

Case Name: *Cherwell Development Watch Alliance v Cherwell District Council & Anor* [2021] EWHC 2190 (Admin) (30 July 2021)

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Commentary: The High Court dismissed Cherwell Development Watch Alliance (CDWA)'s challenge (under section 113 of the Planning and Compulsory Purchase Act 2004) to a local plan partial review adopted in September 2020 by Cherwell District Council as part of its local development plan, where the local plan partial review commits the Council to work with the City of Oxford to deliver 4,400 homes on boundary-adjusted Green Belt land, comprising the North Oxford Golf Course in Cherwell, to meet Oxford's unmet housing need by 2031. The challenge sought on two grounds to quash the local plan partial review.

Ground 1 was that the Inspector who had carried out the statutory examination of the draft plan had, in finding the necessary exceptional circumstances (required by the National Planning Policy Framework or "NPPF") to justify the allocation of the 4,400 homes in boundary-adjusted Green Belt, failed to take into account a material consideration that housing need had reduced in the relevant local area by up to 34% since a previous evidential assessment in 2014. CDWA argued that the Inspector had failed to take into account proper figures for unmet housing provision to support local population growth. However, Mrs Justice Thornton CBE held that the Inspector was entitled to conclude as he did having considered proper figures, relying as a matter of "unimpeachable" planning judgment on recent scrutiny by Oxford City Council of housing need, and treating that need as an exceptional circumstance justifying the alteration of Green Belt boundary.

Ground 2 was that the Inspector had, in determining whether an alternative farm site could (in compliance with relevant NPPF policy) provide an equivalent or better facility as replacement Green Belt land compared to the North Oxford Golf Course, failed to take into account detailed evidence that the farm site could not do so. CDWA argued that there was no evidence to support the Inspector's conclusion that the farm site would be able to accommodate an appropriate replacement facility for the golf course, and that there was compelling evidence before the Inspector that the farm site was unsuitable. The Judge was unpersuaded. Mrs Justice Thornton held that the Inspector had recognised relevant "constraints" concerning the farm site, but despite these had had sufficient evidential basis and reasons in determining that the farm site was suitable. Accordingly, the Judge dismissed CDWA's challenge.

Case summary prepared by George Morton Jack