

APPLICATION NO.	P20/S0928/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	20.3.2020
PARISH	THAME
WARD MEMBER(S)	Pieter-Paul Barker Kate Gregory David Bretherton
APPLICANT	Rectory Homes and FirstPort Retirement Property
SITE	Land at The Elms Upper High Street Thame
PROPOSAL	The erection of an extra care development (Use Class C2) of 66 units; 3 guest rooms; a communal resident's centre with staff facilities; provision of car, cycle and mobility scooter parking; the creation of new public open space; the provision of new pedestrian/cycle links from Upper High Street to Elms Road and Elms Park; and associated infrastructure works and landscaping.
OFFICER	Tracy Smith

1.0 INTRODUCTION

1.1 This application is referred to Planning Committee as it has been called in by Cllr Kate Gregory on the following grounds:

- This is a major planning application on a site allocated for housing within the Thame Neighbourhood Plan.
- The proposals are contrary to that allocation within the Thame Neighbourhood Plan.
- The new application is similar to others on the same site that have been demonstrably judged by resident and the Town Council as controversial.
- A recently lost appeal on the site is the subject of a legal challenge.

1.2 I recommend that planning permission is granted subject to a S106 agreement to secure off-site affordable housing and infrastructure contributions and conditions.

1.3 The site is located within the centre of Thame to the west of Elms Park and is adjacent to The Elms which is a 19th century house and Grade II listed building. There are also several other listed buildings and structures near to the site which include; the listed barn to the west of The Elms house, the Poplars a Grade II listed house to the north of the site, the grade II listed War memorial and Gallup Poll Garfield a Grade II* listed building. The site is within the Thame Conservation Area and currently there is no public access through the site.

2.0 BACKGROUND

2.1 The application site benefits from an extant planning permission and listed building consent (P14/S2176FUL and P14/S2395/LB respectively refer) for 37 dwellings and associated works. The permission is extant because all pre-commencement conditions have been discharged and the access to the site has been implemented in accordance with the approved plans. The extant planning permission is a significant material consideration in the determination of this application. The extant permission

is shown below:



2.2 This application follows a previous application (P18/S3596FUL referred to as the 2018 application from hereafter) for a housing with care scheme which comprised 78 units; a communal residents centre; the creation of new public open space; the provision of new pedestrian/cycle links from Upper High Street to Elms Road and Elms Park; repairs and alterations to boundary walls and entrance to Elms House; and associated infrastructure works.

2.3 The 2018 application was refused under delegated powers and was the subject of an appeal (PINS Ref: 3228431) in 2019. A copy of the decision letter (DL) is **contained** in Appendix 1 to this report. The appeal was the subject of a three-day public inquiry in September 2019 which resulted in the appeal being dismissed.

2.4 As part of the appeal process the council and the appellant were required to agree common ground and this is set out in a statement (SoCG). The statement enabled the Inspector to identify the main issues. A copy of the SoCG is **attached** as Appendix 2 since there are matters of principle that remain in agreement. The Inspector considered the main issues in the determination of the appeal to be those set out in paragraph 12 of the Decision Letter which are replicated below:

1. How the appeal proposal should be considered;
2. The relationship to the development plan, with specific reference to:
 - the site specific policy in the Thame Neighbourhood Plan;
 - the provision in the type and size of accommodation proposed;
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3. The effect on heritage assets, in particular on the setting of The Elms as a listed building and on the Thame Conservation Area;
4. Whether the proposal would make appropriate provision for affordable housing;

5. Whether the proposal would make appropriate provision for infrastructure and other related facilities and for any necessary improvement works to Elms Park;
 6. The weight to be given to the, agreed to be, extant planning permission on site; and
 7. Whether there are any other material considerations, including the benefits of the proposal, which would indicate that the proposals should be determined otherwise than in accordance with the terms of the development plan.
- 2.5 The Inspector's conclusions on these main issues, which resulted in his dismissal of the appeal, are of significant importance in the determination of this current application.
- 2.6 The conclusions of the Inspector can be summarised as follows:
- 2.7 **1.How the appeal proposal should be considered (paragraphs 13 to 21):** The Inspector agreed with both parties that the use of the appeal site was Use Class C2. However, he agreed with the council that the individual units represented a dwelling. This was due to the self-contained nature of the accommodation and notwithstanding the proposed occupancy condition and communal facilities proposed, the Inspector saw nothing in the communal facilities, also self-contained, which required future occupiers of the units to use them, or that those running of the facility needed to use that building. The Inspector made this judgement having regard to an appeal for a C2 extra care development allowed in the district at Lower Shiplake (P18/S3210 refers).
- 2.8 **The relationship of the development plan (paragraphs 22 to 29):** The site is allocated for no more than 45 dwellings in the made Thame Neighbourhood Plan (TNP). The Inspector considered that the appeal scheme for 78 dwellings conflicted with policy HA4 (which he also found together with the supporting text to be broadly consistent with the National Planning Policy Framework (NPPF) *'in that it exceeds the number of dwellings permitted by the policy to a significantly material extent.'*
- 2.9 Policy H9 of the TNP seeks, on schemes of more than six dwellings, a mix of dwelling types and sizes to meet the needs of current and future needs of Thame residents. Given the scheme would provide only housing for the elderly, the Inspector found conflict with this policy. However, he did consider that in the absence of evidence and guidance in respect of a Thame specific affordable housing and dwellings mix, and in the absence of any harm associated with a concentration of housing for the elderly in the centre of Thame, the proposal would comply with policy H10 of the TNP.
- 2.10 Policy CSH4 of the South Oxfordshire Core Strategy (SOCS) is similar to policy H10 of the TNP in that it requires a mix of dwelling types and sizes to meet the needs of current and future households on all new developments. The Inspector was satisfied: 'that the mix of accommodation provided would meet the needs of current and future households of the area...' for the same reasons as in relation to the TNP.
- 2.11 **The effect on heritage assets (paragraphs 30 to 47):** The Inspector first considered the scheme on the basis of its current condition i.e. no development and found that the appeal proposal would introduce large and massive buildings into the parkland.

The appeal scheme is shown below:



The parkland being an important element of the significance of the setting of The Elms as a villa. Notwithstanding the area southwest of the ha-ha proposed to be kept free from built development, the Inspector considered that the overall integrity of the wider parkland would be harmed. However, the remainder open areas would allow the remnant of the parkland to still be read as such.

- 2.12 Set against this harm the Inspector considered the heritage benefit of allowing the rear elevation of The Elms and the remnant of the parkland to be appreciated by the public walking in and cycling through the open space as well as the future occupiers of the site. However, the heritage benefit of the development was only attributed limited weight for a number of reasons including the considerable alterations to The Elms which have reduced its quality. The harm to the significance of the setting of The Elms was concluded by the Inspector to be at the top end of less than substantial.
- 2.13 In terms of the Thame Conservation Area (TCA) within which the site is located, in reducing the open area between the historic town (one-time fringe of the town) and more modern development on Elms Road and Broadwater Avenue, the Inspector considered that the proposals would harmfully reduce the significance of the TCA. The heritage benefit of opening up this area was only viewed to be marginal. The Inspector did not accept that the design quality of the development would enhance the TCA stating: ‘...however good the design may be, it would still cause harm to the legibility of the earlier town edge... this would result in less than substantial harm to the significance of the TCA and this would be at the lower end of this category.’
- 2.14 **Affordable housing provision:** The Inspector found affordable housing was required to be provided in accordance with policy CSH3 of the SOCS and policy H8 of the TNP. Rectory Homes submitted a planning obligation to a financial contribution to affordable housing. This was to off-set the non-provision of affordable housing from the extant

permission for housing on the site. As such the contribution was the equivalent of 14.8 dwellings. The Inspector confirmed that the actual amount required from 40% of 78 dwellings would have been 31.2 dwellings.

