

**APPENDIX 4 South Oxfordshire District Council's performance 1 April 2018 to end December 2019 <sup>1</sup>quality of decisions – major appeals allowed (overturned)**

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
<a href="#"><u>P16/S3608/O</u></a>	Land to the east of Benson Lane, Crowmarsh Gifford	Erection of up to 150 dwellings	Committee overturn	Public Inquiry 27-29 March 2018	Appeal allowed 29 May 2018	Costs application made by the appellant. Full award of costs allowed.  Approximately £250,000 paid
<a href="#"><u>P16/S3525/FUL</u></a>	Thames Valley Police, Greyhound Lane, Thame	Redevelopment to form up to 41 sheltered apartments for the elderly	Committee overturn	Written representations	Appeal allowed 28 September 2018	N/A
<a href="#"><u>P16/S3284/O<sup>2</sup></u></a>	Land south of Greenwood	erection of up to 140 dwellings	Committee overturn	Public Inquiry	Appeal allowed	Costs application

<sup>1</sup> <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

<sup>2</sup> Also associated application P16/S3285/FUL 17-19 Greenwood Avenue – demolition of two dwellings and construction of new access road. Appeal allowed 24 December 2018.

	Avenue, Chinnor			14 days between 6 June and 26 October 2018	24 December 2019	made by the appellant. Refused.
<a href="#"><u>P18/S1964/FUL</u></a>	Land off Fieldside Track, Long Wittenham	Up to 36 dwellings (revised access arrangements to approved scheme (allowed at appeal)	Committee overturn	Written representations	Appeal allowed 24 May 2019	N/A
<a href="#"><u>P18/S3210/O</u></a>	Land to the east of Reading Road, Lower Shiplake	Extra care development up to 65 units	Delegated refusal	Public Inquiry  10-14 September and 17 and 18 September 2019	Appeal allowed 14 October 2019	N/A



# Appeal Decision

Inquiry Held on 27 -29 March 2018

Site visit made on 4 April 2018

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 29 May 2018**

**Appeal Ref: APP/Q3115/W/17/3186858**

**Land to the East of Benson Lane, Crowmarsh Gifford, Wallingford**

**OX10 8ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Bloor Homes and Hallam Land Management against the decision of South Oxfordshire District Council.
- The application Ref P16/S3608/0, dated 28 October 2016, was refused by notice dated 4 April 2017.
- The development proposed is up to 150 dwellings together with associated access, public open space, landscaping and amenity areas.

## Decision

1. The appeal is allowed and planning permission is granted for up to 150 dwellings together with associated access, public open space, landscaping and amenity areas on land to the East of Benson Lane, Crowmarsh Gifford, Wallingford OX10 8ED in accordance with the terms of the application, Ref P16/S3608/0, dated 28 October 2016, subject to the conditions in the attached schedule.

## Application for costs

2. At the Inquiry an application for costs was made by Bloor Homes and Hallam Land Management against South Oxfordshire District Council. This application is the subject of a separate Decision.

## Procedural Matters

3. The appeal proposal is in outline with all matters reserved for later approval except for the matter of access. The submitted masterplan and parameters plan are for indicative purposes only and I have considered them accordingly.
4. Crowmarsh Parish Council and a local residents' group, Crowmarsh Residents' Action Group (CRAG), applied for and were granted Rule 6<sup>1</sup> party status in the Inquiry.
5. The Council refused planning permission citing four reasons for refusal on its Decision Notice. The first reason related to the harm to local character and the setting of the Chilterns Area of Outstanding Natural Beauty (AONB). The

<sup>1</sup> Rule 6(6) The Town and Country Planning (Inquiries Procedure)(England) Rules 2000

