

## **Summary of objection**

1. These representations are made by the Trustees of the Cornbury Estate (referred to below as “the Estate”). The Cornbury Estate objects strongly to designation of the following sites as Local Green Space (LGS) in the Neighbourhood Plan (NP):
  - LGS7 – Cricket Club Grounds
  - LGS8 – Field East of Railway Station
  - LGS17 – Field North of Forest Road
  
2. Objection is also made to the following policy and references in the draft NP in so far as they support or refer to the designation of these sites as LGS:
  - Policy NE7
  - Section 7.4 and Map 4
  - Appendix F
  - Other references to the designation of the above sites as LGS
  
3. The Estate seeks deletion of the above (draft) designations of sites LGS 7, LGS 8 and LGS 17 as Local Green Space and deletion of all other references to them as LGS in the NP.

### **The Government’s Criteria and Policy for Designation of LGS**

4. The highest planning protection is given to land designated as LGS which is akin to Green Belt designation and irreplaceable habitats<sup>1</sup>. Once designated it severely limits the management of the land by its current occupiers and owners unless exceptional circumstances are proven. No compensation is payable unlike other restrictions placed on land such as an Article 4 direction<sup>2</sup>. Therefore, as is required in the case of designation of land as

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<sup>1</sup> See NPPF 2019 n6, para 101 and PPG para 020 Ref ID: 37-020-20140306

Green Belt, National Park, SSSI or other land protected at the highest level of planning policy, any case for designation should at the outset be clearly and convincingly demonstrated by the proponents.

5. National policy in NPPF 2019 para 100 states that Local Green Space designation will not be appropriate unless stated criteria are satisfied. This is only if the land proposed as LGS is:
- in reasonably close proximity to the community it serves;
  - demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing fields), tranquillity or richness of its wildlife; and
  - local in character and is not an extensive tract of land.

To this must be added criteria in NPPF 2019 para 99:

- LGS must be of particular importance to the local community;
  - Designation as LGS should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services;
  - LGS should only be designated when a plan is prepared or updated; and
  - Designation should be capable of enduring beyond the end of the plan period.
6. In the case of the above criteria, each one must be satisfied else designation of a site is not appropriate and would not comply with NPPF policy.
7. Designation must be demonstrably special in a local context and not be sufficiently protected by other policies in the Local Plan or NP<sup>3</sup>. Designation should not be proposed as a ‘back door way to try to achieve what would amount to a new area of Green Belt by another name’<sup>4</sup>. In addition, designation should not frustrate options for its use and development in the future which would be of benefit to the local community. As stated by the Open Spaces Society<sup>5</sup>, once designated, LGS is subject to the same strong development restrictions as Green Belt, and new development in LGS is ruled out other than in special circumstances.
8. Unless all the above are clearly and convincingly demonstrated by the proponents in each case, government policy requires that a designation of land as LGS should not be made<sup>6</sup>. As the Cotswold District Council Toolkit (adopted by WODC) unequivocally states<sup>7</sup>, designation must be based on solid evidence that the site meets the relevant criteria.
9. Discussion. In the case of sports and recreation sites such as the Cricket Club, LGS designation imposes constraints on their use and development. This causes future development of them for even temporary or seasonal sports development to have a strict test applied akin to Green Belt and for management of them as a

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<sup>3</sup> PPG para 011 Ref ID: 37-011-20140306

<sup>4</sup> PPG para 015 Ref ID: 37-015-20140306

<sup>5</sup> <https://www.oss.org.uk/wp-content/uploads/2016/04/C20-Local-Green-Space-Designation.pdf> See page 2

<sup>6</sup> NPPF 2019 para 100 “The LGS designation should only be used where...”.