- 2.15 In addition, the Inspector noted that there was no evidence from a Registered Provider, to say that the proper proportion of older persons affordable housing could not be managed on the site. No robust justification for an off-site contribution had been made.
- 2.16 Overall, the Inspector considered the scheme failed to provide the proper contribution to affordable housing and failed to justify a financial contribution instead of on-site provision. Accordingly, the Inspector found conflict with policy CSH3 of the SOCS and policy H8 of the TNP, as well as the NPPF. This harm was given very substantial weight.
- 2.17 **Infrastructure and Other Works (Paragraphs 60 to 62):** The Inspector was satisfied that the contributions the council sought in respect of primary medical care capacity, refuse/recycling, street naming, public art, bus stop and public transport (including provision for a travel plan) as well as public open space contributions towards improvements to The Elms recreation area met the three tests (necessary/directly related; and fairly and reasonably related) set out in Regulation 122 of the CIL Regulations, paragraph 56 of the NPPF and policies CSI1 of the SOCS, policy D10 of the Local Plan 2011 and Policy CLW4 of the TNP.
- 2.18 **Extant Planning Permission (paragraphs 63 to 67):** During the Inquiry Rectory Homes submitted a Statutory Declaration confirming that: *‘the site, with the existing planning permission remains viable..to develop and (the company) will do so.’* The letter continued to confirm that the appellant company *‘is fully committed to building the extant scheme if the C2 Appeal is dismissed.’* The Inspector saw no reason take a different view and gave this substantial weight as a fall-back.
- 2.19 The Inspector noted that: *‘If permitted the built form of the proposed development would be very similar to the permitted scheme. The effects of the built form of the two proposals on the setting of The Elms and this its significance on the character and appearance of the TCA would thus be very similar.’* Whilst there would be greater activity on the site associated with an increase in the resident population and by those employed at the site, the Inspector considered to the view that: *‘...this change would only be very limited, particularly as part of the site would become publicly accessible open space which would attract visitors whether use for the permitted or appeal scheme. Consequently, any additional harm would be very limited.’*
- 2.20 **Other material considerations (paragraphs 68 to 90):** The Inspector found that the development plan, looked at as a whole, notwithstanding the omission in respect of the balancing of heritage harm with public benefits, remains up-to-date and the normal balance was applicable.
- 2.21 Heritage benefits reviewed above formed part of the public benefits of the proposal. It was agreed during the appeal that population growth in South Oxfordshire in the next few years would see the household headship being 65 years of age or over. This need was seen as particularly acute for those seeking to purchase supported accommodation, since provision in recent years has been predominantly in the rental sector. The Inspector gave this benefit very significant weight.

- 2.22 However, having regard to the absence of affordable housing provision as part of the appeal scheme and the resulting policy conflict with the SOCS and TNP, the Inspector gave very substantial weight.
- 2.23 The provision of a reduced amount of non-policy compliant affordable housing to compensate for that which would be ‘lost’ from the extant permission, was not considered by the Inspector to comply with Regulation 122 of the CIL Regulations or paragraph 56 of the NPPF.
- 2.24 In relation to the delivery, management and maintenance of the public open spaces and trees contained therein were acknowledged by the Inspector to make the scheme policy compliant and as such only limited positive weight was afforded in the final balance.
- 2.25 Pedestrian and cycling links to be provided were also considered by the Inspector necessary to comply with policy HA4 of the TNP. Therefore, the Inspector considered them to be a neutral consideration.
- 2.26 The Inspector afforded the permanent job creation arising from the development moderate positive weight, but in the context of the additional economic activity associated with the construction process, significant positive weight was given by the Inspector in respect of this matter.
- 2.27 The proposed development would satisfy the relevant highway policies, including the provision of a Travel Plan. Accordingly, the Inspector considered this would be a neutral consideration, and a matter part of the consideration of the fall-back.
- 2.28 The ecological enhancements through bird boxes and bat boxes as well as woodland belt strengthening were also being provided to ensure policy compliance. The Inspector therefore gave them limited positive weight.
- 2.29 The appeal scheme would provide the opportunity for future occupiers to downsize and release family housing to others. This the Inspector considered to be a significant benefit.
- 2.30 Finally, in terms of the health and well-being benefits for future occupiers associated with the care packages to ensure residents could remain in their homes longer and thus less likely to rely on the NHS, the Inspector considered that such a benefit was principally for the benefit of the private individual and would be of little public benefit.
- 2.31 Consequently, the Inspector gave limited positive planning weight to this aspect of the scheme.
- 2.32 **Planning Balance (paragraphs 92 to 96):** ‘I have given substantial weight to the fall-back position as a material consideration in this appeal, but this does not change my final conclusion. The heritage effects would be very similar to the appeal proposal, and the increase in the number of dwellings and other benefits associated with the appeal proposal but not the permitted scheme, would not outweigh the harm from the non-provision of affordable housing on site and the overall non-compliance with the site specific policy in the TNP.
- 2.33 The Inspector considered other matters raised by third parties (paragraph 91). Thame Town Council raised concerns in respect of surface water flooding on the basis of an EA update to its maps since the appeal application was determined. The appellants clarified this matter with the Inspector who was subsequently satisfied that the

assessment of surface water flood risk did not change and could be dealt with through appropriate conditions.

- 2.34 **High Court Challenge:** The applicants challenged the Inspector’s decision in the High Court in November 2019 before this current application was submitted.
- 2.35 The Judgement was issued on 31 July 2020 and focused on whether a proposal for extra care housing (which the applicant asserted was within Use Class C2) does or does not fall within the scope of development plan policies (CSH3 South Oxfordshire Core Strategy and H8 of the Thame Neighbourhood Plan) requiring schemes for 3 or more dwellings to provide affordable housing. A copy of the judgement is **contained** in Appendix 3.
- 2.36 Essentially, Mr Justice Holgate considered that there was no reason why C2 development cannot provide accommodation in the form of dwellings provided its use did not fall within Use Class C3. The Use Classes Order does not preclude extra care development from representing dwellings. Subsequently Mr Justice Holgate considered that the development plan policies could apply to “dwellings” falling within Use Class C2, unless explicitly specified otherwise in the policy.
- 2.37 The appeal decision is a significant material consideration in the determination of this application, as is the High Court decision.

3.0 THE PROPOSAL

- 3.1 Section 5 of the Planning Statement submitted in support of the application (and prepared after the legal challenge had been launched in November 2019) sets out in detail the proposed development.
- 3.2 In the context of the appeal scheme, there is a reduction in the number of units from 78 to 66 extra care units as well as the provision of 3 guest rooms. The associated resident’s centre has been amended to provide more purposeful accommodation and facilities for employees, visitors and residents alike. In addition, 1.2ha of publicly accessible open space will be provided.
- 3.3 The extra care units, guest rooms and associated resident’s centre are proposed within a smaller footprint than was approved as part of the extant planning permission with the same high-quality contemporary design. This is demonstrated in the buildings overlay plan **contained** in Appendix 4.
- 3.4 At my request to assist those reviewing the application, the applicant has also provided a comprehensive set of comparison elevation plans which are **contained** in Appendix 5 and are also available on the council’s website. The proposals have a reduced footprint and built form in contrast to the extant permission and also include form, an increase to the provision of publicly accessible open space, a reduction in surface car parking and a new sensory garden to the north east.
- 3.5 Following the decision of the High Court, referred to above, the applicants have agreed to provide a policy compliant off-site contribution towards affordable housing. This is discussed in more detail below.
- 3.6 In addition a contribution of £560,000 is made towards improvements to Elms Park. S106 contributions are discussed in more detail below.

3.7 The application has been submitted with the following supporting information:

- Planning Statement
- Design and Access Statement
- Heritage Statement
- South Oxfordshire and Thame Housing Market Report
- Need for Specialised Accommodation for Older People Report
- Transport Assessment
- Ecology and Protected Species Appraisal
- Landscape Strategy
- Landscape Management Plan
- Tree Survey and Proposed Tree Retention Survey
- Archaeological Desk Based Assessment, Evaluation and Excavation Reports
- Ground Investigation Report

3.8 During the course of the application, and in response to my request for information in respect of the operation of the site as a C2 use, the applicants submitted an Operational Strategy for the proposed development June 2020 alongside a review of the Operational Management by Sarah Livadeas.

