted to enable the actual impacts and effects to be assessed.

Application form and certificate

- 2.3 The NPPG 'Making an application' (2014) confirms:

A certificate which applicants must complete that provides certain details about the ownership of the application site and confirms that an appropriate notice has been served on any other owners (and agricultural tenants).

An application is not valid, and therefore cannot be determined by the local planning authority, unless the relevant certificate has been completed. It is an offence to complete a false or misleading certificate, if this is done knowingly or recklessly.

- 2.4 The brook along the western boundary of the site is excluded from the red line and it is not included within land controlled or owned by the Applicant but which does not form part of the application. We understand that the brook is within the ownership of the Council and since the Applicant is part of the Council, this omission is significant and should be corrected or clarified.
- 2.5 This has significant implications not least in terms of the ability or otherwise to adequately drain into this brook.

Design and Access Statement (DAS)

- 2.6 This document states within section 3.3 – Constraints – Heritage and Conservation that there will be no impact on the nearby listed buildings. This statement is not supported by evidence in relation to historic ownership, which in turn has not been considered within the Built Heritage Statement (BHS).
- 2.7 In section 3.5 relating to 'Constraints – Landscape and Ecology', the only reference to impacts on the conservation area (CA) are in relation to loss of boundary wall treatment. No reference is made to the loss of important open space.
- 2.8 In section 3.6 relating to 'Opportunities' the graphic does not highlight all the Grade A trees identified within the previous Landscape section and indicates the loss of one of them (although it states in Section 4.7 that all Category A trees are to be retained). Loss of trees within the CA has a detrimental impact on the character and appearance. This factor has not been highlighted within the BHS.

- 2.9 In Section 4.9 relating to ‘Proposed Masterplan’, the consequence of restricting access from Church Way to two properties and the provision only of a footpath and cycle path results in the remaining development taking the form of a cul-de-sac. The two other cul-de-sacs in the CA, Anne Greenwood Close and Bay Tree Close, do not appear on Ordnance Survey mapping before 1999; it cannot therefore be argued that the layout of the proposals represents a response to a characteristic of the Conservation Area which has any historic value.

Landscape and Visual Appraisal (LVA)

- 2.10 Paragraph 2.18 of the LVA states that the effects on Iffley Conservation Area (ICA) are considered only in terms of landscape character. It is notable that there is little or no cross reference to the description of the site, Church Way or Meadow Lane as set out in the BHS.
- 2.11 There is no map of the whole CA showing the character areas, areas of open space or key views, noted in the Conservation Area Appraisal (CAA), which enable an understanding of the area as a whole and the role of the site within this context.
- 2.12 The LVA reviews the LCA Update 2022 but does not mention the new threats to local character which were identified and set out above. These are highly relevant to assessing the effects of the proposed development.
- 2.13 The LVA provides a limited assessment of landscape value and therefore does not adequately justify why the site is only viewed as being locally valued.

Built Heritage Statement (BHS)

- 2.14 The scoping out of Townsend Close and Tudor Cottage from the supporting heritage statement assessment is disagreed with as an appropriate methodology. If the site has the potential to be intervisible with a heritage asset, and particularly as the site forms an important element of the CA character and appearance, the affected assets should require assessment. No mention of historic ownership links to the application site is referred to in the heritage statement, which is a significant omission in terms of the understanding of the setting of the assets.
- 2.15 The consideration of non-designated heritage assets within the heritage statement is insufficient. No reference is given within the scoping to historic mapping in terms of locating buildings of an age with potential to be considered. The building located back of pavement along Meadow Lane named Quince Cottage in the vicinity of the site appears on the 1837 Railway Map and would likely qualify for NDHA status. The HER appears only to have been reviewed online via Heritage Gateway, which is insufficient for planning and development purposes, and no reference has been made to Oxford City Council’s Heritage Asset Register having been consulted, with reference only to the Conservation Area Appraisal being reviewed.
- 2.16 The historic development and map regression section contains no reference to pre-Ordnance Survey mapping or archival sources utilised in the understanding of the history of the site and the surrounding settlement. No archival material or historic cartographic sources are referenced.
- 2.17 Analysis of the CA within the heritage statement downplays the importance of the site against the context of the open space to the west, almost suggesting that the setting of the CA in this area is of more importance than the designated open space itself. The analysis focuses on the single character area rather than discussing the character of the CA

as a whole and the role that the open fields play within the designation, given the historic erosion of open space within the remainder of the CA

Ecological Impact Assessment report (EclA), Bat Survey Letter Report, Reptile Survey Report, Invertebrate Survey Report and Badger Report

- 2.18 Quadrat results and Tablefit outputs are not supplied with the EclA as they should have been and data are still awaited.
- 2.19 The grassland surveys are noted to be infected by a number of significant omissions and errors. In particular the analysis provided is insufficient to determine if the site's grasslands are of sufficient value to qualify for protective designation under applicable local criteria.
- 2.20 The habitat and botanical surveys, including the brook and associated woody vegetation at the western edge of the site appear to have been cursory and contain a range of errors. The brook will receive the surface water drainage from the site, requiring (at minimum) direct impacts from the construction of an outfall and very likely other interventions to ensure it can function as a carrier for such drainage, including clearance of woody debris (potentially whole trees), as well as dredging and even re-profiling. The failure to establish a robust baseline for and/or assess these impacts is a significant omission.
- 2.21 No surveys or assessment has been undertaken of the old stone walls on the site nor to the plantation woodland between the Horse Fields and Memorial Field.
- 2.22 The impact on badgers and bats is inadequate and provides no justification for the proposal or the planned mitigation.
- 2.23 Despite acknowledging the presence of declining, Red Listed and S41 species (song thrush and cuckoo), no thought appears to have been given to further work to ensure the site's breeding bird assemblage (which in fact includes at least ten species with a similarly elevated conservation status) was properly documented as part of the EclA process.

Arboricultural Impact Assessment Report (AIA)

- 2.24 The AIA report suffers from errors, omissions and misrepresentation of the baseline position.
- It suggests only 10m of hedgerow will be removed, but this contradicts the acknowledgement in parts of the AIA that there will be effective loss of the hedge along the site's boundary with Meadow Lane. The 'retained hawthorn' are likely to be too sparse and staggered for effective laying and the near-certain reality for this feature will be that it will not be able to be retained in any meaningful form, taking account of losses to access, the need to maintain sightlines and the likely impacts on any replanted feature during the operational phase from car-parking, uncontrolled cutting back by residents and other factors. The AIA thus fails the requirements of BS 5837 to '*present a reasonable account of the prospects for tree retention in accordance with BS 5837*'.
 - The AIA offers a prediction that new and replacement planting, once mature, will result in a "*net gain of tree canopy cover of approximately 0.055 ha (+3%) 25 years post development and a*

larger gain by the time new trees are mature". This calculation takes no account of the maturation of existing stock over that same time period and is therefore fundamentally flawed. There are a large number of young and semi-mature trees on the site at present and assuming these will not expand their canopies as they mature, while replacement planting will, is nonsensical.

- The AIA appears to have been limited in scope to the EclA, failing to document tree cover and/or impacts in the western boundary brook, despite the clear supposition of the application that this will be subject to impacts, including likely tree loss.
- The limitations of tree quality assessments under BS 5837 are not acknowledged, explained or discussed.
- The figures presented in Table 4 of the AIA are readily challengeable, and inaccurate.
- The AIA makes no distinction between the predominantly native baseline tree stock on the site and the future position which will see the introduction of a significant quantum of non-native species.
- There is no qualitative assessment of the change in hedgerow provision including its quality.
- Independent review of the tree-survey underpinning the AIA has found omissions and identification errors. For example, two large hawthorn that will need to be removed for the pedestrian access off Meadow Lane are not included or documented in the tree survey and their losses have not been accounted for.

Biodiversity Net Gain Assessment Report

2.25 No Metric 3.1 calculations have been provided despite being requested. It is therefore not possible to confirm the BNG. This is a serious error given the substantial weight placed on the need for new development to deliver a net gain in biodiversity within the OLP.

2.26 Additionally:

- The Applicant acknowledges that the proposed development cannot achieve net gain, either on site, or even by appropriating the adjoining Memorial Field. The development will therefore result in net loss of biodiversity locally in conflict with the development plan and the NPPF.
- The Applicant's BNG calculation outputs also flag a trading error, due to the losses of higher distinctiveness grassland habitats.
- The Applicant alludes to an off-site compensation scheme, which is not defined.
- The full inputs into the BNG assessment does not comply with good practice standards.

Flood Risk Assessment and Geotechnical and Geo-environmental site Assessment

2.27 In relation to these reports:

- The FRA is dated December 2022 and the Geotechnical and Geo-environmental Site Assessment is dated August 2021.
- The FRA is limited and lacking some basic information on flood risk at the site, such as the site topography, a proper description of the hydrology, evidence of historical flooding, predicted flood levels from the Environment Agency and a proper assessment of climate change.
- The lack of any photographic evidence in the FRA suggests that the authors have not visited the site to make a full field-based assessment.
- The FRA has used outdated methods from the 1970s for estimating greenfield surface runoff and design rainfalls.
- The FRA has ignored information provided in the Geotechnical and Geo-environmental Site Assessment to give an incorrect assessment of the groundwater flood risk .
- Field based infiltration tests and assessments of the seasonal maximum groundwater level are missing from the FRA.
- The FRA does not provide an adequate Surface Water Management Plan, Foul Water Management Plan or robust SUDS design.
- The Geotechnical and Geo-environmental Site Assessment is much more thorough and detailed than the FRA and raises concerns about the impact of groundwater on foundations, basements and tunnels for the new development.
- The Geotechnical and Geo-environmental Site Assessment does not consider the issue of contamination and soil erosion during construction and gives an incorrect assessment of the potential impact on the nearby Iffley Meadows SSSI.