<sup>7</sup> CDC Toolkit NP Criteria for Designation

consequence to be significantly more constrained and less flexible. In any event, even in simple cases it places another layer of external control over their use and development by the owners and leaseholders, here the Cricket Club. NPPF 2019 para 97 can provide a far more appropriate and sufficient form of policy protection of sports use of land in most cases<sup>8</sup>. Public access is not essential for designation but a site is more likely to be special to a local community if publicly accessible as of right, in public use and cherished by a local community over many decades or even centuries. As stated in NPPF<sup>9</sup>, LGS must be *demonstrably special, hold a particular local significance, and be of particular importance* to the local community, not merely that it is a well-used sports ground by an active club membership and visitors from the local community or visiting teams. The success of a Club largely depends on the identity of its committee and its management. These can change over time. Designation of land and policy in a Local Plan should not be based on the current identity and management ability of occupiers as these can be ephemeral factors.

### **The 3 objection sites - features in common against designation as LGS**

10. Each one of these sites will be considered in turn. However, they all have important common features which strongly point against designation as LGS.
- First, designation as LGS does not meet the NPPF criteria for any one of the three sites. None of them *demonstrably special, hold a particular local significance, or be of particular importance* to the local community.
  - Secondly, they are all the subject of other policy designations of protection against development without additional justification for designation as LGS, such that designation as LGS is unjustified and unnecessary.
  - Thirdly, none of them make a demonstrably special or important contribution to local identity, character of the area or to the physical form of the settlement, none have particular historic significance, none are particularly tranquil areas and there is no evidence of any being particularly rich in wildlife.
  - Fourthly, they all lie outside the built-up area of Charlbury and are part of an extensive tract of land along the Evenlode valley – protected by a separate specific policy in the NP, NE3.
  - Fifthly, all are privately owned and none of them are publicly accessible nor likely to be at any time in the foreseeable future.

### **Site LGS7 – Cricket Club Grounds**

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<sup>8</sup> 'Making local green space designations in your neighbourhood plan': Locality update 6/12/2018, p16  
<file:///C:/Users/jst/Downloads/Green-space-FINAL-FOR-MHCLG-FS-update-061218-1008-COMPLETED-JS-complete.pdf>

<sup>9</sup> NPPF 2019 para 99

11. The Charlbury Cricket Club Ground is private land occupied under a lease from the Cornbury Estate by the Charlbury Cricket Club, a private club with members managed by an elected committee. The ground is managed expressly and exclusively by the Club for the benefit of the cricket club and its members and there is no general public access. Currently its use and development are not unduly constrained by planning policies. That is essential to be continued in order that the Club is able to carry out development where required with planning permission including temporary development in excess of permitted development under the GPDO 2015 (see footnote below) as and when it considers it is important for the Club to do so for the benefit of cricket for youngsters in particular but also community members living in Charlbury as well as the surrounding villages and elsewhere who play cricket on the ground.
  
12. Designation as LGS would at the very least impose further planning constraints on its use and development which could frustrate the wishes of the Estate and Cricket Club to maximise its use and potential as a cricket ground. The current and proposed sports use and landscape policies to which it is currently subject and is proposed to be subject under the NP<sup>10</sup> give it sufficient protection against harmful development and do not unduly constrain its use as a cricket ground. An “exceptional circumstances” test would be imposed by LGS Policy NE7 and it would then be treated as Green Belt, the national planning policy of greatest constraint on use and development of land. More weight would then for the first time be able to be given under the proposed NP Policy NE7 to factors such as impact on openness than to its use for cricket and youth sports. This could include the erection of seasonal temporary facilities, introduction of temporary alternative uses or facilities<sup>11</sup>, extensions to the existing facilities or the carrying out of operational development such as the erection of fencing, seats and nets, or the creation of hardstanding for car parking. It is also contrary to the government’s red tape policy to minimise unnecessary regulation. Government intervention should be simplified and not made more complex and constraining on the individual except where clearly justified and necessary.

***Criterion a: “In reasonably close proximity to the community it serves”***

13. The land lies outside the town and built-up area of Charlbury beyond the Evenlode River, opposite the railway station, at the bottom of a relatively steep hill, isolated from other development other than the station and industrial site to its south and surrounded by agricultural land on three sides. ‘The community’ when considering this criterion must be looked at as a whole and not just that small part of the community which lives on Dyers Hill on the western end of the town. This is demonstrated by the fact that the large majority of users arrive by car and such was the demand for car parking that an extension of the car park was laid out as agreed by the Estate.