4.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

4.1 All copies of consultation responses and representations can be read in full on the council's website and are summarised below.

4.2 **Thame Town Council** objects to this application which are summarised below:

- The application is contrary to the Thame Neighbourhood Plan (TNP) policies; Policy H1, allocate land at The Elms for no more than 45 homes; HA4: The Elms, Allocation for no more than 45 residential dwellings;H8: Provide affordable housing; H9: Provide a mix of housing types; and H10: Provide a Thame-specific affordable housing and dwelling mix strategy.
- The design is considered poor in terms of security by Thames Valley Police;
- The County do not consider the accommodation complies with their definition of Extra Care Housing;
- The strategic need for need for leasehold Extra Care Housing is not recognised by Oxfordshire County;
- Heritage concerns are not outweighed by the benefits of this proposal.

1. Extra Care Housing. This proposal is once again referring to Extra Care Housing (ECH) in line with earlier applications while also declared as C2 Residential Care. Of the care and services offered most, if not all could be provided within a household's current home. For example, in spite of the staff sleeping quarter shown within the Resident's Centre there is no proposal for 24-hour, on-site clinical care. Instead, a 24-hour emergency call system is offered of a type that can be bought as a service for use within any home.

2. Oxfordshire County Council's Planning and Housing and Social Care Commissioning teams have both responded stating the proposed use does not comply with their definition of ECH. They note that there is currently

adequate planned provision for ECH to meet the needs of older people up to 2031, within South Oxfordshire.

3. Need for this development. Oxfordshire County Council are the principle authority for determining the need for accommodation for older people. The County are clear that they do not see a need for more ECH, finding current and pipeline provision adequate up until 2031. The County would as part of their assessment have considered making the provision of leasehold (market) ECH a strategic issue, yet they have not recognised the need to do so (Oxfordshire Market Position Statement 2019-2022, December 2019).

4. The applicant has stated within their South Oxfordshire and Thame Housing Market Report that there is an imbalance between older people who wish to downsize and their ability to access suitable homes. It is not clear how the larger two-bedroom and 17 three-bedroom units will enable downsizing in terms of the suitability of the accommodation offered.

5. Housing need. The applicant has also looked at demographics and wider housing need in order to demonstrate wider housing pressures and, presumably, a lack of alternative housing. They point to an ageing population in Thame, and across the District; Tables 3.6 and 3.7 of their South Oxfordshire and Thame Housing Market Report indicate a growth of Thame residents aged 65 years and over equivalent to 879 people between 2011 and 2018 but only 629 people between 16 and 64 years of age in the same period. Table 3.7 does indicate however that this would only serve to bring Thame's age demographic in line with wider South Oxfordshire. The data within this analysis is stated within the report to be 2018 ONS but is likely to be based on mid-year 2016 estimates (the ONS source is not given). This would, therefore, predate the significant number of homes recently provided on the new housing estates in and around Thame that are primarily aimed at attracting younger families. It is more plausible that the 16-64 age group will increase relative to the over 65s.

6. The use of ONS mid-year population estimates will also under report working age people. These estimates rely on the transfer of individuals between health authority areas to track internal migration. These are renowned for underestimating the number of younger people. Those of working age may use a health practice near their place of work, and so do not need to register elsewhere or, typically being healthier, only register with a new practice when driven by need.

7. The report looks to the older population in terms of drive-time to Thame (Table 3.8). The population has been projected within 5, 10 and 15 minutes drive time of the centre of Thame to 2023 and 2034, from a baseline of 2018. A 15 minute drive time takes in parts of Wheatley and Princes and Monks Risborough, and all of Chinnor, Haddenham, Long Crendon, etc. It has been stated by the applicant that most people looking for older accommodation prefer to stay locally, and Princes Risborough, etc. have their existing and/or potential sites for care home provision; as does Haddenham, a sizeable village with its own allocation sites proposed for C2 use around 2 miles away. This argument on need based upon drive time therefore carries little weight. It is more likely that potential buyers will come from much further afield, given the likely cost of the units, the annual ground rent for maintenance and care, and the relatively small local population to draw customers from.

8. Affordable housing. The applicant's offer of £1,855,913.40 does not take into account that land is not available for purchase in the Thame area for any appreciable size of site. In response to the Town Council's March 2019 Call for Sites only one site was offered that is not already subject to options with a major housebuilder or developer, and that was specifically offered to Thame Community Land Trust. The potential loss of The Elms as a source of affordable housing is therefore highly significant as no other mitigation is practicable. It is argued that the development would free up family-sized homes within the local area. However, even if each home was sold in the Thame area, the homes would be sold on the open market and the usual affordability issues for local residents would not be relieved.

9. The proposal, in not providing any affordable housing on site and integrated with other housing, remains contrary to Policy H8 of the TNP. The Inspector to the recently appealed scheme at The Elms also found the absence of onsite affordable housing would result in very substantial harm (paragraph 95 of the decision notice). It is noted, too, that within the recently recovered appeal at Wheatley (ref: APP/Q3115/W/19/3230827) the Secretary of State gave very substantial weight to the delivery of affordable homes, given the shortfall within the District.

10. Housing policies. The applicant has made much of the recent appeal decision (for P18/S3596/FUL), in which they state that the Inspector concluded they had fulfilled Policy H10 of the TNP. The Inspector actually concluded that the dwellings were C3 in nature, and ancillary to an agreed C2 residential care institution use. He believed that such housing would be appropriate housing for Thame. Yet the applicant is challenging that decision and does not agree with his finding that the dwellings are C3 in nature. Should the District uphold the applicant's view that the provision is for C2 residential units, this proposal would be contrary to TNP Policies H9 and H10 in failing to provide a mix of housing types and failing to provide a Thame-specific affordable housing and dwelling mix strategy.

11. Similarly, in proposing C2 residential care units the proposal is contrary to Policies H1 and HA4 of the TNP. These policies state that no more than 45 homes / residential dwellings will be acceptable on the site, respectively.

12. The applicant has argued that housing policies H1 and HA4 are out of date and can therefore be disapplied. This is to misunderstand the purpose of policies H1 and HA4 as they apply to The Elms. These policies are designed to reduce harm to and preserve and enhance the Thame Conservation Area and the setting of the adjacent heritage assets. Policy HA4 is consistent with the NPPF and therefore remains material.

13. The cap on numbers that TNP Policy HA4 brings is still appropriate. The cap seeks to not only control the physical dimensions of any development but also the type of activities that would occur on site. This would include both within the sensitive setting and townscape of The Elms, and within what would become a public park. HA4 aimed to control not just vehicle movements but also noise, air and light pollution. Policy HA4 was also written with the expectation that the allocation site would be occupied primarily by families, who would embrace the daily "park life", events and festivals the immediately adjacent Elms Park hosts. There is concern that a development such as that proposed, occupied by a single demographic will prevent the public open space being perceived as truly public. The risk of forming an enclave is high

and very much against the TNP objective of integrating new housing into Thame.

14.Design. The Town Council notes the concerns of Thames Valley Police in their representation regarding the site's vulnerability in terms of crime. Given its open access, parkland setting this is likely to cause significant issues in terms of policing costs and safety for individuals, should the development be granted.

15.Heritage concerns. The Town Council notes and supports the Inspector's findings within his decision letter on the recently appealed scheme. He judged the level of harm to the setting of The Elms was at the upper end of the scale of less than substantial harm.

16. The Inspector also concluded that by causing harm it would be contrary to Policy HA4 of the TNP in not preserving and enhancing the TCA and the setting of the adjacent listed building. He found "it would also be contrary to Policies ESDQ16 and ESDQ20 of the TNP which require development proposals to maintain or strengthen the specific character of the site, and that listed buildings and their settings and conservation areas should be conserved and enhanced" (paragraphs 43 – 46, Appeal Decision, attached).