Transport Assessment (TA)

2.28 The TA does not adequately address the site's poor accessibility. Nor does it acknowledge and address the important role of Meadow Lane as a recognised and well used for equestrian access and therefore mitigate the impacts on equestrian users due to the increased vehicular traffic on the lane. Nor does the TA adequately acknowledge the importance of Meadow Lane for a variety of users including walkers, cyclists, those with disabilities, the elderly, and those with pushchairs and young children.

Air Quality Assessment (AQA)

2.29 A site specific analysis of the risk and assessment of air quality impacts has not been provided and does not accord with best practice guidance. This is particularly important given the logistical issues associated with the construction phase of the project. As a consequence the submitted analysis does not accord with Policy RE6 Air quality in the OLP.

Overall conclusions

2.30 Although the application has been registered by the Council, the submitted information does not provide an adequate basis for statutory consultees, the general public and Council officers and elected representatives to understand and comment upon the likely effects. On the basis that the evidence under-pining the application is seriously deficient it should be withdrawn. Alternatively the Council is entitled to refuse planning permission due the lack of adequate information.

3.0 CONSIDERATION OF THE MAIN ISSUES

- 3.1 This section considers the main issues raised by the scheme which go to the heart as to whether it complies with the development plan.
- 3.2 As part of the review of the planning application and the submitted plans and supporting documents, a range of issues have been identified which are central to the Council's consideration of the proposed development. These issues have been identified based on a careful, evidence based assessment of the very significant impacts which arise in relation to the following main issues⁴:
1. Evidence underpinning Policy SP42
 2. Landscape and visual effects
 3. The effect of development on designated and non-designated heritage assets
 4. The impact on Ecology and Biodiversity
 5. The impact on the local highway network and highway safety
 6. Flood risk and drainage
 7. The principle of development
- 3.3 Taken both individually and as a whole, these impacts confirm that the principle of housing development on this site is not acceptable, giving rise to a clear conflict with the development plan. This is considered under main issue 7, relating to whether the development is acceptable in principle.
- 3.4 Each matter is considered in turn, drawing as necessary from the reports and analysis provided by the consultants listed in Section 1. In this context the submitted reports by these consultants should be taken individually and cumulatively as providing cogent and compelling objections to the proposed development.

Main issue 1: Evidence underpinning Policy SP42

Introduction and context

- 3.5 It is considered important to review the background to the site's allocation in the current Local Plan. This is considered relevant in the context of paragraph 15 of the NPPF. This states that:

The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.

- 3.6 Paragraph 16 of the NPPF also states in part:

Plans should:

⁴ These are not ranked by order of importance.

- a) be prepared with the objective of contributing to the achievement of sustainable development;
- b) be prepared positively, in a way that is aspirational but deliverable;
- c) be shaped by early, proportionate and effective engagement between plan makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees.

3.7 Paragraphs 31-32 further state.

The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.

Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).

Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.

3.8 The suite of technical reports identify a raft of issues in respect of the site’s development for housing, confirm that the evidence base underpinning the site’s allocation is not only lacking in substance but fails to address the substantial social and environmental impacts which would inevitably arise if development is progressed under the auspices of Policy SP42. Not only would the development be unsustainable contrary to Policy S1 of the OLP and the NPPF but its allocation failed to be shaped by early, proportionate and effective engagement with the local community.

Background to the site’s allocation

3.9 AFA summarises the position in Table 1 of the Response to Landscape and Visual Appraisal (February 2023). This is set out below in Table 3.1 with additions by MWA in relation to additional considerations which gave rise to its allocation in the OLP which is in conflict with every previous assessment of the site’s importance in heritage, landscape and ecological terms.

Table 3.1: Key considerations relating to the application site’s history

Document and Date	Comment
Planning permission for 4 dwellings (69/21554/A_H	This permission predates the designation of the Iffley Conservation Area. It also of significant age and does not accord with the current policy and legal framework which planning applications have to be considered.
Oxford Local Plan 1991-2001	Site allocated as Important Greenspace (Policy EN5). This policy recognised the significant contribution the

	site made to the character of the area and its biological importance.
Planning application 1994	This was refused on the basis that the site played a key role in expressing the rural character of Iffley.
LCA Oxford and its landscape setting LUC 2002	This identified Iffley Village character area 3F. Considered to be of very high quality. Its condition (landscape quality) = high, historic integrity = high and open space (Iffley Meadows on western edge = Moderate. Overall, it was considered to be highly sensitive to change.
Iffley Conservation Area Appraisal 2009	This confirms the importance of open green spaces and long views across undeveloped fields in the northern part of the CD. Memorial Field is the only remaining pastoral field within the CA
Sites and Housing Development Plan Document Preferred Options Consultation Document May 2011 Appendix 4: site rejected before or at the Pre-Options consultation	In respect of the Meadow Lane site (No 100) it was concluded that: <i>'Development on the site would have a detrimental effect on the conservation area, as well as difficulties in creating a suitable access. The draft Iffley Conservation Area Appraisal describes this site as <u>'one of the important remaining open spaces within the village, a field once the village cricket and football field now grazed by animals, again reinforcing the rural nature of the settlement'</u>. The Landscape Character Appraisal for Oxford (2002) notes the <u>importance of the low-density development playing an important part in the character of the area.</u> Development of the site would be <u>harmful [to] views and to the rural character and linear nature of the village.</u> Potential access is off Meadow Lane and Church Way. Access would be straight onto a roundabout. Meadow Lane is a private road and there could also be difficulties providing an adequate sight line.'</i> Memorial Field was also assessed (No 99): <i>'Development on the site would have a detrimental effect on the conservation area, as well as difficulties in creating a suitable access. The Iffley Conservation Area Assessment notes that the <u>site is important because of the long views it allows out of the conservation area and across the fields to the Thames and beyond.</u> The Landscape Character Appraisal of Oxford (2002) notes the importance of the <u>low-density development playing an important part in the</u></i>

	<p><i>character of the area. Development of this site would also result in the <u>urbanisation of the view from the river to Iffley and would be counter to the linear nature of the village.</u> Potential access is off Church Way, although the proximity of the roundabout opposite the Tree Hotel and the location on an inside bend mean it would be difficult to create a safe access.'</i></p>
Housing Land Availability 2014 (URS)	<p>In respect of Site (No 389) Land at Meadow Lane. It was concluded that:</p> <p><i>'Unlikely to be possible to develop without a significantly negative effect on the Conservation Area. This constraint remains.'</i></p> <p>Memorial Field adjacent (No 388) also assessed as <i>'unlikely to be possible to development without a significantly negative effect on the Conservation Area. This constraint remains.'</i></p>
Oxford Local Plan 2001 - 2016	Site was not allocated for development.
HELAA 2016 AECOM	<p>Map shows sites 389 (Meadow Lane) and 388 (Memorial Field) as not currently accepted for additional housing or economic uses.</p> <p>Appendix A concluded:</p> <p>Site 389 (area of 1.57ha) - identified as a 'greenfield site'</p> <p><i>'The site was considered through the Sites and Housing Plan but was rejected as development is <u>unlikely to be possible without a significantly negative effect on the conservation area.</u> This constraint remains.... Development would have a significant negative effect on Conservation Area with no evidence of availability over the plan period.'</i></p> <p>The site was rejected for both housing and employment development.</p>
Green Infrastructure Study (Stage 1 - June 2017_ (Final Report – Dec 2017)	<p>A green space audit was undertaken as part of the GI study. Sites identified in the HELAA as 'greenfield sites' were used as a basis for the assessment (page 6) where they meet the criteria i.e. are over 0.1ha in size.</p> <p>In the Stage 1 Report (June 2017):</p> <p>Site 389 – land at Meadow Lane/Church Way</p>

	<p><i>'This private animal grazing space is connected via an adjacent PROW. The site is unimportant to flood management as, although it contains some 3b FZ area, it is largely in FZ 1. The site also has no biodiversity designations or functions. It is in an area of moderate landscape value; however, <u>this site is of particular significance in retaining the rural aesthetic of the area.</u>'</i></p> <p>This assessment concluded that the site was not part of the GI network. Similarly, site 399 (The Glebe Field) was also not considered part of the GI network. However, by the time the Local Plan was made (2020) this latter site was identified as GI.</p>
HELAA Nov 2017 AECOM	<p>Site identified as suitable for low density development which would not have a negative impact upon CA area. Site 388 not assessed. Site 389 <i>'development unlikely to be possible without a significant negative effect on the CA and setting of listed building.'</i></p> <p>There is no transparency or evidential basis as to what led to this judgement given that nothing had changed from previous assessment work. The site remained in the CA and continued to perform its function in terms of GI and rural character of the Conservation Area. The methodology between the HELAA of 2016 and 2019 is identical - the only material difference is the availability of the site.</p>
HELAA 2019	Reiterates findings of 2017 HELAA.
Oxford Local Plan 2016-2036 Preferred Option Document (August 2017)	<p>This included a list of preferred housing sites. The Preferred Option confirmed that as sites were assessed on a 3 stage basis. Land at Meadow Lane (No. 389) was identified as being suitable for further investigation. However the Preferred Options confirmed that it should proceed from being automatically rejected (under Stage 1) because it was not identified as part of the Green infrastructure Network despite being allocated under the extant local plan as an area of important green space. The analysis further confirmed that the impact on the CA would require further assessment.</p> <p>The Preferred Options confirmed:</p> <p>The physical criteria were assessed in terms of accessibility, flood risk, topography, contamination, air quality, neighbouring land uses, distance to primary school and GP surgery and location in</p>

deprived area. The environmental criteria were assessed in terms of land type, townscape/landscape character, heritage assets, biological/geological importance and green infrastructure.