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<sup>10</sup> Including NPPF 97 (protection of land used for sports), NPPF172 (protection of AONB) and NPPF Chapter 16 (Conservation Areas), in addition West Oxon Local Plan protection and conservation policies, and proposed Charlbury NP Policies ECT5, NE1, NE2, NE3 and NE6 – see too para 21 below

<sup>11</sup> 28 days is the maximum number which is classed as permitted development under the Town and Country (General Permitted Development) (England) Order 2015

14. In addition, as referred to above the topography must be taken into account and as a result of the relatively steep hill to the town up Dyers Hill, it is not 'within easy walking distance' of the community it serves and is in a relatively unsustainable isolated location outside the town.
15. It is also relevant to compare the proximity to the population of Charlbury as a *whole* of Cricket Club Grounds with other sports and recreation grounds within Charlbury, namely The Playing Close (LGS1), Nine Acres Recreation Ground (LGS2) and Wychwood Paddocks (F3). These all lie in or adjacent to the centre of the town, are in highly sustainable locations, are easily accessible on foot or cycle to persons of all ages and fitness and to the whole of the local community, unlike the Cricket Club Ground. They are used and continue to be used for formal and or informal sport, recreation and for occasional events such as the Farmers' Market. The Cricket Club Ground is significantly less preferable in terms of accessibility and sustainability.
16. **Conclusion:** Site LGS7 is not in reasonable proximity to the community that it serves.

***Criterion b: demonstrably special to a local community and holds a particular local significance and importance***<sup>12</sup>

17. The rationale in the draft NP of site LGS7 is the basis for the consultation. It states that the cricket club is an extremely active club providing youth and senior cricket, youth football a multi-sport training and that regular courses are run for schoolchildren which are open to all on payment. References are also made to the annual beer festival, fireworks display, weddings and celebrations. References are made to the location of the Cricket Pitch (sic) being very significant to maintain the town's character and views.
18. Not all land in sports or recreational use used actively by a local community can be said to be "*demonstrably special*" and "*hold a particular local significance*" "*and importance*" (both elements must be satisfied), else the criteria in NPPF would be worded differently and permit all land in active sports and recreational use within or near to a village or town to be fit for designation as LGS.
19. The site's physical properties as a cricket ground are relevant and should be considered as to whether its physical features are of high quality. The cricket ground, however, is liable to flooding and lies in the designated flood plain of the River Evenlode, with its access road frequently flooded (as recognised and stated in the draft NP at p99), precluding use at times of high rainfall and flooding by the River. It is also on a c5m slope from west to east down towards the River Evenlode. It is by no means an ideal physical location for a cricket ground.
20. In the rationale in the draft NP for LGS7 much is made of the success of the Cricket Club. As a fact, this is not disputed – the Estate has supported and encouraged the Club whenever possible and continues to do so. However, in planning law designation of land as LGS must have regard only to land use considerations. The fact

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<sup>12</sup> Combining the criteria in NPPF 2019 paras 99 and 100

that the Club is currently 'extremely active' (referred to in the justification for designation in the draft NP at p99) does not cause the land to be 'demonstrably special'. The club is in the same position as all sports clubs and can fluctuate in activity as well as membership over time. Planning designations in a plan cannot focus upon the current membership or management of a club or occupier. The same is true in relation to its occasional use of the land on a few days of the year for the beer festival, firework display, weddings and celebrations, referred to as justification for designation as LGS in the draft NP. These occasional uses are permitted by informal agreement or licence by the Estate without payment in order to boost the income for the Cricket Club, and such permission could be withdrawn at any time. None of these factors make the land to be 'demonstrably special'.