17. The Town Council notes the judgement of the Inspector in deciding the benefits of the appealed development weigh equally against the harm to the heritage assets. These were mainly the provision of the accommodation, the freeing of existing housing for the use by families, and the economic activity the proposal would create (paragraphs 80 – 90, Appeal Decision). The Town Council believes, as does the District Council's Conservation Officer that the benefit must outweigh the harm. With no homes now offered, and the number of proposed care units reduced, the benefits must now weigh much less than before.

18. The Town Council notes and supports the District Council's Conservation Officer in their views, namely, that allowing access to the rear of The Elms to allow the public to enjoy and understand it in its setting has only limited weight; and the character of the open space would be altered significantly, compromising the legibility of the former parkland and eroding its contribution to the overall significance of the TCA.

4.3 **Conservation Officer** – considers that the changes to the scheme in comparison to the appeal scheme do not reduce the impact the Inspector previously identified. Concludes: '*...that the proposal would remain contrary to local policies CSEN3 and CSQ3 of the SOCS, saved policies CON5 and CON7 of the Local Plan 2011 as well as Policy HA4 of the Thame Neighbourhood Plan, although the saved Local Plan Policies do not require a planning balance to be made which should be done in line with the tests of the NPPF. Consideration should also be given to how it responds to emerging policies ENV6, ENV7, ENV8 and ENV9 of the Local Plan 2034.*'

4.4 **Countryside Officer** – confirms that the site has been subject to ecological surveys in 2011 and 2019 and as such no objections are raised subject to conditions in respect of a Construction Environmental Management Plan in respect of biodiversity and a Biodiversity Enhancement Plan.

- 4.5 **Drainage** - no objections subject to a condition requiring a surface water drainage scheme to be submitted to and approved in writing by the local planning authority prior to the commencement of development.
- 4.6 **Forestry Officer** – discussions between the applicants and the council's Forestry Officer have been extensive following his initial objection which required a number of matters to be addressed as follows:

A lack of landscaping at the rear of the Crescent South

B lack of information in respect on tree planting pits to be planted within the hard surfacing to the south of the resident's centre and north east of Parkside South.

C Softworks planting plan 3 of 3 does not correlate with the landscaping plans or the arboricultural report. The report shows T3063 (Walnut) has declined in health and now needs to be removed. The landscaping plan shows T3063 to be retained. I have no objection to the removal of T3063 subject to a replacement Walnut being planted to mitigate the loss.

D Confirmation is required that the stump of T3063 is to be ground out, not dug out. The stump grinder must only grind the actual stump and not trace roots that extend out from the stump as this could lead to damage of the other surrounding trees.

E No information has been submitted showing any existing or proposed ground levels, therefore the full impact of the proposal cannot be assessed.

F No information has been provided showing the drainage infrastructure needed to serve the development

Amended plans were submitted on 5 June 2020 in response to the officer's concerns which included the removal of the Liquidambar Slender Silhouette from this location (A) and show T3063 removed and replaced (C). In addition, the applicants confirmed that the stump of T3063 (D) is to be ground out, not dug out and that this can be secured by through the need for an Arboricultural Method Statement, via a planning condition.

The applicants confirmed in the covering letter confirmed that the proposed layout has been designed to minimise the amount of potential obstructions along the verge, which is too narrow for a street tree. Trees in this location would be likely to impair function and access of the garages. No additional trees are proposed in the area because of the need to ensure an easy and direct unimpeded route off the vehicular surface to the adjacent footway. Tree planting is proposed on the opposite side of the road.

In relation to information in respect of tree pits (B), the applicant confirmed that the council previously agreed that this information would be requested via a planning condition for the extant planning permission (Condition 16 of P14/S2176/FUL) and under draft Condition 10 for the appeal scheme (P18/S3596/FUL).

In relation to ground levels (E), the applicant confirmed that detailed proposed site levels were requested through draft Condition 8 for the appeal scheme (P18/S3596/FUL). Notwithstanding this and in response to further comments from the Forestry Officer, the applicants confirmed that they would support an additional prior to commencement condition to ensure the submission of the existing and proposed ground levels information as requested and that absolutely no ground level changes will be made within 2m from any retained trees RPA (root protection area).

In relation to drainage infrastructure (F) the applicants confirmed that as per the previous planning applications an Indicative Services Plan (drawing reference: P.504.500 revision C) and details of the surface water strategy (please see Flood Risk Assessment and Surface Water Drainage Strategy) have been submitted and that such information could be conditioned as it had been for the extant planning permission

(Conditions 14 and 15(v) of P14/S2176/FUL) and draft Conditions 13 and 7(iv) for the appeal scheme (P18/S3596/FUL).

The Forestry Officer subsequently confirmed that this information is acceptable as long as the plans are not indicative. On 25 August 2020 the services plan was renamed proposed. The precise details to be drawn up with the service providers. The applicants confirmed agreement to planning conditions requiring these designs to be submitted and approved by the Council.

The applicant confirmed that street lighting (G) information was previously agreed to be dealt with via planning condition (see condition 25 of the extant permission, P14/S2176/FUL and draft Condition 11 for the appeal scheme (P18/S3596/FUL).

The applicant confirmed that an Arboricultural Method Statement could be secured by means of a planning condition as it had been for the extant planning permission (Condition 15 of P14/S2176/FUL) and draft Condition 7 for the appeal scheme (P18/S3596/FUL).

In the light of the additional information and amended plans provided by the applicants the Forestry Officer's objections and concerns have been addressed.

- 4.7 **Historic England (South East)** – on the basis of the information available, HE do not wish to comment.
- 4.8 **Air Quality** – No objections subject to conditions.
- 4.9 **Contaminated Land** - Based on the information provided in The Brownfield Consultancy Desk Top Study and Site Investigation Report for The Elms, Thame OX9 3HP Report Reference: BC012 RE001 dated 17 July 2013 the site appears to be suitable for the intended development with respect to contaminated land. Therefore, no objection is raised.
- 4.10 **Environmental Protection Team** – No objections subject to conditions regarding to submission of details in regarding mitigation measures for noise and dust mitigation. In addition a condition is sought to be imposed in respect of the hours of construction.
- 4.11 **Environment Agency** – confirmed no consultation was required as the development falls outside the relevant categories.
- 4.12 **Oxfordshire County Council Single Response –**
Strategic comments:
Since the Site was allocated in the neighbourhood plan there have been a number of planning applications for both Use Class C3 and C2 developments. The first application P14/S2176/FUL for C3 housing was approved in 2015 and remains an extant permission. Then there was an application P18/S3596/FUL for an extra care development of 78 Class C2 units and residents centre that was refused by South Oxfordshire District Council in February 2019 and dismissed at appeal in October 2019. A claim to challenge the appeal Inspector's decision was lodged in November 2019 and is ongoing.

This current application effectively amends the refused application proposal.

Our transport comments attached indicate no objection subject to conditions and note that the previous refusal was not on transport grounds.

Transport Development Control: No objections subject to conditions. Contributions required in respect of public transport services (£71,208); public transport infrastructure (£2,000) and travel plan monitoring (£1,240).

Lead Local Flood Authority: No comments to make on the application but confirms that the council should consult our own drainage teams for advice before determining the application.

Specialist Housing: We would not classify this development as extra care housing as defined in OCC's market position statement supplement 2019 because the proposed development is described as being C2 classification i.e. it is a residential care institution. The applicant describes the development of extra care housing but we do not agree that it fits that definition. As a C2 development there would not be a requirement for affordable housing on the site.

The extra care housing projected to be built in South Oxfordshire by 2031 is in line with the needs of older people according to our population profiling therefore we are not seeking extra care housing proposals at this time. That may change.

4.13 **Thame Conservation Area Advisory Commission** – object.

4.14 **Thames Water Development Control** – Thames Water has identified an inability of the existing foul water network infrastructure to accommodate the needs of this development proposal. Thames Water request that a condition be attached to any permission. The following condition was agreed for the purposes of the previous appeal scheme (in the event the Inspector allowed the development:

No development shall be commenced until details of the proposed means of foul drainage disposal have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed in accordance with the approved details prior to that part of the development being brought into use.

This condition reflects Thames Water requirements.

As the application confirms that no surface water will be discharged to the public network, Thame Water has no objection to this aspect of the proposal.