However having reviewed the studies prepared to support this conclusion, it is self-evident that none of them examined the application site as stated in this document other than in a superficial manner. The document attached as **Appendix [1]**, purports to be the site appraisal. However the analysis is at best cursory and at worst wholly inadequate in providing a full assessment as to the physical, landscape and ecological impacts. The criteria used to assess initial suitability is superficial and at Stage 2 the only 'red' flags raised were the site's location within the flood zone, within the CA and within an air quality management area.

The appraisal concludes that the site contains no nature designations but has the potential for nature conservation interest. However, no assessment of its biological value was properly undertaken and its ability to potential increase the amount of publicly accessible open space is obfuscated.

Despite the red flag being highlighted in relation to the CA, this issue appears to have been subsumed by the disingenuous reference to how the housing would be designed. This singularly fails to grapple with the impact in principle of development on the site.

The Green Infrastructure Assessment in support of the Preferred Options concluded that:

"The private animal grazing space is connected via PROW. The site lies partially within flood zone 3b. The site has no biodiversity designation or functions. It is an area of moderate landscape value; however the site is of particular significance in retaining the rural aesthetic or the area."

The study concluded that the site was significant not for its biodiversity value but because of its location in part within the flood plan and its location within the CA. It was not considered to qualify as a critical area of green infrastructure a conclusion largely predicated on being in private ownership and in use for grazing animals.

	<p>It is noteworthy that the background paper 'Local Sites of biodiversity Importance did not even consider the site as worthy of being surveyed despite it being allocated within the preferred options document.</p> <p>Nor as far as we are aware was any assessment undertaken of the impact on the development on the CA.</p> <p>Nor was any assessment of the impact on air quality based on the need to locate new housing sites in locations which were accessible by non-car means of travel. This is particularly relevant given that the site is located within the City's Air Quality Management Area.</p>
Local Plan Submission to Secretary of State 2019	<p>Site identified as an allocation. However it is worth noting that the Council in its Main Modifications to the submitted plan in February-March 2020, concluded that greater emphasis should be placed on the need for development proposals to conserve and enhance the unique characteristics of the CA. Although this was included no built heritage or impact assessment of development in principle had been undertaken. Rather it was left for the 'design' to resolve the inherent conflict with its designation for any form of development let alone 29 dwellings and the impact it would have on the character and appearance of the CA.</p>
Inspectors report (May 2020)	<p>The Inspectors appointed to review the plan confirmed that the submitted policy did not adequately recognise the impact on the Iffley Meadows SSSI. Thus recommended that the plan be modified to ensure no adverse impact on the SSSI in addition requiring a sustainable urban drainage system and the potential need for a groundwater study.</p>
Local Plan Adopted June 2020	<p>The site was allocated site for housing development min No 29 dwellings stating it had 'potential' but also highlighting sensitivity of the Iffley CA. (Policy SP42)</p> <p>The supporting text highlighted that the development would be expected to:</p> <ul style="list-style-type: none"> • <u>conserve and enhance the unique characteristics of the Iffley Conservation Area</u> • <u>retain the semi-rural frontage on Church Way</u> including retention of stone wall boundaries and trees. • be low-density and two-storey with front and rear gardens.

	<ul style="list-style-type: none"> • <u>Take account of views through the riverside edge landscape of the Cherwell meadows to the west and back to Iffley from the west.</u>
Green Infrastructure Study Update 2022	<p>Site 389 was reassessed. No reassessment of site 388 (Memorial Field) but noted as a similar site.</p> <p><i>It was described as ‘this private animal grazing space is connected via an adjacent PROW. The site lies partially within flood zone 3b. The site has no biodiversity designations or functions. It is in an area of moderate landscape value; however, <u>this site is of particular significance in retaining the rural aesthetic of the area.</u>’</i></p> <p>It was also considered part of the GI network.</p> <p>Similarly, Site 399 was also reassessed. This site was similarly described as ‘a small, managed, locked green area which is used for the habitats of species connected with the original area, although the site currently has no biodiversity designations. The site is also unimportant in terms of flood management as it is exclusively in flood zone 1. However, it is in an <u>area of moderate landscape</u> and the site does provide a <u>green setting for a grade II listed building as well as protecting the rural aesthetic of the area.</u> The site is not linked to the active travel network.’</p> <p>The detailed assessment for the site notes it is unprotected open space and classifies it as an ‘undeveloped greenfield site’. Notes that site is privately owned and used for animal grazing but could deliver increased public open space and has the potential for conservation interest. It is also noted as within the CA and within the View Cone.</p>
LCA Update CBA 2022	<p>Site forms part of a wider townscape area 3F Iffley Village. Landscape value that historic integrity for this area is high due to survival of historic features but also <u>village form.</u></p> <p>It also highlights threats to local character which were not included in the previous LCA.</p>

3.10 The synopsis of events set out above confirm that the site’s alleged suitability for housing development appeared as a ‘bolt from the blue’. After a series of clear rejections including the site’s identification in the Oxford Local Plan 1991-2001 as an important part of the city’s green infrastructure, it was subject to very cursory and inadequate assessment which did not warrant

inclusion in the Preferred Options in 2017. Yet as we have demonstrated this was based on wholly inadequate evidence and singularly failing to properly acknowledge its importance to the city's green infrastructure, contribution to the distinctive qualities and character of the village, its biodiversity importance and its impact on the CA and to the setting of heritage assets. The request by the Local Plan Inspectors to include reference to the potential impact on the Iffley Meadows SSSI, also added to the need to properly assess its potential impact.

- 3.11 In this context we refer to various appeals in respect of Main Issue 3, where Inspectors have concluded that where the evidence underpinning a site allocation has been lacking in rigour and provides inadequate justification for the development, permission should be withheld.
- 3.12 Policy SP42 is therefore an aberration and is out of date given the information which the FOIV have prepared and submitted to the Council. It will not deliver a sustainable development because the evidence which forms the basis for the allocation is both noticeably deficient and the evidence that does exist is either inaccurate or where as in relation to the impact on the CA, a significant issue is identified, no proper analysis is undertaken to assess whether this goes to the heart of the allocation.
- 3.13 Thus we conclude on the basis of the substantial technical evidence submitted in objection to the proposed scheme that this allocation is out of date because it has been in effect over taken by convincing and well-founded technical information which confirms that the site is not suitable for housing development. And moreover these significantly harmful impacts cannot be mitigated or compensated. The proposal therefore fails to accord with the importance the government places on plans being up to date and based on evidence which justifies its policies.

Main Issue 2: Landscape and visual effects

- 3.14 The Response to Landscape and Visual Assessment provided by AFA confirms that the application site lies within the Iffley Conservation Area and within the Iffley townscape character area 3F as defined in the Oxfordshire Landscape Character Assessment ('LCA')(2002 as updated in 2022). The LCA states that *'green spaces and mature trees play an important part in the character of the area...'* And in addition, the townscape character of Iffley Village is *'highly sensitive to change as a result of its historic integrity, biodiversity interest and proximity to the Thames floodplain.'*
- 3.15 The application site provides a range of functions not only in relation to its importance in landscape terms but also its importance to the character and appearance of the CA, the importance of Meadow Lane for walking and cycling and in maintaining ecological assets. As AFA notes, the Conservation Area Appraisal ('CAA') confirms:
- Iffley retains a strong rural character and an extensive green setting to its west
 - There is a network of winding lanes – bordered by stone walls and often without pavements.
 - Historic lanes such as Tree Lane and Meadow Lane retain their ancient function as important pedestrian through routes and cycle ways whilst not permitting vehicles.
- 3.16 In relation to the site's importance for biodiversity (discussed further under Main Issue 3), AFA further note:

'...the LCA highlights at para 2.27 that 'settlements have been recognised as providing important areas of wildlife habitat outside the areas specifically managed for nature conservation (e.g. designated SSSI's, SLINC's and nature reserves). The ecology of these non-designated sites, or urban greenspaces, is often under-recorded and their contribution to the ecology of an area is therefore under-valued. Crucially, these urban greenspaces often provide the main connection for many people to wildlife and nature.'

- 3.17 AFA have highlighted deficiencies in the Applicant's LVA and BHA which have been summarised in Section 2. AFA have undertaken a more detailed assessment of the landscape and visual effects which can be summarised as follows:
- The LVA underestimates the effects of the proposed development. The localised adverse effects would not lessen over time and the change to the site would impinge materially on landscape/townscape character beyond the site.
 - The LVA seeks to erroneously justify the development based on the statements which fail to recognise that the site is highly valued and plays a vital role in the character of the village and the immediate area.:
 - The LVA does not address the fact that the introduction of development in this location would:
 - Introduce development below the 60m contour and therefore alter perceptions of the village form/linearity and location in the landscape
 - Undermine the sense of rurality, severing the connection between historic routes, pastoral fields, and wider views of the floodplain.
 - The proposed greenspace within the site provides no mitigation for the harm arising from the loss of the open rural pasture fields which the site currently exhibits, nor can structural planting provide the transition that small-scale pasture fields provide between built form and wider meadows.
 - The suggested high quality design advanced on behalf of the Applicant is not accepted and, in any event, does not mitigate for the harm caused to the loss of the two fields.
 - The presence of existing housing close to the site is irrelevant in considering the contribution it makes to local distinctiveness which would be permanently lost.
 - The CAA makes it clear that the rural qualities of Iffley are a key component of its special character. The proposed development will significant adversely affect rural qualities of the CA which are derived in part from the open pasture fields of the site. Their loss cannot be replicated by the proposed development in the form of replacement green space.
 - The retention of the field to the south (Memorial Field) of the site will not lessen this loss because the proposed development will intrude in the views from Memorial Field and across this open meadow from Church Way.