21. Landscape value is relied on as justification for designation as LGS. However, it is not of itself a reason for designation. The land is protected by its national designation as AONB and NPPF policy, under the Local Plan 2031 by Policy EH1 and under the draft NP by policies NE1, NE2, NE3 and NE6. There is no purpose or justification in adding to that raft of policies by designating the cricket ground as LGS under Policy NE7. Before designation as LGS on landscape grounds can be justified, its inherent beauty must be demonstrably special and hold a particular local significance. The fact that it lies on an approach to the town with views across it of the Evenlode Valley is not sufficient in itself. It is a part of the wider landscape of the Evenlode Valley and not itself in any way special, let alone a demonstrably special part of the landscape holding a particular local significance. The land comprising the Cricket Club Ground sits awkwardly in the landscape having been carved artificially out of an agricultural field lying on a slope. It is surrounded on three sides by agricultural land, lies outside the Conservation Area and in the flood plain of the River Evenlode. In the summer months in particular there is a significant amount of visual clutter on the ground associated with sports. On its south side Forest Road lies on an embankment with tall hedgerows over much of its length as far east as the station mini roundabout, causing there to be limited but not extensive views over the site and beyond that the station and station car park lies at a lower level than Forest Road with no views of the site.
22. As the ground is already designated and protected against development by strong sports ground and landscape policies in NPPF, the Local Plan and the draft NP, designation as LGS on landscape grounds is unwarranted. Nothing material is added by local designation as LGS in the NP. It is not "demonstrably special" in landscape or other terms.
23. Although the use of the Cricket Club Ground for sports and recreational purposes dates back to the 19<sup>th</sup> century, the lease is relatively recent. A lease was granted to the Cricket Club by the Estate in 2007 and protects its use as a cricket ground in private law. This is in clear distinction to the land used as playing fields at both Nine Acres Recreation Ground and Wychwood Paddocks owned by Charlbury Town Council and Oxfordshire County Council respectively, which are in the centre of Charlbury and have been owned by these public authorities for many decades and in the case of Nine Elms, for 100 years. To these Playing Close, the recreation ground at the very heart of Charlbury, can be added, this land owned by a trust.
24. **Conclusion:** the Cricket Club Ground is not 'demonstrably special' nor does it 'hold a particular local significance'.

**Criterion c: local in character and is not an extensive tract of land.**

25. There is nothing special about the Cricket Club Ground in landscape terms, as stated above, and the land cannot be described as being “local in character”. It has no local characteristics special to it or of itself other than the fact it is a cricket and sports ground near to but outside a town in the countryside. This is insufficient for designation as LGS.
26. It itself is not an extensive tract of land but it is adjacent to Site LGS8. Both are in the Evenlode Valley and, especially when these are considered together with sites LGS3 and LGS15, combined they represent an extensive tract of land on the west side of Charlbury in the Evenlode Valley flood plain in excess of 20 ha (50 acres), which is excessive for LGS designation<sup>13</sup>. There is very little land around the west and north sides of Charlbury that is not sought to be designated as LGS. This is clearly excessive and in breach of NPPF policy.

**Inconsistency in decision-making by including Cricket Club Grounds and excluding Wychwood Paddocks site as LGS**

27. It is a requirement of law that decision making in planning must be logical and to be fair to those stakeholders affected, not inconsistent. This is in particular in relation to decisions concerning different sites being considered for policy designation in a Plan. That approach is here of relevance and importance in relation to the Wychwood Paddocks site, which was originally proposed to be designated as LGS in the draft NP.
28. As stated on section F3 of Appendix F of the draft NP, as a result of objections by Oxfordshire County Council, its owners, it was decided to exclude the site as LGS in the draft NP. It is clear that the decision making in relation to exclusion of the Wychwood Paddocks site as a designated LGS site in the draft NP is wholly inconsistent with that of the inclusion the Cricket Club Grounds site as a designated LGS.
29. The reasoned justification for dropping or excluding designation of Wychwood Paddocks as LGS is given on p115 of the draft NP. The reasons are considered in turn as follows:
- i.* The first, that NPPF para 97 provides strong protection for playing fields such as Wychwood Paddocks, applies equally to the Cricket Club Ground, LGS7.
  - ii.* The second, that in the event that NPPF para 97 conditions were to be met (e.g. that an alternative equal or better facility was provided in a suitable location) and that it may be in the best interests of the community as a whole to consider alternative uses of the land, is wholly speculative and in any event would also apply to the Cricket Club Ground.