Overall, on the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

4.15 **Urban Design Officer** – No objections following revised plans amending details of the FOGs and window openings; the extension and definition of boundary treatments

4.16 **Housing Development** – confirms that the application meets the requirements of policy CSH3 in respect of affordable housing contributions and confirms that due to the nature of the development, off-site contributions are appropriate in this case.

4.17 **Oxfordshire Clinical Commissioning Group** – no objection subject to contributions towards health-care provision secured via a S106 agreement.

- 4.18 **Crime Prevention Design Officer (CPDA)** - as with the previous application no assurances on incorporation of the principles of crime prevention design or standards of physical security within proposals, or to achieving Secured by Design (SBD) accreditation.

Officer comment: This objection from the CPDA did not form a refusal reason for the appeal scheme and this is a material consideration, particularly given the extant permission and its similarities with the appeal scheme and now this current application.

The Inspector as part of the appeal proposal is provided with a copy of all representations submitted and considers them regardless as to whether or not they are reflected in the council's refusal reasons. As such it is important to observe that the Inspector did not consider the design of the scheme flawed in this respect.

- 4.19 **Neighbours** - Some 207 letters of objection have been received from local residents, many using a pro-forma letter. These objections can be summarised as follows:

- Contrary to TNP – amount, scale and siting of development; and lack of mix of house types
- No need for more elderly persons accommodation in Thame especially since care home allowed at appeal on the DAF site in Thame
- Lack of affordable housing
- Urban feel of development and high density out of keeping with character of area
- Inadequate parking and travel planning
- Excess additional vehicular traffic movements along surrounding roads to access the site
- Highway safety concerns
- Visitor centre is inappropriate commercial development
- Harmful impact on the setting of Elms Park
- Loss of trees
- Pedestrian safety concerns
- Lack of parking to be provided on the site for residents and visitors
- Loss of valuable green space which is a green lung for the town
- Reduction in ball games area
- Light pollution
- Would prejudice the town centre
- Noise nuisance
- Air quality
- Ecological impact
- Harmful to setting of The Elms and character of the conservation area
- Loss of privacy of park and its users and well as school children and neighbouring properties
- Increased pressure on local infrastructure/amenities

5.0 RELEVANT PLANNING HISTORY

5.1 The relevant planning history for the application site is set out below:

- 5.2 [P18/S3596/FUL](#) - Refused (28/02/2019) - Appeal dismissed (21/10/2019)
The erection of a 'Housing with Care' development (Use Class C2) and a communal residents centre; the creation of new public open space; the provision of new pedestrian/cycle links from Upper High Street to Elms Road and Elms Park; repairs and

alterations to the boundary walls and entrance of Elms House; and associated infrastructure works and landscaping.

- 5.3 [P18/S3597/LB](#) - Approved (28/02/2019)
Repairs and alterations to the boundary walls and entrance of Elms House including (i) repairs to 2no. existing piers at site entrance on Upper High Street; (ii) the erection of 2no. new stone piers and timber boarded electric gates at the private entrance to The Elms; (iii) new timber boarded gates at the entrance to the annex to The Elms (32a) with repairs to 2no. existing stone entrance piers; (iv) the partial demolition of an existing brick wall and creation of a new footpath and cycleway; (v) repairs and refurbishment of existing stone ha-ha and provision of new metal fencing.
- 5.4 [P18/S1486/PEJ](#) – Pre application advice
Erection of an extra care housing development (Class C2) comprising apartments, houses & a communal residents centre, creation of a new public open space, new vehicular access, pedestrian/cycle links and associated works.
- 5.5 [P18/S0014/DIS](#) - Approved (28/02/2018)
Discharge of conditions 16 (tree pits), 17 (air quality), and 25 (landscaping), of planning permission P14/S2176/FUL.
- 5.6 [P17/S1069/FUL](#) - Refused (16/02/2018)
The erection of an Extra Care housing development (Use Class C2) comprising apartments, houses and a communal residents' centre with basement parking and storage areas and creation of new public open space, provision of new vehicle access from Elms Road and a new pedestrian/cycle link onto Upper High Street with associated infrastructure works and landscaping.
- 5.7 [P17/S1670/LB](#) - Refused (16/02/2018)
Works and alterations as follows: (i) partial demolition of the boundary wall along Elms Road and creation of vehicle entrance with erection of new plinth walls and painted metal railings with 2no. brick piers; (ii) the removal of wooden gates at site entrance on Upper High Street and repairs to 2no. existing piers; (iii) the erection of 2no. new stone piers and timber boarded electric gates at the private entrance to The Elms; (iv) new timber boarded gates at the entrance to the annex to The Elms (32a) with repairs to 2no. existing stone entrance piers; (v) erection of a new 2m high stone boundary wall to the annex to The Elms (32a); (vi) the erection of 2no. new bollards; (vii) the partial demolition of an existing brick wall and creation of a new footpath and cycleway; (viii) repairs and refurbishment of existing stone ha-ha and provision of new metal fencing.
- 5.8 [P17/S4390/DIS](#) - Approved (07/02/2018)
Discharge of conditions 8 - car parking provision, 10 - Construction Traffic Management Plan, 15 - arboricultural method statement, 24 - footpath signage of Planning Permission P14/S2176/FUL
- 5.9 [P17/S4471/DIS](#) - Approved (30/01/2018)
Discharge of conditions 3(materials) and 4(materials) of planning permission P14/S2176/FUL
- 5.10 [P17/S4215/DIS](#) - Approved (19/12/2017)
Discharge of condition 12 - Archaeological Watching Brief on application ref. P14/S2176/FUL

- 5.11 [P16/S2407/FUL](#) - Withdrawn (15/11/2016)
The erection of an Extra Care housing development (Use Class C2) comprising apartments, houses and a communal residents' centre with basement parking and storage areas and creation of new public open space, provision of new vehicle access from Elms Road and a new pedestrian/cycle link onto Upper High Street with associated infrastructure works and landscaping.
- 5.12 [P14/S2176/FUL](#) - Approved (05/08/2015)
The erection of 37 dwellings and creation of new public open space, provision of new vehicle access from Elms Road and a new pedestrian / cycle link on to Upper High Street with associated infrastructure works and landscaping.
- 5.13 [P14/S2395/LB](#) - Approved (05/08/2015)
Works and alterations as follows: (i) Partial demolition of the boundary wall along Elms Road and creation of vehicle entrance with erection of new plinth walls and painted metal railings with 2no. brick piers; (ii) the removal of wooden gates at site entrance on Upper High Street and repairs to 2no. existing piers; (iii) the erection of 2no. new stone piers and timber boarded electric gates at the private entrance to The Elms; (iv) new timber boarded gates at the entrance to the annex to The Elms (32a) with repairs to 2no. existing stone entrance piers; (v) erection of a new 2m high stone boundary wall to the annex to The Elms (32a); (vi) the erection of 2no. new bollards; (vii) the partial demolition of an existing brick wall and creation of a new footpath and cycleway; (viii) repairs and refurbishment of existing stone ha-ha and provision of new metal fencing.
- 5.14 In paragraph 2.20 above I have confirmed the appeal Inspector's consideration of the extant permission and confirmed that substantial weight should be attached to it as a fall-back.
- 5.15 Of relevance to this application, is P19/S2785/O for outline application for landscaping and improvement works to the adjacent Elms Park including provision of new paths and the relocation and / or replacement of the multi-use games area. The submission of this application was required to be submitted alongside the current application by policy HA4 of the TNP and its supporting text. The application remains undetermined pending the outcome of this application, however there are no technical objections to it. I am the case officer for that application as well.

6.0 ENVIRONMENTAL IMPACT ASSESSMENT

- 6.1 The proposal constitutes Schedule 2 (category 10(b) urban development projects), however none of the threshold criteria are met.

7.0 POLICY & GUIDANCE

- 7.1 The relevant development plan policies to this proposal are set out below. Those in bold are considered to be the most relevant in the determination of this application having regard to both the extant permission and the recent appeal decision and the policy conflict found by the Inspector.