Consideration against the development plan

- 3.18 Having regard to the analysis by AFA the scheme fails to comply with Policy SP42 and Policy DH1 and DH3 of the OLP in failing to deliver a high quality development which preserves local distinctiveness and ensures that the landscape character of the site which makes a very significant contribution to the character of the CA is maintained.
- 3.19 Policy DH2 also requires that the scheme should have a positive impact on local character. However, the scheme will give rise to a ubiquitous design involving a suburban, cul-de-sac design which would fail to mitigate the loss of the open space and the contribution it makes to the character of the area. Nor will it respect or enhance the distinctive qualities of the village.
- 3.20 The OLP places significant importance on maintaining the City's Green Infrastructure Network, which Bioscan confirm also warrants inclusion as a City Wildlife Site.

3.21 To this end Policy G1 seeks to protect green infrastructure as defined on the Proposals Map. However paragraph 5.4 of the Local Plan acknowledges that certain spaces will fall outside those identified on the proposals map and are subject to other policies in the plan.

Conflict with the NPPF

3.22 The proposal is contrary to paragraph 174 of the NPPF in failing to contribute to and enhance the natural and local environment in Iffley. It would also fail to deliver a key component of sustainable development, namely the creation of high quality, beautiful and sustainable buildings and places which paragraph 126 of the NPPF confirms is fundamental to what the planning and development process should achieve.

3.23 Annex 2: Glossary to the NPPF also confirms the importance of green infrastructure and open space, and its public value:

Green infrastructure: A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.

Open space: All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.

3.24 The loss of the application site would completely destroy the site’s public value in landscape, visual, heritage and ecological terms, contrary to the overarching aims of the NPPF to deliver environmental and social improvement.

Main issue 3: Impact on designated and non-designated heritage assets

3.25 Orion have identified deficiencies in the Applicant’s BHA which have been summarised in Section 2. Overall Orion conclude in respect of these deficiencies that:

The assessments within this report address this by:

- reference to historic ownership connections with the site (absent from the application Heritage Statement);
- consideration of the Conservation Area as a whole in respect of cumulative impact of loss of open space in the context of historic loss since designation (absent from the application Heritage Statement); and
- a full review of non-designated heritage assets, including the identification of those which qualify for this status although are not yet in receipt of it (absent from the application Heritage Statement).

The conclusions of this report are therefore that the development generates substantial harm to the Iffley Conservation Area, which is considerably under-represented by the application documents, and insufficiently justified by the applicant.

3.26 Orion have undertaken an independent and comprehensive assessment of the impact on designated and non-designated heritage assets. The impacts are summarised in Table 3.2.

Table 3.2: Summary of impacts on designated and non-designated heritage assets

Asset	Analysis	Scale of impact
Designated Assets		
Townsend Close and Wall and Gate of Townsend Close	<p>The proposals result in:</p> <ul style="list-style-type: none"> - the loss of open space within the Iffley Conservation Area, and an erosion of the legibility of the historic morphology of the settlement. - The proposed development will be experienced in the context of the asset and will result in the encapsulation of the asset to the west and further suburbanising of its environs, resulting in the interruption and potentially severance of views to the river plains. - The inadequate parking proposed within the site will inevitably lead to parking overspill and increase in the presence of cars within the historic streetscape 	Less than substantial
Tudor Cottage	<p>The proposals result in:</p> <ul style="list-style-type: none"> - the loss of open space within the Iffley Conservation Area, and an erosion of the legibility of the historic morphology of the settlement. - The proposed development will be experienced in the context of the asset and will result in the encapsulation of the asset to the west and further suburbanising of its environs, resulting in the interruption and potentially severance of views to the river plains. <p>The inadequate parking proposed within the site will inevitably lead to parking overspill and increase in the presence of cars within the historic streetscape</p>	Less than substantial
Iffley Conservation Area	<ul style="list-style-type: none"> - The proposed development will result in the loss of historic meadowland and change the character of the field parcels from their present rural pastoral state to that of a residential cul-de-sac development. - The presence and orientation of the properties to be accessed from Church Way will largely sever the 	Substantial

	<p>view into the field from the roadside, and whilst a degree of verdancy may be generated by the proposed landscape planting, this view will be fundamentally altered.</p> <ul style="list-style-type: none"> - A wider view into the subject site will be created from Meadow Lane, but this view will consist of what is an essentially suburban character development of a homogenous appearance designed to create 'distinctiveness' but essentially appearing uncharacteristic. <p>Whilst each of the harms identified to the individual buildings are less than substantial, they have a cumulative impact in terms of the significance of the CA. The loss of the ancient meadow land from within the Conservation Area has a further negative cumulative impact in respect of the historic loss of open space within the asset since its designation over 50 years ago.</p>	
Non-designated assets		
Quince Cottage	The proposals result in the loss of open space within the Iffley Conservation Area, and an erosion of the legibility of the historic morphology of the settlement. The proposed development will be experienced in the context of the asset through sequential views and, whilst it is recognised that the asset is currently experienced in the context of twentieth century development in its setting, will result in the encapsulation of the asset to the north, and further urbanisation of its environment.	Less than substantial
Donnington Farmhouse	The proposals result in the loss of open space within the Iffley Conservation Area, and an erosion of the legibility of the historic morphology of the settlement. The proposed development will be intervisible with the asset and experienced in the context of the asset through sequential views and, whilst it is recognised that the asset is currently experienced in the context of twentieth century development in its setting, will result in the encapsulation	Less than substantial

	of the asset to the west and south and a significant urbanisation of its hitherto rural setting	
427/9 Meadow Lane ⁵	The proposals result in the loss of open space within the Iffley Conservation Area, and an erosion of the legibility of the historic morphology of the settlement. The residential development of the site would be co-visible with the asset from Meadow Lane, looking east, with the loss of the rural landscape character of the site evident, and an increase in the urbanisation of the surroundings of the asset.	Less than substantial

3.27 Having regard to these conclusions, in accordance with sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the identified heritage harm must be taken into account by the Council and given great weight in that “*broader balancing exercise*”. As it was put by Lindblom J (as he then was) in *R (Forge Field Society v Sevenoaks District Council* [2014] EWHC 1895 (Admin) at paragraph 55:

“Once he had found that there would be some harm to the setting of the listed building and some harm to the conservation area, the officer was obliged to give that harm considerable importance and weight in the planning balance.”

3.28 This reflects the purpose behind the statutory duty in sections 66 and 72. In enacting section 66, Parliament intended that the desirability of preserving the settings of listed buildings “*should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight”* when the decision-maker carries out the balancing exercise”: This approach is confirmed in *Barnwell Manor Wind Energy Ltd v East Northants District Council* [2014] EWCA Civ. 137. Even if the harm would be “*less than substantial,*” the balancing exercise must not ignore “*the overarching statutory duty imposed by section 66(1), which properly understood ... requires considerable weight to be given ... to the desirability of preserving the setting of all listed buildings, including Grade II listed buildings*”:

3.29 The same approach must be given in relation to the impact of development of a CA. The fact that a site may be allocated in a development plan does not negate or undermine the considerable importance and weight which must be attached to any harm.

Conflict with the development plan

3.30 In accordance with the legal principles identified above OLP Policy DH3 ‘Designated Heritage assets’ confirms that for all planning decisions great weight will be given to the conservation of the heritage asset and to the setting of the asset. It also makes clear that it is incumbent upon applicants for permission to ensure that:

- a) An understanding of the significance of the heritage asset, including recognition of its contribution to the quality of life of current and future generations and the wider social, cultural, economic benefits they may bring; and**
- b) That the development of the proposal and its design process have been informed by an**

⁵ In Orion’s report this is identified as No. 425 Meadow Lane.

understanding of the significance of the heritage asset and that harm to its significance has been avoided or minimised; and

c) That, in cases where development would result in harm to the significance of a heritage asset, including its setting, the extent of harm has been properly and accurately assessed and understood, that it is justified, and that measures are incorporated into the proposal, where appropriate, that mitigate, reduce or compensate for the harm.

3.31 For the reasons provided in Section 2 and as demonstrated by Orion, these requirements have not been met and consequently there is a *prima facie* conflict with this policy.

3.32 The conflict with this policy is compounded by the clear evidence provided by Orion and supported by AFA, that the scheme will lead to substantial harm to the character and appearance of the CA. As Policy DH3 confirms:

Where a proposed development will lead to substantial harm to or loss of the significance of a designated heritage asset, planning permission or listed building consent will only be granted if:

i) The harm is necessary to achieve substantial public benefits that outweigh the harm or loss; or all of the following apply:

ii) The nature of the asset prevents all reasonable uses of the sites; and

iii) No viable use of the asset itself can be found in the medium term (through appropriate marketing) that will enable its conservation; and

iv) Conservation by grant funding or similar is not possible; and

v) The harm or loss is outweighed by the benefit of bringing the site back into use;

vi) A plan for recording and advancing understanding of the significance of any heritage assets to be lost, including making this evidence publicly available, is agreed with the City Council.

3.33 We discuss under the Planning Balance in Section 4, the benefits advanced on behalf of the Applicant in support of the development. However it is self-evident that these do not amount to 'substantial public benefits' which justify granting permission (criterion i). There is no requirement for bringing the site back into use since it already functions as an important greenspace contributing to local distinctiveness, biodiversity and the local landscape (criterion v).

Conflict with the NPPF

3.34 Paragraph 194 states in part:

In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

3.35 As confirmed in Section 2, the submitted BHS and DAS fail to properly assess the potential impact of the development on the CA in conflict with this paragraph.

3.36 Paragraph 197 further advises:

In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

3.37 The application site forms a key component of the character and appearance of the CA and criterion a) requires that it should be sustained and enhanced in accordance with its significance. The CA represents a heritage asset of national importance and in addition to its heritage value, it also performs other functions related to its biodiversity value, contribution to Ecosystem Services and to landscape character and local distinctiveness of the village. As proposed the development will conflict with all three criteria within this policy, in failing to sustain and enhance its significance, undermining the positive contribution it makes to the well-being of the village and involving a scale and form of development which will have a negative contribution to local character and distinctiveness.

