

**CASE REF: APP/U3100/V/23/3326625**

**Corridor between the A34 Milton Interchange and the B4015  
north of Clifton Hampden.**

**on behalf of the**

**NEIGHBOURING PARISH COUNCILS - JOINT COMMITTEE (NPC-JC)**

**REBUTTAL OF PROOF OF EVIDENCE ON GREEN BELT**

**BY BERNARD GREEP**

**On Behalf of**

**OXFORDSHIRE COUNTY COUNCIL AS APPLICANT**

**ALAN JAMES BSc MA MLI (RETIRED)**

1. This is a rebuttal of the Proof of Evidence submitted by Bernard Grep (PoE-GB) on behalf of Oxfordshire County Council Highways as Applicant for the HIF1 scheme (OCC-A). The rebuttal relates only to matters concerning the Green Belt in the section of HIF1 north of the Thames river crossing. Each of my paragraphs will refer to specific paragraphs of Mr Grep's proof, but this does not imply that other paragraphs are accepted unless stated otherwise. The rebuttal should be read in the context of my PoE, which rejects the twin claims of OCC-A that the scheme does not constitute inappropriate development in the green belt, and that even if it does there are Very Special Circumstances (VSC) that would outweigh the harm caused by inappropriate development.
2. PoE-GP should be read in the context of the Landscape PoE by Jane Ash of AECOM (PoE-L), for which I shall also submit a separate rebuttal. Unlike Mr Grep, who claims the right to disagree with AECOM's assessment of inappropriate development in the green Belt (Grep PoE 4.1.5), Jane Ash is a witness under the auspices of AECOM, and her PoE differs considerably from that of Mr Grep, notwithstanding attempts to co-ordinate them. I would suggest that Jane Ash's PoE tends significantly towards HIF1 being inappropriate development in the green belt for which VSC exist, rather than that HIF1 does not constitute inappropriate development in the green belt.
3. It is notable that at the conclusion of PoE-GB on the question of inappropriate development, Mr Grep accepts (PoE 4.2.29 and 4.2 30) that the assessment has in the past gone the other way and that this inquiry could conclude that HIF1 *is* inappropriate development in the green belt: so to hedge his bets the scheme should in any case be approved as VSC.

4. The rebuttal considers the two strands of Mr Greep's case – inappropriate development in the green belt (PoE-GB section 4), and very special circumstances (PoE-GB sections 5 and 6). It will reference specific paragraphs in the proof where specific rebuttal is required, but it is not the case that any other paragraphs are accepted.
5. (1.2.7<sup>1</sup>) I too have visited the area of HIF1 from Didcot to Culham to Clifton Hampden, over two days on 12 March 2022. The weather was mostly fine except for a wet ascent of Wittenham Clumps, and I was able to see all that I needed.

### **Inappropriate development in the Green Belt**

6. (Section 1.2) This covers the scope of instructions, from which it is clear that the brief was to make the case for VSC, rather than the case that HIF1 was not inappropriate development in the green belt. This is unsurprising, as even after the call-in and the two OCC PRC meetings no party demurred from the position that HIF1 did constitute inappropriate development in the green belt. This case was entirely the product of Mr Greep's reasoning, as set out in PoE-GB section 4.
7. (4.1.3, 4.1.4) 4.1.3 quotes the reasons why AECOM's Planning Statement concluded that the scheme was inappropriate development in the green belt, and 4.1.4 outlines the reasons for disagreeing with this assessment. The reasons given are opinions (expanded in later paragraphs), except for the statement that:

*"The mere existence of criterion c) means that it must be possible for some development to come forward within the Green Belt which, by extension, means that a degree of impact on openness can be tolerated."*

The second part of this sentence is a non-sequitur. NPPF 155 allows for some developments to come forward in the green belt *"provided they preserve its openness"*, not that impact on openness can be tolerated. The 'mere existence' of the policy cannot be construed as acceptance of impact on openness, rather that a judgement is possible can be made that development does not have a deleterious impact on openness.