7.2 Thame Neighbourhood Plan Policies:

- H1 Allocate land for 775 new homes
- H3 Review delivery of land at The Elms

H4 Integrate allocated sites

H6 Design of new development to be of high quality

H7 Provide new facilities

H8 Provide affordable housing

H9 Provide a mix of housing type

H10 Provide a Thames specific affordable housing and dwelling mix strategy

GA1 New development to provide good pedestrian and cycle connections to the town centre and other destinations

GA6 New development to provide parking on site for occupants and visitors

CLW2 Actively involve local people in ongoing consultation

CLW4 Contributions required from developers of new housing to fund additional healthcare facilities.

ESDQ6 Improve Elms Park Recreation Area

ESDQ2 Allocated sites to provide open space in locations specified in section 3

ESDQ11 Incorporate sustainable urban drainage into new development

ESDQ12 Applications for new development to provide a drainage strategy

ESDQ13 New dwellings code for sustainable homes

ESDQ15 Developers must demonstrate in a Design and Access Statement how their proposed development reinforces Thames's character

ESDQ16 Development must relate well to its site and its surroundings

ESDQ17 Development must make a positive contribution towards the distinctive character of the town as a whole

ESDQ18 New development must contribute to local character by creating a sense of place appropriate to its location

ESDQ19 The Design and Access Statement and accompanying drawings must provide sufficient detail for proposals to be properly understood.

ESDQ20 Building style must be appropriate to the historic context

ESDQ23 Streets within new developments must be designed as pleasant places to be

ESDQ24 Pedestrian and cycle routes must link together potential destinations, such as new housing in the town centre

ESDQ26 Design new buildings to reflect the three-dimensional qualities of traditional buildings

ESDQ27 Design in the "forgotten" elements from the start of the design process

ESDQ28 Provide good quality private outdoor space

ESDQ29 Provide car parking so that it fits in with the character of the proposed development

HA4 The Elms – allocation for no more than 45 residential dwellings

7.3 South Oxfordshire Core Strategy (SOCS)

Policies:

CS1 Presumption in favour of sustainable development

CSS1 The overall strategy

CSM1 Transport

CSM2 Transport Assessments and Travel Plans

CSH1 Amount and distribution of housing

CSH2 Density

CSH3 Affordable housing

CSH4 Meeting housing needs
CSTHA1 The strategy for Thame
CSTHA2 New allocations at Thame
CSEN1 Landscape
CSEN3 Historic environment
CSQ2 Sustainable design and construction
CSQ3 Design
CSQ4 Design briefs
CSG1 Green infrastructure
CSB1 Conservation and improvement of biodiversity
CS1I Infrastructure provision

7.4 South Oxfordshire Local Plan 2011 (SOLP 2011)

Policies:

G2 Protection and enhancement of the environment

G5 Making the best use of land
C4 The landscape setting of settlements
C6 Biodiversity conservation
C8 Species protection

C9 Landscape features

CON5 The setting of listed buildings

CON7 Proposals affecting a conservation area

CON12 Archaeology
EP1 Prevention of polluting emissions
EP2 Noise and vibrations
EP3 Light pollution
EP6 Surface water protection

D1 Good design and local distinctiveness

D2 Vehicle and bicycle parking
D3 Plot coverage and garden areas
D4 Privacy and daylight
D6 Design against crime
D7 Access for all
D10 Waste management
D12 Public art

H4 Towns and villages

R2 Recreation

R6 Informal recreation

CF1 Safeguarding community facilities and services including recreation facilities

T1 Transport requirements for new developments

T7 Cycling and walking

THA3 Land adjacent to 32 Upper High Street Thame

7.5 Emerging South Oxfordshire Local Plan 2034

Policies:

The emerging South Oxfordshire Local Plan was submitted for examination in March 2019 and was the subject of examination hearings summer 2020. Following the examinations on 28 August 2020 the Inspector has published his preliminary conclusions and post-hearings advice which has result in a final consultation on the proposed main modifications to the eSOLP which ends on 2 November 2020. The

council has been directed by the Secretary of State to adopt the plan by December 2020.

In the light of the above limited weight can be attached any relevant policies contained within the eSOLP at this time but this will increase in the coming months. The following policies of relevance to this application and were agreed as common ground with the applicants for the previous appeal:¹:

STRAT1 The Overall Strategy*
STRAT5 Residential Densities*
TH1 Strategy for Thame*
H9 Affordable Housing*
H11 Housing Mix*
H13 Specialist Accommodation for Older People*
ENV1 Landscape and countryside
ENV6 Historic Environment*
ENV7 Listed Buildings*
ENV8 Conservation Areas*
INF1 Infrastructure Provision*

7.6 Supplementary Planning Guidance/Documents

South Oxfordshire Design Guide 2016 (SODG 2016)
Developer Contributions SPD
Joint Housing Delivery Strategy 2018-2028

7.7 National Planning Policy Framework

Paras 8, 11, 47, 48, 54, 56, 59-62, 64, 91, 117, 120, 122, 123a, 124, 127, 185, 192 and 213.

7.8 Planning Practice Guidance

Historic Environment – July 2019
Housing for Older and Disabled People – June 2019

7.9 Other Relevant Legislation

Human Rights Act 1998
The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

Planning (Listed Buildings and Conservation Areas) Act 1990 (amended) (Listed Buildings Act – section 66 (1) and s72(1))

8.0 PLANNING CONSIDERATIONS

8.1 Having regard to the recent appeal decision on this site, the conclusions the Inspector reached for that decision, the significant weight to be given to the extant planning permission, and, with no technical objections to the application proposal (with the exception of the council's Conservation Officer), I consider the relevant planning considerations are the following:

¹ * denotes that the policy is the subject of proposed modifications to which the current consultation relates

- The nature of the use
- Relationship to the development plan
- Effect on heritage assets
- Affordable Housing contributions
- Public Benefits

The nature of the proposed use

- 8.2 The development will provide 66 extra care units for sale on the open market, including 3 guest rooms and a communal residents centre for guests. The proposed development would be subject to occupancy conditions and the S106 agreement would include a schedule to ensure future occupiers of the scheme were in receipt of a basic level of care.
- 8.3 The communal facilities in the form of the residents' centre have been improved from the appeal scheme such that there is space available for carers and therapists to meet occupiers in consulting/treatment rooms, as well as have a base should they so need including sleeping accommodation.
- 8.4 The site manager could also operate from the communal building. In addition, the amount of communal space and offer has been increased. The residents centre will be managed by First Port whom will be responsible for its day-to-day operation as well as being responsible for other communal areas including ground maintenance. A care agency (registered with the CQC) will be contracted for the provision of personal care and the agency would administer services to the residents of the development both in their own homes or the residents centre.
- 8.5 Other communal facilities within the residents' centre include a small gym, salon, residents lounge, dining room, bar, kitchen and function room.
- 8.6 In contrast to the appeal scheme and in common with the extra care development allowed in Lower Shiplake (as referred to in the Inspector's decision), the residents centre would be more of a focus for the community of residents on site.
- 8.7 The scheme would comprise a C2 use but each accommodation unit still represents a dwelling as per the recent appeal decision.

Relationship with the development plan

- 8.8 The Inspector considered this issue within paragraphs 22 to 28 of his decision. As noted in paragraph 25 of the Inspector's decision, the council has accepted that the site is suitable for extra care development such as this. This was noted in the officer's delegated report and as such did not feature in the previous refusal reasons.
- 8.9 Policy H9 of the TNP indicates that for schemes of more than six dwellings a mix of dwelling types and sizes to meet the needs of current and future residents in Thame will be sought.
- 8.10 Policy H10 of the TNP also requires developers to submit a Thame-specific Affordable Housings and Dwelling-mix strategy. The policy requires that the strategy must clearly set out identified housing needs within Thame and demonstrate how the proposed development addresses those needs. The Inspector noted in paragraph 25 that no such strategy existed, and I have not been made aware of any produced since the appeal was determined. The appeal scheme proposed 63% of units being 2 bed units.