3.38 In this context paragraph 199 of the NPPF is clear in stating:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

3.39 As Orion have demonstrated the loss of the application site to housing development will lead to substantial harm to the CA. The scheme will not deliver substantial public benefits of the type envisaged in conflict with this paragraph. Since none of the criteria within the paragraph there is a clear conflict with this policy guidance.

3.40 In addition the fact that the scheme also gives rise to less than substantial harm to a range of other designated and non-designated heritage assets, paragraph 202 of the NPPF confirms:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

3.41 As we comment in Section 4, the only potential public benefit is the delivery of affordable housing. While we agree that this should attract weight, in the planning balance.

Main Issue 4: The impact on Ecology and biodiversity

- 3.42 Bioscan have provided a detailed critique of the proposal and have identified a range of omissions and inaccuracies in the EclA, the animal survey reports, The Arboricultural Assessment Report and the Biodiversity Net Gain Report.
- 3.43 In addition Bioscan have completed an independent assessment of the impacts on biodiversity including providing a report addressing the site’s importance from an Ecosystem Services viewpoint. This analysis confirms that the site in terms of biological interest meets the threshold for designation and protection as an Oxford Wildlife Site. In addition the Ecosystem Services assessment confirms that the development will be major adverse.
- 3.44 On this basis the analysis confirms that it will have a significant harmful effect and net loss of biodiversity at least at City-wide (district) level and in relation to invertebrates, at County-wide level.
- 3.45 As importantly Bioscan confirms that there is a significant risk to the scheme giving rise to an adverse impact on the Iffley Meadows SSSI. This reflects the inadequacies of the proposed surface and foul water drainage systems which is critiqued by WRA.

Conflict with the development plan

- 3.46 Bioscan’s report sets out in Section 8 the degree to which the scheme complies with planning policy. In respect of the OLP a summary of the conflict is set out in **Table 3.3**.

Table 3.3: Summary of conflict with relevant local plan policies

Local Plan Policy	Comment
<p>Policy G1 Protection of Green and Blue Infrastructure Network</p>	<p>The site is contiguous with and forms a logical extension to the mapped areas of Green Infrastructure adjoining it to the west, including Oriel Field, the Thames corridor and Iffley Meadows SSSI beyond. It complements and enhances the social, economic, biodiversity and well-being attributes of the mapped areas, for example in providing a refuge for larger fauna such as badgers and deer that are otherwise constrained by the permitted access and heavy dog-walking use of Oriel Field. Glimpses of such wildlife offer clear well-being benefits to users of both Oriel Field and the Meadow Lane pedestrian route, but in biodiversity terms the site undeniably adds to the carrying capacity of the network for a full range of species, and logically should be considered as part of the recognised network. This conclusion is consistent with the site’s previous allocation as part of the GI network under the OLP 1991-2001.</p>
<p>Policy G2 Protection of biodiversity and geo-diversity</p>	<p>While the site is not formally designed under this policy, the analysis by Bioscan confirms that it fails to comply with the key requirements because:</p>

	<ul style="list-style-type: none"> - the development will on the Applicant's own Metric-based assessment, result in net loss of biodiversity. This is contrary to a key objective of the OLP. - The policy requires that the mitigation hierarchy be engaged to explore alternative sites, designs, configurations to avoid such net loss. There is no evidence presented with the application that this has been done. - The Applicant's on-site mitigation and compensation appears cursory and predicated on the basis that the development design is fixed and not for changing. Despite Policy SP42 requiring a minimum of 29 units, the Applicant proposes 32. This increase in the scale of development can only exacerbate the net loss BNG figure, and yet there is no consideration of 'avoidance' or 'mitigation' via reducing the development density. This is a failure of compliance with both Policy G2 and the NPPF. - Rather than considering a more sensitive design or alternative location, the Applicant recourses to the 'last resort' option, leapfrogging the sequential steps of the mitigation hierarchy. The Applicant suggests that the net loss of biodiversity will be offset elsewhere, but has provided no detail on where, how, what or when, still less met the policy requirement. Even where such an approach is allowed for on sites of lower biodiversity interest under Policy G2, the policy requires that <i>"appropriate off-site locations/projects for improvement"</i> are identified and that these <i>"should be within the relevant Conservation Target Area if appropriate, or within the locality of the site"</i>. The Applicant has provided no information on these matters. - The policy also requires that, when assessing whether a site is suitable for compensation <i>"consideration will be given to the access, enjoyment and connection to nature that the biodiversity site to be lost has brought to a locality. A management and monitoring plan might be required for larger sites. The [BNG] calculation should be applied to the whole site."</i> The Applicant has failed to provide the requisite information and thus not met the stated terms of the policy. Nor has it provided adequate reassurances that Iffley Meadows SSSI will be protected from surface water pollution impacts, nor has it demonstrated that the need for the development is 'exceptional.'
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	<p>As noted previously the Local Plan Inspectors expressly required Policy SP42 to be amended to reflect its sensitive location close to the Iffley Meadows SSSI and required any development not to give rise to a significant adverse impact. The current application fails to demonstrate that this key policy requirement is met.</p>
Policy G7 Protection of Green Infrastructure Features	<p>The application proposals involve the wholesale removal of an internal field boundary hedge, the partial removal (and almost certain replacement and future degradation and loss) of another (along Meadow Lane) and the loss of more than 50 trees (defined as tree specimens with a trunk diameter greater than 150mm at breast height). The Applicant has not engaged with the mitigation hierarchy to avoid or minimise these losses, but instead has defaulted to compensation in the form of new and in large part non-native planting of suburban street trees.</p>
Policy G8 New and enhanced Green and Blue Infrastructure Network Features	<p>Conflict also arises in relation to Policy G8 relating to new Green and Blue Infrastructure Network Features In terms of new provision (as opposed to protecting existing), the application proposes no biodiversity enhancements and will in fact deliver a net loss. Such new planting as is proposed is mitigation and compensation, shown to be inadequate to comply with the policy by reference to the Applicant’s Metric 3.1 outputs. The Applicant’s proposed surface water drainage scheme is largely dependent on underground tanks and pipes and provides no substantive SuDS features.</p>

Conflict with the NPPF

3.47 A summary of the conflict with the NPPF in respect of this issue is set out in **Table 3.4**.

Table 3.4: Conflict with the NPPF

NPPF paragraph	Comment
174(a)	<p>Notwithstanding the site’s allocation for housing, a comprehensive analysis confirms that the site is of biodiversity value. This conclusion not only undermines the site’s allocation for development but confirms that it should be protected and enhanced in accordance with this paragraph since it meets the threshold for designation and policy protection as an Oxford City Wildlife site.</p>
174(b)	<p>The Ecosystem Services Assessment confirms that the impacts on such services, provided by this greenfield site including to adjoining areas such as the Quiet Route, will be major adverse in conflict with this paragraph.</p>

174(d)	This paragraph requires plan-making and decision making to minimise impacts on and provide net gains for biodiversity. By the Applicant's own admission, the proposals will result in a net loss of biodiversity, measured via application of Metric 3.1, even including appropriation of the adjoining Memorial Field despite that being outside the development red line boundary. The net negative impacts on biodiversity and the failure to accord with the mitigation hierarchy fail all relevant tests at national level.
174(e)	The independent hydrological report produced by Water Resource Associates has determined that there are major deficiencies in the flood risk assessment, in the design of the surface water drainage scheme and in the absence of consideration of the implications of foul water, given local sewage capacity exceedances and the major local problem of frequent untreated sewage discharges into the Thames. These concerns have significant implications for the local and wider receiving environment, including the nearby Iffley Meadows SSSI, and the poor designs and absence of detail on drainage matters fall substantially short of providing requisite assurances that local water quality will not be degraded as a direct or indirect consequence of this development.
174(f)	This paragraph is considered to be engaged in the context that adjoining land at Oriel Field may be subject to contamination, and the Applicant has provided insufficient detail on its proposals for the adjacent brook and for the construction of the connection to the main sewer network, to be able to rule out impacts from mobilisation of contaminants from the historic landfill there.
175	While this paragraph refers to development plans distinguishing between the hierarchy of international, nationally and locally designed sites, it is considered relevant given that the OLP is in effect out of date because the site allocation under SP42, is confirmed to be inappropriate for the type and scale of development proposed. The site was allocated in clear contravention of this policy direction and guidance. Inadequate effort was applied to determining whether the site was of 'least environmental or amenity value', as has since been exposed by the Applicant's own studies in support of the application, even without regard to the independent studies by Bioscan and others. The same can also be said of the omission of the site from the identification and mapping of green infrastructure and site's qualifying for designation as part of the last plan-making process.
179	Paragraph 179 is considered to be engaged because of the completely inadequate survey which was undertaken by the Council at the time the site was allocated.

180	There has been no attempt by the Applicant to deal with this requirement. Instead the approach has been to advance mitigation largely on land outside the application site. It singularly fails to address the need to avoid harm to biodiversity which is confirmed by Bioscan to be substantial in both magnitude and spatial extent.
180(b)	As recognised in Policy SP42, the site is proximal to and has the potential to affect the Iffley Meadows SSSI. Most particularly, this is via impacts to surface water quality, including in the brook adjoining the site which is proposed to take surface water discharge, and which itself discharges into the Thames a short distance away, at a location opposite and partly upstream of the SSSI.