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<sup>13</sup> Applying the criteria in the Cotswold DC Toolkit adopted by WODC.

- iii. The third, that the Wychwood Paddocks site is not accessible to the public, is also applicable to the Cricket Club Ground but with more force as the freehold owner of the latter is a private landowner whose land is being sought to be designated and not a public authority whose land is owned ultimately by and for the benefit of the public.
- iv. The fourth (contained in the third bullet point of F.3 on p115), that there are no views across the Wychwood Paddocks site except for residents of Wychwood Paddocks, is patently incorrect as a matter of fact – there are views across the land in particular from the Enstone Road and across a low Cotswold stone wall with mature horse chestnut trees lining the open space. The Enstone Road is a main access into Charlbury and from the east including to the centre of Charlbury and the Spendlove Centre. There are highly valued views across this important open greenspace of local character close to the centre of the town of Charlbury.
- v. The fifth, that the owners of the land are not supportive of the designation, applies more strongly to the Cricket Club Ground. The freehold owners of the Cricket Ground site are strongly opposed to such designation.

30. What is surprisingly not tested in Appendix F part F.3 is the application of the criteria for designation as LGS set down by government in NPPF 2019 paras 99 and 100. There is no doubt that the Wychwood Paddocks site accords with such criteria to a significantly greater extent than the Cricket Club Ground. Unlike the Cricket Club Ground, Wychwood Paddocks:

- is located in the centre of Charlbury and easily accessible to the whole community in a highly sustainable location;
- has been in use as a recreation ground for many decades, is demonstrably special to the local community by reason of not merely its use but its location within the town and conservation area and holds a particular local significance and importance;
- is local in character, located as it is near to the centre of Charlbury adjacent to the Enstone Road. It is an important open space in the town linked to other important open spaces by the Enstone Road, surrounded by a Cotswold stone wall and mature trees forming an open parkland setting, greatly enhancing the character of the townscape and conservation area within which it lies.

By contrast, none of these attributes apply to the Cricket Club Ground.

31. **Conclusion:** the reasons for the dropping of or excluding Wychwood Paddocks as LGS in the draft NP, when applied to the Cricket Club Ground LGS7, clearly result in the exclusion of the latter too. There would be an illogical inconsistency in the NP if the Cricket Ground were to be designated as LGS and not Wychwood Paddocks.

### **Overall conclusions in relation to the Cricket Club Ground as LGS**

32. Designation would be:

- contrary to the “basic conditions” required to be met under the Planning Act and criteria in NPPF 2019 paras 99 and 100 for any such designation (see conclusions in respect of each of the criteria above); no justification which meets the criteria has been put forward in the draft NP;
- unnecessary to protect its continued use as a cricket or sports ground or its being developed at any time in the future (as it is expressly protected by NPPF para 97, Local Plan policies and draft NP Policy ECT5 as well as by AONB and other landscape and countryside policies in NPPF, the Local Plan and NP) as well as in private law by the lease; no additional local benefit would be gained by such designation;
- detrimental to its management as a cricket ground by the Cricket Club management and committee and the Cornbury Estate by the introduction of an ‘exceptional circumstances’ test; this would also be contrary to the general aims and objectives of the NP, in particular Aim 1 to promote and encourage Charlbury’s outstanding community spirit as it would serve to undermine it – more on this point is considered below.

### **LGS8 Field East of Railway Station**

33. The rationale for the designation of this area of land as LGS is that the field is essential to maintaining the distinctive setting and character of Charlbury, that it is visible from the railway, road and river bridge and is one of the first things people see when entering the town from the west.