The number of 2 bed units for the proposed development has been reduced to 60% with 1 and 3 bed units provided also which account for the remaining 40%.

- 8.11 Whilst there is conflict with policy H9, the application proposals need to be considered in context, an approach taken by the Inspector for the previous appeal (see paragraph 26). As part of the previous appeal, the council agreed as common ground that there was a significant need for accommodation of this type in Thame based on the 2014 Strategic Housing Market Assessment, Oxfordshire County Council Market Report and the Housing with Care in Thame Report submitted with the appeal application.
- 8.12 In the light of the evidence available to the Inspector and which remains relevant for this application, I see no reason to depart from the Inspector's conclusion at paragraph 26 of his decision that the proposal would be "Thame appropriate" and comply with policy H10 of the TNP. I also consider that the scheme would provide a more varied dwelling type and size, albeit for older persons in need of care. However, as I have outlined above, demand for this type of specialist housing is significant.
- 8.13 Policy CSH4 of the SOCS also requires a mix of dwelling types and sizes to meet the needs of current future households on all new residential developments. The application proposals would deliver policy compliant Lifetime Homes and would be located in a suitable location for older persons accommodation. As such there would be no conflict with policy CSH4 of the SOCS. My opinion in this respect is consistent with the Inspector's.
- 8.14 Policy HA4 also sets out the principles which any detailed planning application must incorporate which are:
- Ensuring the retention of open land and mature trees in such a way as to
 - maintain an appropriate setting for The Elms listed house. This is to include
 - an area of publicly accessible space which must incorporate a north / south
 - pedestrian cycle link connecting Elms Road to Upper High Street
 - Designing sustainable urban drainage into the open space
 - Providing public / pedestrian links from the north/south route adjacent to
 - Elms Park
 - Providing proposals for improving the adjacent Elms Park, informed by
 - consultation with local people
 - Ensuring that building frontages overlook the open space within the site, the
 - adjacent Elms Park and the key pedestrian/ cycle routes through the
 - development
 - Retaining trees around the boundary and within the site
 - Ensuring that the height and massing of buildings sympathetically to the
 - height of existing buildings around the site's boundaries. Buildings should be
 - generally 2 – 2.5 storey's in height
 - Ensuring that the detailed design of buildings responds positively to the characteristics of the area.
- 8.15 The scheme remains contrary to policy HA4 of the TNP given its scale exceeds the maximum 45 dwellings the site was allocated for. However, I agree with the Inspector's comments at paragraph 23 of his decision that this is on a *prima facie* basis. The scheme is compliant with many of the other requirements of policy HA4, particularly when considered in the context of the extant permission and the similarities between that scheme and this one. I consider the potential conflict with heritage and affordable housing policies below.

Effect on heritage assets

- 8.16 The Inspector concisely described the heritage assets in paragraph 30 of his decision: *'The Elms is a Grade II listed building. It was constructed in the early nineteenth century and lies immediately to the north of the appeal site. The heritage experts agreed that it was a "villa", being a detached house of this date, in its own grounds, on the fringe of a town, often with wings and outbuildings (here The Barn to the northwest which is listed in its own right but not affected by the proposed development). In this case the setting of the main house was made up of two substantive elements, the immediate area around the house up to the ha-ha 11 and the parkland area beyond. The parkland area makes up the appeal site.'* and in relation to the conservation area:

'The site lies in the Thame Conservation Area (the TCA). The TCA covers the main area of the town centre extending, predominantly, on either side of the continuous High Street, Upper High Street and Park Street through the town. The Thame Conservation Area Character Appraisal (the CACA) was adopted by the Council in 2006. In 2006 what is now the south eastern part of the TCA including the appeal site did not form part of the TCA. However, the CACA considered this area on the basis that the TCA should then be extended to include this area; this subsequently occurred.'

- 8.17 The scheme is considered acceptable in design terms since it very much reflects the extant permission in scale, form, appearance and siting and a design objection to the appeal scheme was not made by the council to the appeal scheme on that basis. Given the council's Urban Design Officer raises no objections to the scheme I see no reason to depart from that, especially in the context of previous schemes on this site.
- 8.18 Given the allocation of housing on the site in the TNP the principle of harm to the setting and significance of heritage assets has long been accepted and in this respect I am aware that the allocation of housing on this site was never wholly supported by Historic England. However, the benefits of delivering a centrally located site for much needed housing together with affordable housing and contributions to The Elms Park were considered public benefits weighing heavily in support of the allocation. Similarly, the extant permission was considered to result in less than substantial harm but the public benefits outweighed this harm, otherwise permission would never have been granted.
- 8.19 Paragraphs 38 to 43 of the Inspector's decision identify the harm the proposals would cause to heritage assets and I do not intend to repeat them here. Notwithstanding the mitigation measures proposed (which include a reduction in the footprint of development across the site, less surface car parking and a new sensory garden at the north east of the site), the harm to the heritage assets would remain less than substantial. As such in accordance with paragraph 195 of the NPPF, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing the optimal viable use of the heritage asset. I consider this below in my assessment of the planning balance.
- 8.20 Given the harm that arises to heritage assets, albeit less than substantial, the application proposals would be contrary to policies CSEN1, CSEN3 and CSQ3 of the SOCS, G2,C9, D1, CON5 and CON7 of the SOLP and policies HA4, ESDQ16 and ESDQ20 of the TNP. I am mindful of the consistency of some of the above policies with the NPPF which was identified by the Inspector for this appeal but also another appeal at Wheatley which was recovered by the Secretary of State (P18/S4254/O refers) which resulted in the policies being considered out of date and the titled balance in the NPPF engaged. Unsurprisingly this is a view the applicant takes also. However, I am satisfied that such policies are broadly consistent with the NPPF (as has been found as

numerous other appeals since July 2018) and should be afforded moderate weight in the determination of this application, especially when read alongside the relevant policies in the NPPF in respect of the consideration of public benefits of any development.

Affordable Housing contributions

- 8.21 The appeal scheme offered a contribution towards the provision of off-site affordable housing (£1,855,913.40). This amount reflected the contribution secured as part of the S106 agreement for the extant permission.
- 8.22 The applicant, until the decision of the High Court, took the view that given the C2 nature of the development no affordable housing contribution was necessary contrary to the decision of the Inspector who found conflict with policy CSH3 of the SOLP as well as the NPPF.
- 8.23 Following the decision of the High Court confirming the Inspector was reasonable to consider the need for a contribution towards affordable housing, the applicant has offered the council a policy compliant off-site affordable housing contribution of £2,969,445 to be secured via a S106 agreement. The council’s Housing Officer has confirmed that given the nature of the development, an off-site contribution is justified. This addresses the concerns the Inspector previously had in this respect outlined in paragraph 58 of his decision.
- 8.24 The contribution would ensure this aspect of the development would comply with policy CSH3 of the SOLP and policy H8 of the TNP. Moreover, it provides justification for the absence of mixed tenure of this site, the ethos of which is established in the TNP including policy H9. Accordingly, I consider that conflict with policy H9 has been overcome by way of this confirmation from the Housing Officer.

Public Benefits

- 8.25 In paragraphs 80 to 90 of the Inspector’s decision, he considered public benefits of the development as required by paragraph 196 of the NPPF. I consider below those benefits to which the Inspector attached very significant weight, significant positive weight or were significant benefits. I also consider the position he took in respect of the very substantial weight he gave to the harm arising as a failure of the scheme to deliver affordable housing.
- 8.26 **Provision of older persons housing:** The Council acknowledges that there is that there is a significant need for older persons accommodation in the District. and assesses that need through the Oxfordshire Strategic Housing Market Assessment (2014) (SHMA) and updated through the Authority Monitoring Report (2019) (AMR).

Table 75 on page 147 of the SHMA shows the projected net need for specialist housing for older people for the period 2011 to 2031, for South Oxfordshire this results in the following figures:

@133 per 1000			@170 per 1000		
Need	Supply	Net need	Need	Supply	Net need
2,821	1,512	1,309	3,606	1,512	2,094

The SHMA analysis shows a total of 133 units per 1000 population are required across the county, this is lower than the national average of 170 units per 1000, thereby

resulting in the range of figures given. Dividing this over the twenty-year period covered it results in a range of 65 – 105 units required per year to be delivered within South Oxfordshire.