Main Issue 5: The impact on the local highway network and highway safety

- 3.48 Velocity Transport Planning Ltd have completed a Technical Audit of the Applicant's submitted Transport Assessment. The audit confirms a number of points which the Council Transport Development Section has raised as objections to the scheme.
- 3.49 In summary Velocity do not agree that the site represents a sustainable location for housing development particularly in relation to its poor accessibility to core amenities and facilities on foot, by cycle and by public transport. Thus it does not present future occupiers with a realistic alternative to the use of private cars, with the nearest bus stop over 600 metres distant and no access to the train station.
- 3.50 The proposal also fails to adequately mitigate the inadequate visibility splay in relation to the Meadow Lane/Church Way junction and no mitigation is proposed or possible. The additional site access from Church Way to serve two of the dwellings is also inadequate and fails to provide the minimum 2m x 25m splay.
- 3.51 As significantly the TA fails to adequately reflect the use of Meadow Lane for all users particularly pedestrians, cyclists and equestrian users but also a range of other users⁶ (Meadow Lane is a designated Principal Quiet Route for Active Travel (OXR 18). This is as a consequence not only in respect of the level of car use along Meadow Lane associated with the proposal but the increase in on-street parking which will occur as a consequence of inadequate spaces within the development itself. Overspill car parking is predicted along both Meadow Lane and Church Way and the Council's highway team have confirmed that this is a major issue in the absence of a controlled parking zone (CPZ) being in place. No CPZ is proposed and indeed this would also adversely impact on existing residents which is considered to be both unjustified and unwarranted given the minimal level of on-street parking which currently occurs. The lack of a safety assessment on the impact on active travel users or vehicle users results in a failure to demonstrate that the development would not cause significant danger to vulnerable users of OXR 18.

⁶ Children, people with mobility difficulties including those on foot and using mobility scooters, dog walker and people pushing prams.

Conflict with the development plan

- 3.52 The proposal does not accord with paragraph 7.3 of the OLP which promotes walking, cycling and public transport over private car use. The plan therefore seeks to prioritise these modes of transport which the proposal fails to do in conflict with Policy M1 and RE6.
- 3.53 In addition the sub-standard visibility splays coupled with the increase in on street parking will fail to ensure that there is no unacceptable impact on the local highway network contrary to criterion a) of Policy M2 which outlines the factors required to be addressed in assessing and managing new development. In failing to prioritise pedestrian and cycle movements it also fails to comply with criterion c). Its inability to manage or resolve the conflict with users of Meadow Lane also conflict with criterion (f) of this policy which requires development to create places that are safe, secure and attractive and which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 3.54 Nor will it facilitate the covenant use of charging points for electric vehicles contrary to criterion f) of Policy M2 and Policy M4, which requires a charging point for each residential unit.
- 3.55 In addition Policy M1 states that for developments in excess of 20 dwellings, a comprehensive and site specific Construction Management plan should be provided setting out how the construction phase will be managed. Given the sensitivity of the site in heritage and ecological terms including the proximity to the Iffley Meadows SSSI, the absence of a rigorous plan provides an inadequate basis for assessing the potential impacts including upon local residents and other road users.
- 3.56 The technical audit of the submitted CMP which is attached as **Appendix [9]**, confirms that the Applicant has not submitted any information to confirm that the logistical and site specific issues have been adequately addressed during the construction phase over a 15 month period. In particular:
- No consideration has been given as to where construction traffic will park including heavy goods vehicles.
 - Access into and out of the village is constrained by the sole access from Henley Avenue and the width and alignment of both Church Way and Meadow Lane.
 - The proposed access into the application site from Church Way is inherently unsuitable because of its location on a bend with poor horizontal visibility; the proximity to traffic generated by The Tree Hotel; its close proximity to Tree Lane; insufficient room for holding areas for construction traffic and the slope of the site which renders it unsuitable for HGVs.
 - Traffic flows on the local road network are predicted to be between 3 and 5 times greater than the typical average and no analysis is provided to confirm that this would not give rise to a significant adverse impact. Nor that it would not adversely affect the amenity and convenience of existing residents, particularly as a consequence of substantially increased on-street parking by construction traffic.
- 3.57 Conflict also arises in respect of Policy M3 relating to motor vehicle parking due to inadequate provision within the site. A CPZ is not warranted as a solution to this problem because the site does not lie within 400 metres (15 minute walk) to public transport services nor within an 800 metre distance to a supermarket.

3.58 Finally due to the inadequate consideration associated with the logistical difficulties associated with the CMP, the scheme does not accord with Policy RE6 of the OLP. The local plan confirms that the whole of the City was declared an Air Quality Management Area in 2010 and poor air quality has been identified as having a negative impact upon the Oxford Meadows SAC. Since the scheme as currently designed and planned will not mitigate the impact on air quality and where the exposure of local residents is minimised or reduced, the development does not comply with Policy RE6. The policy expressly requires development during operational and construction phases to provide an assessment of the exposure of existing residents to air pollution and where negative impacts are predicted, mitigation is required. The proposed mitigation within the submitted AQA fails to provide site specific assessment of the potential effects and as a consequence provides generic solutions to mitigation which again are not site and fact specific.

Conflict with the NPPF

3.59 The scheme conflicts with paragraph 111 of the NPPF which is clear in stating that development should be refused on highway grounds where there would be an unacceptable impact on highway safety.

3.60 In relation to air quality the NPPF confirms at paragraph 105 that new developments should be located in the most sustainable locations which have a choice of transport modes and thereby reduce reliance upon the car. This also has the benefit of limiting the need to travel and improve air quality and public health. Paragraphs 186 of the NPPF also confirms that planning decisions should sustain and contribute towards relevant limit values taking into account the presence of Air Quality Management Areas. Opportunities should be taken to improve air quality or mitigate impacts such as traffic and travel management. This relates to both the construction and operational phase, since as Velocity confirm, residents within the development will be highly car dependent. Consequently this reaffirms the site's inherent unsuitability for housing since it will not contribute to improving air quality through minimising the use of private cars. No such assessment of the impact on the City's air quality was undertaken at the time it was allocated.

Main Issue 6: Flood risk and drainage

3.61 The Review of the Flood Risk assessment and Geotechnical Reports by WRA confirms the inadequacy of the submitted reports prepared on behalf of the Applicant and in addition raises questions as to the suitability of the site for the proposed development. In short:

- The FRA has used outdated methods from the 1970s for estimating greenfield surface runoff and design rainfalls.
- The FRA ignored information provided in the Geotechnical and Geo-environmental Site Assessment to give an **incorrect** assessment of the groundwater flood risk.
- The FRA does not provide an adequate Surface Water Management Plan, Foul Water Management Plan or robust SUDS design.
- The Geotechnical and Geo-environmental Site Assessment raises concerns about the impact of groundwater on foundations, basements and tunnels.
- No Foul Water Management Plan has been presented. We would expect to see full details of the proposed foul water sewerage system; there is no confirmation that Oxford Sewage Treatment has the capacity for treatment at existing sewage treatment works.
-

3.62 In relation to the Geo-technical assessment, WRA conclude:

- Groundwater monitoring using shallow boreholes should be undertaken throughout the winter and spring to obtain the seasonal maximum. This has not been done.

- Infiltration tests should be undertaken when soils are likely to be most saturated.
- The assessment noted rising groundwater affecting foundation basements and tunnels which is not considered in the FRA.
- No assessment has been made during the construction phase of the excavation which could cause increased erosion of the brook along the western boundary. This will drain into the River Thames, where the Iffley Meadows SSSI is located and therefore there is significant risk of the SSSI being adversely affected.

3.63 The additional report attached as **Appendix [11]**, also raises the following additional concerns:

- The impact of pollution on the Iffley Meadows SSSI will occur as a consequence of contaminated surface water entering the brook to the west and from the highways drain also along the western boundary. Both of these are above the majority of the SSSI which is less than 300 metres distant.
- The Applicant and the previous owner have failed to meet their responsibilities of riparian landowners to maintain a healthy functioning watercourse thereby adversely affecting rights of neighbours downstream of the site.
- It fails to comply with the aims of objectives of the Oxfordshire Local Flood Risk Management Strategy prepared by Oxfordshire County Council in relation to surface water runoff.

Conflict with the development plan

3.64 The Applicant's approach is therefore contrary to Policy RE3: Flood Risk Management and RE4 Sustainable and foul, surface and groundwater flow within the adopted Oxford Local Plan (2020)(OLP) which confirms that a FRA must be undertaken in accordance with up to date flood data, national and local guidance on flooding and consider from all sources. The submitted FRA fails to meet the requirements of this key development plan policy.

Conflict with the NPPF

3.65 Moreover, it is also in direct conflict with paragraph 167 of the National Planning Policy Framework (2021) which states that the development should be appropriately flood resistant and resilient and should incorporate a sustainable drainage system. As WRA confirm the surface and foul water management design including the sustainable drainage system are wholly inadequate and there is a risk that the Iffley Meadows SSSI will be adversely affected contrary to paragraph 180b) of the NPPF.

Main issue 7: Whether development is acceptable in principle

3.66 The site's allocation for housing development under Policy SP42 does not establish the principle of development. Rather the principle of development can only be determined by a consideration as to whether the proposal complies with the development plan read as a whole, taking into account any relevant material considerations, including the NPPF.

3.67 This approach is well established law. In *Rochdale Metropolitan Borough Council v Milne* [2000] EWHC 650 (Admin). Mr Justice Sullivan (as he then was) confirmed the position at paragraph 44-48 of the judgment:

Section 54A⁷ of the 1990 Act is in the following terms:

⁷ Now Section 38(6) of the Planning and Compulsory Purchase Act 2004.

“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.”

Section 70 deals with the determination of applications for planning permission. Subsection (2) provides:

“In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.”

Since development plans contain numerous policies, the local planning authority must have regard to those policies (or “provisions”) which are relevant to the application under consideration. The initial judgement as to which policies are relevant is for the local planning authority to make. Inevitably some policies will be more relevant than others, but section 70 envisages that the Council will have regard to all, and not merely to some of the relevant provisions of the development plan.

In my judgment, a similar approach should be applied under section 54A. The local planning authority should have regard to the provisions of the development plan as a whole, that is to say, to all of the provisions which are relevant to the application under consideration for the purpose of deciding whether a permission or refusal would be “in accordance with the plan.”