#### ***Criterion a: in reasonably close proximity to the community it serves***

34. The land has no public access and lies in the floodplain of the River Evenlode, flooded at times of high rainfall. It lies at the bottom of Dyer’s Hill, a steep hill on the western extremity of the town. It lies outside the built confines of the town and is in agricultural grazing use. It does not serve the community in terms of its use and being on the extremity of the town, it is not in reasonably close proximity to the community of Charlbury as a whole for any use being made of the site other than a visual one.

35. **Conclusion:** in terms of its use, the site is not in reasonably close proximity to the community it serves. This criterion is of less relevance than the subsequent criteria discussed below.

#### ***Criterion b: demonstrably special to the local community and holds a particular local significance***

36. The justification for designation as LGS, as stated above, is on landscape grounds alone. The justification is disputed but whether or not it is considered to be of landscape merit, the test is much higher and different from that of landscape generally, even if within AONB, and must be so exceptional that its being included within and protected by conservation area designation is insufficient. The focus must be on the site itself and whether it should never be considered in the future including beyond the plan period for development which assists sustainable development of the town complementing investment in sufficient homes, jobs and other essential services.

37. Designation as LGS is unwarranted and unnecessary. The land lies in the Evenlode Valley, within the Charlbury Conservation area, lies in the AONB with the protection of AONB policies at national and local level in NPPF and the Local Plan (see above). In addition, it is the subject of specific designation in NP Policy NE3: Protecting the Evenlode Valley. There would be no purpose served by designation as LGS. The fact that it was not originally considered for inclusion as an LGS candidate speaks volumes. Popular demand is insufficient justification other than the field is a real “welcome home” by passengers and support by the Cotswold Line Promotion Group. There is furthermore no planning analysis upon which such popular demand was based and no evidence that the relevant criteria were considered nor the fact that it is already protected by a raft of planning policy. It is not demonstrably special. It has no designation in nature conservation terms nor are there any footpaths running across it.
38. It is not accepted that there are more than glimpsed views of the land from the railway line and station which (as accepted in the description at page 100 of the draft NP) is largely obscured by trees and bushes.
39. There is no justification given in the draft NP as to why NP Policy NE3, especially when combined with the Conservation Area and other restrictive policies local to Charlbury, would not be sufficient to maintain “the distinctive setting and character of Charlbury”. NP Policy NE3 precludes development in the Evenlode Valley and applies almost word for word the same test as found in NP Policy NE7, namely not permitting development unless it can be clearly/robustly demonstrated that the benefits to the community of Charlbury/public benefit will outweigh/outweighs the harm to the LGS/any detriment to the landscape. As the rationale of designation as LGS in this case is solely to protect the local landscape and the rationale for protection of land within the Evenlode Valley NP Policy NE3 area is identical, it is unwarranted and unnecessary as well as illogical to designate the land as LGS.
40. NPPF 2019 para 99 states that:

“Designating land as LGS should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should ... be capable of enduring beyond the end of the plan period.”

PPG states<sup>14</sup> that:

“Designating any LGS will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the LGS designation should not be used in a way that undermines this aim of plan making”.

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<sup>14</sup> PPG para 007 Ref ID: 37 – 007 – 2014 0306

Under 'Additional Comments' on page 100 of the draft NP it is stated that: "Whilst there are no current applications known it is understood that First Great Western Railways are preparing plans for a car park which would cover a substantial area of the site".