- 8.27 I gave evidence at the Lower Shiplake Inquiry, which took place shortly before the Inquiry into the appeal at The Elms in which I was also involved but not as the council's witness. In relation to the public benefits associated with the provision of housing for older persons I stated at 5.3 of my proof of evidence:

'The council accepts that there is a significant unmet need for specialist housing for older people and that, by meeting that need, under-occupied family housing could be freed up. The council acknowledges that the south of the District around Henley, Sonning Common and Thame is a priority area and that increasing the supply of private Extra Care Housing for rent or purchase is important in meeting this need.'

- 8.28 This was also the stance the council took in determining the 2018 appeal application (paragraphs 7.21 and 8.8) of the delegated report confirmed the high level of need and the important contribution the development would make towards boosting housing supply, contribute towards meeting the projected increase in need for accommodation for older persons. I note that the County Council's comments regarding their definition of extra care housing, however they are concerned with the strategic provision of affordable extra care housing. There is an acknowledged absence of strategic planning for extra care market housing and this is referenced in paragraph 4.62 of the submitted South Oxfordshire and Thame Housing Market Report. Older homeowners looking for market (owner occupier) extra care housing in the District are under provided for and their needs and preferences are not currently being met.
- 8.29 Further, the development was considered to provide more choice and opportunity for people to both 'upsize' and 'downsize' within the Thame housing market and would reduce pressure on local health and social services.
- 8.30 In the light of the above, the provision of specialist housing for older persons on this site remains a very significant benefit to which significant weight should be attached.
- 8.31 **Provision of affordable housing:** The scheme would deliver a policy compliant affordable housing contribution. The Housing Officer has confirmed that it is appropriate that this contribution is made off-site having regard to the nature of the development. I consider that the contribution is a significant benefit which should be afforded significant weight.
- 8.32 **Economic Activity:** The proposed development would result in job creation during construction and operation and the use would add to economic activity in the area. I see no reason to depart from the Inspector's considerations of these benefits at paragraph 86 of his decision. The decrease in development would have little effect on job creation to change their benefits – thus I give limited positive weight to the former given their temporary nature; moderate positive weight to the permanent employment since these are limited. In respect of the additional economic activity I attach significant positive weight.
- 8.33 Having considered those public benefits of greater significance, I consider that the benefits I have highlighted above would outweigh those heritage harms. This is different to the previous Inspector's opinion contained in paragraph 94 of his decision

since the applications will now provide a policy compliant affordable housing contribution.

9.0 INFRASTRUCTURE REQUIREMENTS

- 9.1 If the application were to be approved infrastructure requirements as identified in the consultation responses and in accordance with relevant policies would need to be secured through a legal agreement under S106 of the Town and Country Planning Act 1990 (as amended), in accordance with the Council's Planning Obligations SPD. The S106 would need to secure the following:

Public transport services and infrastructure: £73,208

Travel Plan Monitoring: £1,240

Public art: £20,196

Recycling/Refuse: £12,276 (unless private arrangements made)

Street naming: £1603

Health care: £36,590.40

Off-site affordable housing: £2,969,445.00

Elms Park Recreation Area: £560,000

S106 Monitoring fee: £2581 (potential open space monitoring fee to be added also given the financial contribution to The Elms and is the subject of on-going discussions at the time of preparing this report).

All contributions will be index linked and delivery timings as per signed S106 for the appeal scheme.

10.0 PLANNING BALANCE

- 10.1 Section 38(6) of the Planning and Compensation Act requires the determination of planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.
- 10.2 The development would conflict with policy HA4 of the TNP given the scale of development would exceed the allocated maximum 45 dwellings. Conflict would also arrive with policies CSEN1, CSEN3 and CSQ3 of the SOCS, G2, C9, D1, CON5 and CON7 of the SOLP and policies HA4, ESDQ16 and ESDQ20 of the TNP, due to the harm to heritage assets, albeit less than substantial harm. Special attention and great weight should be given to these harms.
- 10.3 A significant material consideration in the determination of the appeal is the extant planning permission. Another is the Inspector's decision for the 2018 appeal scheme and the decision of the High Court.
- 10.4 I have considered above the public benefits as required by paragraph 196 of the NPPF. A significant and fundamental departure from the appeal scheme is the policy compliant contribution the scheme would now make to affordable housing provision. The council's Housing Officer does not consider it would be appropriate to deliver this provision on site and as such the concerns of the Inspector in respect of the mix of tenures on the site is no longer relevant to this application.
- 10.5 Moreover this provision and the other benefits outlined would tip the balance to outweigh the less than substantial harm that arises from the development, noting that policy HA4 of the TNP allows for a balance to be undertaken as to the overall planning conclusion (see paragraph 94). Clearly, the substantial harm the Inspector previously

found due to the failure to deliver affordable housing on the site no longer applies to this case.

- 10.6 Paragraph 8 of the NPPF identifies three overarching objectives (economic, social and environmental) to enable sustainable development to be achieved. Paragraph 9 recognises that they are not criteria against which every decision can or should be judged.

Economic: In the light of the temporary and permanent job creation together with the increased economic activity associated with the development the economic objective would be met.

Social: the proposal would deliver much needed specialist housing for older persons and would deliver much needed affordable housing (a mix of affordable rent and sale will be secured alongside a mix of house sizes), albeit off-site. The development is supported by your Housing Officer.

The scheme, at the request of the OCCG would also contribute towards health services ensuring the development would impact on services.

The development would also enable the release of homes into the market as future occupiers move to the site.

The scheme is well-designed, a matter not previously disputed at appeal and the enhancements to the resident's centre will provide a communal focus for the development, enabling a local sense of community as to ensure the health and well-being of future occupiers.

The financial contribution the development would make towards improving Elms Park would have wider community benefit.

Environmental: I have identified less than substantial harm to the historic environment. However, as required in law, I have considered these harms against the public benefits – of which there are many, notably the provision of much need specialist market accommodation for older persons and a policy compliant affordable housing contribution. The scheme will also deliver biodiversity gains although this have not informed by decision as to whether the less than substantial harm has been outweighed.

- 10.7 I am satisfied that the development would achieve these environmental objectives and result in the appeal scheme comprising sustainable development subject to the completion of a S106 agreement and conditions.

11.0 CONCLUSION

- 11.1 The application already benefits from an extant position. The Inspector was satisfied that if the appeal failed the 2014 would be implemented. As such he accorded it substantial weight in his determination of the appeal and so do I.

- 11.2 There are no technical objections to the application subject to conditions.

- 11.3 The proposed development would deliver much needed extra care housing to Lifetime Homes standard. The occupation could be controlled via S106 to ensure the overall operation of the site falls within Class C2 use. There is a need for extra care market housing in the District which is going unmet. In addition, the scheme would enable the

release of housing as future occupiers either “downsize” or “upsized” to the development. The contribution this would make is considered a significant benefit.

- 11.4 The scheme will deliver predominantly flats with a few houses. The size of the units range between 1 and 3 bedrooms, with 60% being 2 bedrooms. The scheme will deliver policy compliant affordable housing but this cannot be delivered on site and this is a matter which the Housing Officer has determined due to the nature of the use. The development would thus accord with policy H10 of the TNP and policy CSH4 of the SOCS.
- 11.5 The development would exceed the limit of 45 dwellings imposed by policy HA4 of the TNP. Material considerations must be considered in order to ascertain whether this policy conflict is outweighed in accordance with s38(6) of the Planning and Compulsory Purchase Act. Having considered the public benefits of the development and undertaken the planning balance, I am satisfied that the material considerations in this case outweigh the policy conflict.

12.0 RECOMMENDATION

12.1 **To authorise the head of planning to grant planning permission subject to:**

a) The prior completion of a Section 106 agreement with the County Council and District Council to secure financial contributions as listed above; and

b) the following schedule of conditions summarised below and contained in full in Appendix 6:

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