It is not at all unusual for development plan policies to pull in different directions. A proposed development may be in accord with development plan policies which, for example, encourage development for employment purposes, and yet be contrary to policies which seek to protect open countryside. In such cases there may be no clear cut answer to the question: “is this proposal in accordance with the plan?” The local planning authority has to make a judgment bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach. In *City of Edinburgh Council v. the Secretary of State for Scotland* [1997] 1 WLR page 1447, Lord Clyde (with whom the remainder of their Lordships agreed) said this as to the approach to be adopted under section 18A of the Town and Country Planning (Scotland) Act 1972 (to which section 54A is the English equivalent):

“In the practical application of section 18A, it will obviously be necessary for the decision-maker to consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it. He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will require to assess all of these and then decide whether in the light of the whole plan the proposal does or does not accord with it.”

- 3.68 The Court of Appeal in *Hampton Bishop Parish Council & Herefordshire Council v Herefordshire Rugby Football Club & Bloor Homes* [2014] EWCA Civ 878, noted Lord Clyde’s approach in *City of Edinburgh Council v The Secretary of State for Scotland*,

Lord Clyde referred next to a suggestion by counsel for the Secretary of State that in the practical application of the section two distinct stages should be identified, namely (1) the decision-maker should first decide whether the development plan should or should not be accorded its statutory

priority; and (2) if he decides that it should not be given that priority, it should be put aside and attention concentrated upon the material factors which remain for consideration. Lord Clyde commented as follows on that suggestion (at 1459H-1460C):

“But in my view it is undesirable to devise any universal prescription for the method to be adopted by the decision-maker, provided always of course that he does not act outwith his powers. Different cases will invite different methods in the detail of the approach to be taken and it should be left to the good sense of the decision-maker, acting within his powers, to decide how to go about the task before him in the particular circumstances of each case. In the particular circumstances of the present case the ground on which the reporter decided to make an exception to the development plan was the existence of more recent policy statements which he considered had overtaken the policy in the plan. In such a case as that it may well be appropriate to adopt the two-stage approach suggested by counsel. But even there that should not be taken to be the only proper course. In many cases it would be perfectly proper for the decision-maker to assemble all the relevant material including the provisions of the development plan and proceed at once to the process of assessment, paying of course all due regard to the priority of the latter, but reaching his decision after a general study of all the material before him. The precise procedure followed by any decision-maker is so much a matter of personal preference or inclination in light of the nature and detail of the particular case that neither universal prescription nor even general guidance are useful or appropriate.”

That passage was evidently not intended to qualify Lord Clyde’s earlier observations about the general approach required by the section. It is up to the decision-maker how precisely to go about the task, but if he is to act within his powers and in particular to comply with the statutory duty to make the determination in accordance with the development plan unless material considerations indicate otherwise, he must as a general rule decide at some stage in the exercise whether the proposed development does or does not accord with the development plan. I say “as a general rule” because there may be exceptional cases where it is possible to comply with the section without a decision on that point: I have in mind in particular that if the decision-maker concludes that the development plan should carry no weight at all because the policies in it have been overtaken by more recent policy statements, it may be possible to give effect to the section without reaching a specific decision on whether the development is or is not in accordance with the development plan. But the possibility of exceptional cases should not be allowed to detract from the force of the general rule.

Our attention was drawn to a number of later authorities which for present purposes do not add materially to the principles set out in the *City of Edinburgh* case...In *Tesco Stores v Dundee City Council* [2012] UKSC 13, [2012] PTSR 983, at paragraph 22, Lord Reed JSC observed that “Where it is concluded that the proposal is not in accordance with the development plan, it is necessary to understand the nature and extent of the departure from the plan which the grant of consent would involve in order to consider on a proper basis whether such a departure is justified by other material considerations”.

- 3.69 In respect of the current application Policy SP42 allocates the site for housing. However this allocation contains a series of caveats which are relevant to a consideration as to whether housing is acceptable and indeed whether the policy is out of date. Paragraph 9.210 of the reasoned justification states that any development proposals would be expected to conserve and enhance the unique characteristics of the Iffley Conservation Area, and that the site ‘has potential for some

sensitive infill.’ These requirements recognise the sensitive nature of the site within the CA and there is clear reference to the need to comply with Policies DH2 and DH3 of the OLP.

- 3.70 Paragraph 9.210 also recognises the need for any scheme of development to be of relatively low density, with two storey dwellings. The impact on views through the riverside edge landscape of the Cherwell meadows to the west and views back to Iffley must also be considered.
- 3.71 Further paragraph 9.202 also acknowledges that although a biodiversity survey concluded that the site did not meet the criteria for an Oxford City Wildlife Site (OCWS), its biodiversity value and the impact of development thereon must be ‘...understood, avoided and mitigated or compensated for’. However we understand that at the time the site was being considered as suitable for a housing allocation, only a Primary Botanical Survey was undertaken which comprised the following:
- “Land at Meadow Lane, Iffley (24/10/2017): The site was only seen from the site edge along Church Way and Meadow Lane. The site could not be fully assessed but areas seen appear to comprise rough grassland (semi-improved neutral grassland) with areas of tall herb. Parts of the site could not be seen.”**
- 3.72 Therefore despite paragraph 9.202 asserting that a survey was undertaken, in reality no survey of appropriate depth and rigour was carried out to enable the Council to conclude that it should not be designated as an OCWS and instead be allocated for housing.
- 3.73 Paragraph 9.203 of the reasoned justification also requires that an adequate and robust Flood Risk Assessment should be provided.
- 3.74 In respect of these requirements the submitted objections (which are broadly outlined in this statement) confirm that the proposal will not conserve or enhance the CA, contrary to the requirements of the policy. Nor will it ensure that its contribution to the local landscape particularly to the west, will not be significantly impacted by the proposal. Indeed AFA conclude that the site is more than of local importance and has a moderate to high landscape value.
- 3.75 Bioscan’s analysis also confirms that the biodiversity importance has been substantially underestimated and indeed in certain respects the impacts have not been assessed at all. Such an approach replicates the inadequate assessment undertaken by the Council during the local plan process.
- 3.76 The nature and depth of the analysis included in the technical reports provided on behalf of the FOIV which was notably lacking at the time the Council considered allocating the site, confirms its inherent unsuitability based upon a consideration of Policy SP42 alone.
- 3.77 But the conflict does not end there. As we have confirmed in this statement the scheme conflicts with a raft of other key policies in the OLP as we have set out in full within this section. Thus the site’s allocation in the OLP does not confer any in principle support for the scheme. This is also substantiated by various appeals some of which we summarise below.
- 3.78 In respect of an appeal involving an allocated site in Guildford (APP/V3615/W/21/3273305) dated 10th May 2022, (see **Appendix [2]**), Inspector Downes, noted at paragraph 10 of the decision letter (DL) that the site’s allocation as part of a wider allocation for housing was not disputed. In concluding that the principle of development was therefore established, this conclusion was reached on the basis that there was no evidence that the site was unsuitable for housing or should be kept as a green open space.

- 3.79 However, notwithstanding the site's allocation the Inspector concluded at paragraph 31 that it would give rise to less than substantial harm to heritage assets. Overall the Inspector decided that although the scheme complied with many of the policies in the development plan, when assessed against the key policies which applied to the site, it did not comply with the development plan as a whole. Since the development plan was up to date a decision must be taken in accordance with it and the presumption in favour of sustainable development did not apply (paragraphs 89 and 90). The appeal was therefore dismissed.
- 3.80 In a further appeal involving housing development on an allocated site in East Sussex (APP/U1430/W/21/3283287) dated 4th August 2022 (see **Appendix [3]**), Inspector Chamberlain concluded that permission should be refused. The fact the site was allocated for up to 43 houses, did not require an assessment to be made as to whether it complied with the development plan as a whole (paragraph 52 of the DL). Applying Footnote 7 to paragraph 14d)⁸ of the NPPF, provided a clear basis for refusing permission the despite the Council being unable to demonstrate a five year supply of deliverable housing sites (paragraph 64 of the DL).
- 3.81 Two appeals (APP/Y9507/W/22/3269823 & APP/Y9507/W/22/3295783) dated 3rd October 2022 (See **Appendix [4]**), involving 28 residential units on a brownfield site, in Lewes were also dismissed having regard to the adverse impact on a CA. At paragraph 89 Inspector Kirby concluded that the public benefits did not outweigh the harm which conflicted with the NPPF and the need to conserve and enhance the historic environment. It therefore conflicted with the development plan as a whole.
- 3.82 In a further appeal attached as **Appendix [5]**, which involved a site within a draft local plan which had reached an advanced stage, Inspector Price at paragraph 52 noted that its allocation revealed some inconsistency with the NPPF in respect of conserving and enhancing the historic environment. The Inspector noted at paragraph 51 that the allocation noted the sensitive character of the site and required careful attention to the historical and local context.
- 3.83 On the basis of the available evidence the incontrovertible conclusion is that the proposed development conflicts with the development plan read as a whole. We consider in Section 4 the overall planning balance including whether there are any material considerations which indicate that a decision should be made other than in accordance with the development plan.

⁸ Now paragraph 11 in the NPPF 2021.

4.0 THE PLANNING BALANCE

1. The approach to decision taking and the importance of the development plan

- 4.1 The starting point of the determination of this application, is as ever, the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 contains a statutory presumption in favour of the development plan which means that where a scheme fails to accord with the development plan, the starting point is that permission should be refused unless there are material considerations of sufficient weight to rebut the statutory presumption. An important material consideration is the NPPF (July 2021). As paragraph 2 of the Framework confirms, it does not override the need for decisions to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The plan-led approach set out with Chapter 3 of the NPPF and in section 38(6), confirm that Local Plans are a key component in the delivery of sustainable development. The Court of Appeal in *Gladman Developments v Daventry District Council* [2016]. reinforced the importance of plan-led decision making and the priority given to the DP⁹. At paragraph 40 of that judgment Lord Justice Sales confirmed that “significant weight should be given to the general public interest in having plan-led decisions, even if particular policies in the development plan are old”.
- 4.3 Paragraph 11 of the NPPF advises that at the heart of the Framework is a presumption in favour of sustainable development. Under paragraph 11c), for decision taking this should approve schemes which accord with an up-to-date development plan. Thus, where they do not accord, permission should be withheld because they do not secure sustainable development.