41. The proposed designation as LGS could frustrate any need for railway station car park expansion, whose purpose would be to meet identified development needs for sustainable development, namely travel by rail by local commuters, an essential service and one which supports homes and jobs of residents in Charlbury and its vicinity. The NP does not designate any such use of land and has not considered any site which may be suitable for extension of the railway station car park, contrary to NPPF policy (see below). It has further not considered longer term needs for the railway car park beyond the plan period. The obvious land for such expansion is land adjacent to the existing car park.
42. Whatever the intention was of designation of the site as LGS, or whatever the current position is of GWR (Great Western) it would be both folly and totally contrary to NPPF policy potentially to frustrate such potential future development by LGS designation, whether or not such plans are or have been finalised, or have not even yet progressed beyond the preliminary stages, or whether or not this was the intention of some of those seeking LGS designation. As stated in NPPF 2019 para 99, LGS designation must be capable of enduring beyond the end of the plan period. A designation of the land as LGS in the NP would be contrary to such policy requirement as the NP has not considered potential development needs for expansion of the railway station car park either now or beyond the plan period and such designation would impose a highly restrictive Green Belt policy test to be applied which could frustrate sustainable. This would be contrary to NPPF policy generally and specifically to NPPF 2019 para 99 as well as being contrary to the Planning Acts where a duty to seek to achieve sustainable development is placed on Local Planning Authorities.
43. **Conclusion:** the land LGS8 is not demonstrably special to the local community and does not hold a particular local significance. Designation as LGS effectively duplicates NP Policy NE3 and it fails on this criterion too. Designation would furthermore be contrary to NPPF policy and PPG guidance as designation as LGS could frustrate potential future sustainable development needs of the community and area. The NP is contrary to NPPF as it has not identified sufficient land in suitable locations to meet identified development needs including that of a station car park extension, is being used in a way that undermines this aim of plan making, and would not be capable of enduring beyond the end of the plan period.

***Criterion c: local in character and is not an extensive tract of land.***

44. As stated above, the land LGS8 is not demonstrably special to the local community, does not hold a particular local significance nor has any particular local character. Even if any of these tests is passed, the land is an extensive tract of land when combined with other land in the Evenlode Valley the subject of LP policy NE3 on the west and north sides (see too the submissions in respect of site LGS7 above).
45. **Conclusion:** site LGS 8 does not meet criterion c of NPPF 2019 para 100.

### **LGS 17 – Field North of Forest Road**

46. The rationale for inclusion of this site in the NP as LGS is that the field is central to the view across the Evenlode Valley and that development of this field would radically change the wide-ranging views of and from Charlbury and the hamlet of Walcot and footpath between and around these, would seriously undermine the setting and character of the Town and that a previous (unidentified) landscape appraisal concluded the scenic quality of the site is highly attractive and unspoiled with a value rating of “very high”. It is clear that the purpose of the draft designation is solely on landscape grounds.

#### ***Criterion a: in reasonably close proximity to the community it serves***

47. The site is well outside the town of Charlbury. It is not only well beyond the built-up edge of Charlbury, but well away from the local community as a whole that it would serve.

48. **Conclusion:** LGS17 is not in reasonably close proximity to the community it serves. It is well outside the town and built up area and well in excess of the adopted designated distances by WODC for LGS sites. This alone should cause deletion of the site as LGS.

#### ***Criterion b: demonstrably special to a local community and holds a particular local significance and importance<sup>15</sup>***

49. The site is in agricultural use and part of the wider landscape surrounding Charlbury. When a determination is made to designate a site as LGS, it must be considered on its own, not as part of the wider landscape within which it may sit. It is patently not itself demonstrably special in landscape terms and it has no inherent beauty except as part of a wider landscape. It is no more special than the land adjacent to its east or west, all of which is also in agricultural use and is rightly not proposed to be designated as LGS. It is a part of the wider landscape of the Evenlode Valley and not itself in any way special, let alone a demonstrably special part of the landscape holding a particular local significance.

50. The fact that the land has been rated as “highly attractive and unspoilt” in what is a report of a landscape assessment commenting on development proposed previously to take place on the land (see draft NP page 109

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<sup>15</sup> Combining the criteria in NPPF 2019 paras 99 and 100

Rationale). The comment had nothing to do with whether the land met LGS criteria. The policy tests previously applied in the appraisal were those in relation to AONB and land outside settlements within the countryside. The policies were clearly sufficient to prevent development taking place on the land and therefore were shown to be both operative as well as capable of preventing development of this location. The question which must now be considered is wholly different, namely whether the criteria with respect to LGS policy designation in an NP are applicable to and met by what would be an isolated LGS site in the countryside where development has been previously rejected, where there are no reasons other than landscape reasons for designation and where LGS designation would be in addition to the raft of policies protecting the land from harmful development. The answer is clearly that current policies are sufficient to prevent harmful development, that LGS criteria are not met and that designation as LGS is unwarranted, unnecessary and contrary to policy in NPPF.