8. (4.2) This section of PoE-GB adopts the common fallacy that the degree of environmental impact is directly proportional to its size relative to the size of the receptor. TAG Unit A3 is very clear that impact can be disproportionate to size; that the Environmental Capital approach emphasises the need to define the scale at which something matters; and cumulative impacts can make a difference to any individual assessment. There can be no doubt that HIF1 causes harm to the Green Belt in the area in which it is located (see PoE-L para 5.36 and Tables 5.1 and 5.2), and is part of the cumulative erosion of the Green Belt across a wider area. It is unacceptable to attempt to trivialise the impact by saying that HIF1 only takes up a miniscule percentage of Oxford Green Belt land.
9. (4.3) This section goes into a lot of detail as to why HIF1 can be classed as local transport infrastructure, but this is not disputed.
10. (4.3.7) Mr Greep uses the 'Hinxtton' appeal inquiry findings to support his case that there can be degrees of harm to openness that still meet the test of preserving openness in NPPF paragraph 155c. He relies in particular on the conclusion quoted in 4.3.7:

*'The Secretary of State agrees with the Inspector at IR327 that the transport infrastructure would erode the open feel of this part of the Green Belt in special and visual terms and would harm openness ....However he agrees with the Inspector (IR 329) that the local transport infrastructure*

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<sup>1</sup> For simplicity, all bracketed paragraph numbers at the start of rebuttal paragraphs are from PoE-GB

*proposed in the Green Belt would not by reason of its nature and scale be sufficient to exceed the threshold set out at paragraph 146<sup>2</sup> of the Framework. As such he concludes that the exception for local transport infrastructure would apply, and that the proposed development would therefore not be inappropriate development in the Green Belt. As such the Secretary of State concludes that the proposal would not result in harm to the Green Belt, and there would be no conflict with local or national Green Belt policy.'*

11. I have several comments on this:

- This conclusion was not material to the dismissal of the appeal (4.3.8), so there was no opportunity to test it further.
- The conclusion is internally inconsistent: the infrastructure would harm openness, but it would not harm the Green Belt.
- There is emphatically no threshold of harm set out in NPPF paragraphs 146/ 155, but rather a criterion to preserve openness. If openness is harmed, it is not being preserved: if it is not harmed, it is being preserved.

12. Put simply, **NPPF 155 does not imply that there is an acceptable level of harm to openness.**

There may be types of local transport infrastructure that do not harm openness, for example cycleways built at ground level, minor improvements to existing roads, bus stops. I may even accept that something like a roundabout at the Culham Campus entrance might not harm openness if carefully designed, as it is merely reconfiguring an existing layout and there would be no change in overall character. However, I do not accept that a major new road on a large embankment across the Thames floodplain, a very large bridge over the Thames, and intrusion into the rural enclave alongside Clifton Hampden, do not harm the openness of the green belt or only harm it some imaginary threshold of acceptable harm.

13. (4.3.19, 4.3.24) This paragraph reiterates the case for there being a threshold of acceptable harm to openness, referred to as the 'paragraph 155 threshold', but does little to establish a case that, even if such a threshold exists, HIF1 falls below it. It is claimed (4.3.24) that in spite of the Thames bridge, most of the road will be at existing ground level, which is not correct, and other than that there is only a suggestion that the 'small' land take will not affect openness. For the rest, there is no more than the assertion that a degree of harm can be tolerated.

14. The PoE on Landscape concludes (5.36) that there are moderate levels of harm to openness, even in year 15 when it is claimed that landscape impacts reduce from large to moderate adverse (both classed as 'significant' due to maturing tree planting (I do not agree with this, as discussed in my rebuttal on Landscape). PoE-L also highlights some very significant visual impacts on key receptors (5.33 Table 5.2). It is stretching credulity to suggest that moderate harm to openness falls below the purported threshold of acceptable harm.

15. Paragraph 4.3.19 also contains the clause "*it is important to note that they should be interpreted in a way which permits the intended development*". Whilst I understand – and disagree with – the overall point in this paragraph, it is not clear to me what is meant here or why it is included in the paragraph.

16. (4.3.21) It is erroneous to claim that safeguarding a route means that "*it has already been accepted that the Scheme can come forward using the route safeguarded within the adopted development plan without causing unacceptable harm to the Green Belt*". By this logic, a safeguarded route means that all planning hurdles have been discussed and overcome, whereas the purpose of safeguarding is only to prevent further development within the safeguarded

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<sup>2</sup> NPPF paragraph equivalent to 155 in 2023 NPPF

corridor until such time as the remaining stages of the development process have been concluded (which can result in the development not going ahead).