Conflict with the development plan

- 4.4 As set out in this statement and the suite of technical reports submitted in objection to the proposal, the application conflicts with the following policies within the OLP:

Table 4.1: Assessment against the OLP

Local Plan Policy	
RE3	Flood risk management
RE4	Sustainable and foul, surface and groundwater flow
RE6	Air quality
G1	Protection of Green and Blue Infrastructure Network
G2	Protection of biodiversity and geo-diversity
G7	Protection of Green Infrastructure Features
G8	New and enhanced Green and Blue Infrastructure Network features
DH1	High quality design and placemaking
DH3	Designated heritage assets
M1	Prioritising walking, cycling and public transport
M2	Assessing and managing development
M3	Motor vehicle parking
M4	Provision of electric charging points
SP42	Land at Meadow Lane

⁹ Also confirmed in *City of Edinburgh Council v Secretary of State for Scotland* [1997] 1 WLR 1447.

- 4.5 The proposal conflicts with a raft of key policies which confirm that it does not comprise sustainable development. Policy S1 of the OLP confirms that the presumption in favour of sustainable development only applies where a development accords with the local plan unless material considerations indicate otherwise.
- 4.6 The delivery of affordable housing is agreed to be a benefit¹⁰ together with the requirements within the NPPF to significantly boost the supply of housing more generally. However, other than delivering such housing, no other benefits arise which would not otherwise be delivered by a similar development on a more appropriate site. The delivery of affordable housing does not therefore override the need to determine the application in accordance with the OLP. These policies when correctly applied to the development, demonstrate that permission should be denied. Consequently the application of the statutory requirement under section 38(6) requires the Council to refuse planning permission.

2. The planning balance

- 4.7 As we have indicated in Section 3, we believe that Policy SP42 is out of date because it is not based on up to date evidence which supports the site's allocation for housing. Under such circumstances Policy S1 and paragraph 14d) of the NPPF, state that permission should be granted unless:
- i. the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing permission; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
- 4.8 Footnote 7 to paragraph 11d)i identifies policies within the Framework which protect areas or assets of particular importance. These include designated heritage assets. The judgment in *Forest of Dean District Council v Secretary of State for Communities and Local Government and Gladman Developments* [2016], confirmed that where restrictive policies apply, there must be an assessment of harm vs benefits applying a non-weighted balance. Where circumstances indicate that the harm to heritage assets is outweighed by the public benefits, then a second stage is required. Namely, to assess whether the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole i.e. to apply the tilted-balance.
- 4.9 In this case the proposal will give rise to substantial harm to the CA and less than substantial harm to other designated and non-designated heritage assets. Paragraph 201 of the NPPF and Policy DH3, permission will only be granted where it will deliver substantial¹¹ public benefits that outweigh the harm. Thus the balance is tilted in favour of preserving the asset.
- 4.10 Where development gives rise to less than substantial harm the harm needs to be weighed against the public benefits i.e. a normal balance.
- 4.11 But as has been recently confirmed in an appeal in Shrewsbury (APP/L3245/W/22/3305992) (**Appendix [6]**), the Inspector at paragraphs 36 and 37 confirmed that:

¹⁰ In this context we acknowledge that concerns have been raised regarding the lack of affordability of the proposed housing and the potential ultimately for some of the properties to be lost under the right to buy legislation.

¹¹ Our emphasis.

Nonetheless, in *Shimbles*¹², the High Court addressed the concept of a spectrum of harm to heritage assets and the necessity to make a judgement beyond the binary classification of harm identified in the Framework. The judgment concluded that decision makers were not obliged to place harm that would be caused to the significance of a heritage asset, or its setting, somewhere on a 'spectrum' in order to give the necessary great weight to the asset's conservation. The Framework's division of harm into categories of 'substantial' or 'less than substantial' was adequate to carry out the weighted balancing exercise to determine whether a planning proposal was acceptable.

I therefore do not consider it necessary to apportion a particular metric upon any spectrum of less than substantial harm. This is because a finding that the collective harm to significance would be at the lower end of such a spectrum would not equate to a less than substantial planning objection and regardless is to be afforded considerable importance and weight.

- 4.12 As we have confirmed in paragraph 4.7, the delivery of affordable housing should be attributed significant weight. However other benefits which might potentially flow from the development such as jobs during construction can be applied to any development as confirmed in the appeal decision attached as **Appendix [7]**. Moreover, should it be asserted by the Applicant that the scheme will support the vitality of the village, there is no evidence to suggest that the village is in need of any such support, a matter confirmed by an Inspector whose decision is attached as **Appendix [8]**.
- 4.13 Consequently in relation to the substantial harm to the CA, no public benefits of substantial weight would be secured by the application. Consequently in relation to the CA, the requirements of Policy DH3 and paragraph 201 of the NPPF are not met.
- 4.14 In relation to the less than substantial harm, it is similarly concluded that the public benefit of delivering affordable housing does not outweigh the considerable importance and weight which must be afforded to the protection of designated heritage assets.
- 4.15 In addition to the impact on heritage assets, footnote 7 also confirms that the impact on habitat sites can also form a clear reason for refusing permission. The footnote refers to paragraph 180 of the NPPF which confirms under sub-paragraph b)
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest**
- 4.16 As confirmed in the reports by WRA and Bioscan there is predicted to be significant risk to the integrity of the Iffley Meadows SSSI to the west. Policy SP42 expressly requires that the development should have no impact on this SSSI. However the submitted application confirms that a connection to the brook along the western boundary has the potential to impact on this protected site. Given the inadequacy of the Applicant's proposed foul and surface water management system it is concluded that the risk to the Iffley Meadows SSSI also provides a clear reason for refusing planning permission.

¹² *Shimbles v City of Bradford MBC* [2018].

4.17 Therefore footnote 7 to paragraph 14d) of the NPPF similarly provides a clear reason for refusing permission, where it is agreed that Policy SP42 is out of date.

5.0 OVERALL CONCLUSIONS

5.1 Planning permission should be refused for the following reasons:

1. The presumption in favour of sustainable development has been applied to the assessment of the proposal as required under Policy S1 of the Oxford Local Plan 2036 (2020) and paragraph 11 of the National Planning Policy Framework (2021). However it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the National Planning Policy Framework and policies in the local plan as a whole. Therefore, the proposal would not constitute sustainable development and would conflict with the principal aim of the National Planning Policy Framework which is to be genuinely plan-led.
2. The proposed development would result in a permanent change in the character and use of the site and immediate area, resulting in a significantly adverse change to a suburban housing estate, whose form and scale do not respect the character and distinctive qualities of the village. The proposal would therefore have a significantly adverse impact on the character and appearance of Iffley Village contrary to the aims of Policies SP42, DH1 and DH3 of the Oxford Local Plan 2036 (2020). It would also be contrary to paragraphs 126 and 174 of the National Planning Policy Framework (2021) in failing to secure high quality design which respects local distinctiveness and which would enhance the natural and local environment.
3. The proposed development would give rise to substantial harm to the character and appearance of the Iffley Conservation Area, an asset of national importance, and less than substantial harm to a range of designated and non-designated heritage assets. The proposed development would not ensure that the scheme can integrate with the historic environment, contrary to Policy DH3 of the Oxford Local Plan 2036 (2020), paragraphs 199, 200, 201, 202 and 203 of the National Planning Policy Framework (2021) and the statutory duty imposed under Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990. No public benefits have been identified which outweigh the harm to heritage assets.
4. The proposed development would lead to an unacceptable risk to a range of habitats and species within the site in addition to giving rise to a significant risk to the integrity to the Iffley Meadows SSSI. This is contrary to Policies G1, G2, G7 and G8 of the Oxford Local Plan 2036 (2020) and paragraphs 174 and 180 of the National Planning Policy Framework (2021).
5. Insufficient information has been submitted to demonstrate that the proposed development would not be at an unacceptable risk of flooding taking into account the impact of climate change. In addition the proposed surface water drainage strategy fails to demonstrate that greenfield runoff rates can be achieved. Nor does the design ensure that the management of surface water runoff into the brook will not adversely impact upon the Iffley Meadows SSSI. The scheme is therefore contrary to Policies SP42, RE3 and RE4 of the Oxford Local Plan 2026 (2020), paragraphs 167 and 169 of the National Planning Policy Framework (2021) and Oxfordshire County Council's Local Flood Risk Management Strategy.
6. Insufficient information has been provided to demonstrate that the exposure of local residents to air pollution during the developments construction phase will be acceptable or can be adequately mitigated contrary to the City's designation as an Air Quality Management Area and

Policy RE6 of the Oxford Local Plan 2035 (2020). Both the operational development and during its construction will also fail to comply with paragraphs 105 and 186 of the NPPF (2021).

7. The proposed development does not prioritise the use of non-car modes of travel for future occupiers and does not represent a sustainable location relative to accessing main services and public transport. The lack of private car parking within the application site is likely to give rise to additional on-street parking particularly along Meadow Lane which is a designated Quiet Route compromising its use and giving rise to unacceptable conflicts with walkers, cyclists and horse riders. The proposed vehicular access onto Church Lane is not safe since inadequate visibility splays can be provided. The junction of Meadow Lane and Church Lane also provides inadequate visibility for vehicles generated by the proposal. The proposal is therefore contrary to Policies M1, M2, M3 and M4 of the Oxford Local Plan 2026 (2020) and paragraphs 110, 111 and 112 of the National Planning Policy Framework (2021).