51. The photograph on page 109 of the consultation draft NP does not in any way show the land to be demonstrably special to a local community and that it holds a particular local significance and importance. It demonstrates entirely the opposite. The land is seen to be one of a number of fields in agricultural use on a slope leading away from Charlbury which, apart from the arrows on the photo identifying its location, would not be identifiable and certainly not “special”. It has no inherent beauty in itself. There is nothing in the rationale for designation in the NP to conclude that that the land in any way meets the criteria for designation as LGS.
52. Designation as LGS is in this case being used to seek to impose what is akin to Green Belt policy to prevent any future development of a field and existing policies are clearly capable by themselves of preventing unsuitable development. This is contrary to PPG guidance<sup>16</sup>. If this approach to policy-making were to be promoted generally in NPs merely because a previous proposal had been put forward on land in the countryside and concluded to be unsuitable for development in a landscape appraisal of that development on that site, numerous isolated fields outside towns would be designated as LGS. This would bring the NP plan making system into disrepute.
53. **Conclusion:** LGS17 is clearly not demonstrably special to the local community nor does it hold a particular local significance or importance. It has no inherent beauty in itself and is part of a much wider landscape. Designation as LGS would be contrary to NPPF policy.

***Criterion c: local in character and is not an extensive tract of land.***

54. The land is not local in character in terms of being special and is part of a large tract of land within the countryside from which it cannot be distinguished in landscape terms. It therefore would be contrary to the criterion. If

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<sup>16</sup> PPG para 015 Ref ID: 37-015-20140306

designated as proposed, it would be an isolated LGS site, extensive in area for an LGS site, which has no inherent purpose for designation other than for dubious and unjustified landscape protection reasons.

55. **Conclusion:** LGS 17 is not local in character in terms of being special and forms part of a large tract of land within the countryside from which it is indistinguishable in landscape terms. Designation would be contrary to NPPF.

### **Other considerations of relevance resulting from designation as LGS**

56. Designation should be made only when it is based on solid evidence that the site meets the relevant criteria<sup>17</sup>. One important reason is that designation, especially when less than fully justified and necessary, can have the unintended consequence of causing landowners to be far more cautious in permitting land to be used for community uses in the future. Designation as LGS will result in a review of informal arrangements and the granting of informal or even oral permissions and licences to the local community. This is not only in respect of the Cricket Club grounds but all land of the Estate where informal agreements are entered into including for use for occasional events such as the fireworks display, the beer festival and use of private woodland by the primary school for nature conservation walks and education.
57. It would be more than unfortunate if these and other informal community activities on private Estate land would be curtailed as a result of the imposition of Local Green Space designation, in turn due to them being regarded by some members of the local community as being highly valued local community activities albeit informal and on private land. However, that would be the likely effect as trustees of such land would have to follow legal advice to prevent it being the subject of strict planning policy and the introduction of what would be in effect Green Belt constraints on development. It would be more than merely unfortunate for this to be the result of a well-intentioned Neighbourhood Plan which should in many other respects be supported.
58. It is essential that the local community should continue to exist in harmony and partnership with local landowners and not set up in conflict with them. For this to continue, the policies in the Neighbourhood Plan should not unduly or unnecessarily constrain the use of land, especially if members of the local community already has control over the land through a lease. Designation of these areas of land as LGS would be contrary to the general aims and objectives of the NP, in particular Aim 1 to promote and encourage Charlbury's outstanding community spirit.
59. For these reasons and those set out more fully above, the Cornbury Estate urges a reconsideration of the proposed designation of the 3 objection sites on its land as Local Green Space and for sites LGS7, 8 and 17 to be deleted from the NP, together with supporting references.

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<sup>17</sup> Cotswold DC Toolkit for LGS Designation 'Criteria for Designation' adopted by WODC



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29 October 2019

**Encl** : Counsels Opinion [redacted] dated 29 October 2019.