17. (4.3.22) This paragraph makes the case that HIF1 requires a route on green belt land, as all routes crossing the Thames near Culham and bypassing Clifton Hampden would have to cross the green belt. Since the need for the road is the purpose of the inquiry, the need to cross the green belt cannot simultaneously be an input into the case for building the road. The core argument of many objectors to HIF1 is that major road construction is the wrong strategy for meeting future transport needs in the area, in which case HIF1 is not local transport infrastructure requiring a green belt location.
18. (4.3.26) I cannot follow the logic of this paragraph, which starts off with the false premise that *“local transport infrastructure is expressly acceptable under NPPF paragraph 155c”* (my emphasis), then goes on to say that it follows that encroachment cannot be a valid consideration without saying why. It should be remembered that 155 also has the proviso that there should be no conflict with the purposes of including land within the green belt, and encroachment is one such purpose (NPPF 143c).
19. (6.7.5, 6.7.6, 6.8.1) In the summary of harms and benefits in terms of VSC, the PoE-GB states that:

*“The ES concludes that, even with proposed mitigation, there will be some residual significant adverse effects in relation to landscape and visual impact,”* (6.7.5): and

*“Overall, my assessment is that the harm to the Green Belt should be accorded substantial weight”* (6.7.6, 6.8.1 first bullet)

Landscape and visual impact are recognised elements in assessing harm to the openness and purposes of green belts, whilst the second quote speaks for itself. The conclusions that 1) HIF1 is below a notional threshold of acceptable harm to the green belt, and 2) substantial weight should be accorded to its harm to the green belt, are irreconcilable.

### **Very Special Circumstances**

20. Section 5 of the PoE-GB goes into more detail on the potential harms to the Oxford Green Belt, but does not take the discussion much further than in section 4. Paragraphs 5.3.,3 and 5.3.4 give more detail on the spatial and visual elements of green belt assessment, which will be covered in my Landscape rebuttal, but which as discussed in my previous section amount to a more significant impact than Mr Greep wishes to admit. 5.3.4 concludes with the fallacious assertion that safeguarding the corridor establishes the acceptability of effects (see my para 21 above).
21. (5.2.3) It is stated that the main visual harm to the green belt “results from” the Thames bridge, and rather conflates this with a further statement (from the HIF1 PS) that the impact of ‘this’ part of the scheme is minimal because it follows existing highways. The latter refers to the section of the road from its junction with the A415 to the western end of the Clifton Hampden bypass, not to the section from the Thames bridge to the A415. Furthermore, paragraph 5.2.4 reports that the PS confirms that the section from the Thames bridge to the A415 has an adverse impact, not just the bridge (ie the embankment across the flood plain “results from” the necessary height of the bridge, but the impact is not confined to the bridge itself).
22. (5.2.7) For the reasons given in my rebuttal above, Mr Greep’s assertion that HIF1 preserves the openness of the green belt is untenable.

23. (5.2.9, 5.2.10) The PoE-GB skirts around the position of SODC (as to an extent does SODC in its Statement of Case to the inquiry). STRAT6 of the SODC Local Plan states that

*“To ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF”,* except in VSC using the text of NPPF 153.

Mr Greep seeks to play down the degree of harmful impact in 5.2.10, suggesting that impacts are low to moderate and that SODC itself has concluded that there are circumstances that justify the harm. I remain unconvinced that the unequivocal commitment by SODC to protect the green belt from harmful development can be so airily brushed aside by claims that circumstances exist to justify the harm.

24. Section 6 of the PoE-GB is largely about issues that are covered in more detail by other witnesses at the inquiry, so I do not intend to rebut Mr Greep’s evidence in detail, though I disagree with most of it. In general, it seems to me that conformity with the development plan is a moving target, and there has been a such paradigm shift in the policy context of HIF1 in the past two years or so that clinging to policies that went before makes little if any sense. Government housing policy has changed fundamentally in the past year, climate change imperatives are increasingly urgent, and the OCC Local Transport Connectivity Plan 2022 (LTCP) has changed – or should have changed – the overarching policy framework for the County. Instead of moving with the times, OCC as Applicant clings to outdated plan statements and cherry-picks saved policies in the LTCP to claim that HIF1 is in conformity with the LTCP.

25. I also noted from Aron Wisdom’s PoE the following statement (paragraph 7.4)

*The level of speculative development due to five-year housing land supply deficiencies accelerated the need for local plan processes to be undertaken. However, new homes, whilst needed, were poorly located and were not supported by the appropriate infrastructure, particularly highway infrastructure.*

In other words, HIF1 is ‘needed’ in an attempt (probably futile) to rectify poorly located developments arising from an era of plans and policies that is outdated and outmoded, and we are now being asked to accept HIF1 because it complies with those outdated plans and policies. Spending large sums of public money to correct the consequences of poorly planned speculative development can scarcely be described as ‘plan-led development’.

Alan James

February 2024