- second related to the lack of capacity in local schools and the third concerned the loss of Grade 2 agricultural land. The fourth reason related to the lack of a section 106 agreement to secure affordable housing and off site infrastructure.
6. The Council's Statement of Case confirmed that reason for refusal 2; concerning education provision was not being pursued. Following a further review of its position, the Council confirmed in its proof of evidence that it would not be defending the reasons for refusal, save for securing the appropriate planning obligations. The Council presented no oral evidence with the exception of contributing to the discussions regarding the planning obligation and appropriate conditions.
  7. A signed and dated planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) between the appellant and the Council was submitted at the Inquiry. The obligation related to the provision of affordable housing, the maintenance of public open space and financial contributions towards street naming, public art, recycling and waste provision. A separate executed section 106 agreement between the appellant and Oxfordshire County Council, the highway authority, was also submitted which related to the implementation of highway works, a bus service contribution and a travel plan monitoring fee. A further signed and dated agreement with the County Council was provided with my agreement immediately after the event. This related to the funding of a traffic regulation order should one be required by the highway authority.
  8. The Council and the appellant submitted an agreed Statement of Common Ground (SoCG) dated 27 February 2018 indicating all the areas of agreement between them.
  9. At the Inquiry, the appellant provided additional updated evidence with regard to air quality and transport matters in order to address the concerns expressed by the Rule 6 parties. These documents were considered during the event.
  10. After the close of the Inquiry, the Parish Council, one of the Rule 6 parties, made me aware that the Council published its updated Housing Land Supply Statement for 2017-18 on 30 April 2018. I asked the parties for views on the implications of accepting this evidence for the determination of this appeal. I have acknowledged this new information and shall explain later in my decision, the approach I have taken to whether or not it should be accepted into evidence and the bearing it has on my reasoning.

## **Main Issues**

11. Mindful of the above, I consider the main issues in this case are :

- whether the Council can demonstrate a 5 year supply of housing land sufficient to meet the objectively assessed need (OAN) for housing and the consequences for national and local plan policy;
- the effect of the development on the landscape character, visual amenity and local distinctiveness of the area;
- the impact of the proposal on the local highway network and highway safety;
- the likely impacts of the development on air quality;

- the likely impact of the proposal on local education infrastructure;
- the effect of the development on Best and Most Versatile (BMV) agricultural land.

12. There are also other areas of objection raised, including health provision, flooding and drainage which I shall also examine.

## Reasons

### *Principle of development*

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
14. For the purposes of this appeal, the most relevant development plan policies are those contained in the South Oxfordshire Core Strategy 2012 (CS) and the saved policies of the South Oxfordshire Local Plan 2006 (SOLP).
15. Policy CSS1 focusses major new development to the Growth Point of Didcot, the market towns of Henley, Thame and Wallingford, the 12 larger villages in the District and other smaller villages. Crowmarsh Gifford is defined as a larger village. This designation is based on an assessment<sup>2</sup> of the local services and facilities that the village provides. Whilst this has been challenged by CRAG and third parties, the methodology was tested in the Examination of the CS and I am satisfied that it is robust.
16. Policy CSH1 sets out the housing requirements of the district for the period 2006-2026. This policy is derived from the now revoked South East Plan. There is common ground between the parties that the housing requirements of the district, and therefore Policy CSH1, which were not based on the Frameworks approach to housing need, are now out of date.
17. Furthermore, in outlining the amount and distribution of housing in the borough, Policy CSH1 provides for a total of 1154 dwellings to be allocated in larger villages and identified in the Site Allocations Development Plan Document (DPD). However work on this document was abandoned in favour of progressing the new Local Plan. Therefore there are no allocations for the village of Crowmarsh Gifford.
18. Policy CSR1 identifies an appropriate level of growth for the villages to support and enhance sustainable communities. This is to be achieved through allocations, allowing infill sites and rural exceptions where a need has been shown. The appeal site is located outside the village of Crowmarsh Gifford in the open countryside; it does not form an infill site and is not justified as a rural exception. The proposal therefore conflicts with this Policy.
19. In a recent High Court decision for a site in Chinnor<sup>3</sup> it has been found that Policy CSR1 is 'silent' in relation to housing in larger villages due to the lack of a Site Allocations DPD. Indeed the Council have accepted this position in a committee report<sup>4</sup> for a site in Benson. Having regard to this context, I have

<sup>2</sup> Settlement Assessment Background Paper 2011, Core Strategy Appendix 4

<sup>3</sup> South Oxfordshire District Council V SSCLG and Cemex Properties UK Ltd [2016] EWHC 1173 (Admin)

<sup>4</sup> Report to Planning Committee Application Ref P16/S3611/FUL, Land north of Littleworth Road, Benson dated 13 March 2017

no reason to disagree with this conclusion.

20. The final publication version of the emerging South Oxfordshire Local Plan was the subject of consultation in October/November 2017. Draft Policy H4 of the plan sets a minimum requirement of 1041 dwellings in larger villages to be achieved through neighbourhood plans and local plan site allocations, with 110 homes identified for Crowmarsh Gifford. I was advised at the Inquiry that the Council has decided to suspend progress with the Local Plan due to difficulties in bringing forward the proposed allocation at Chalgrove airfield. It is unclear how the emerging plan will now progress. In any event due to the stage in the preparation of the new Local Plan, it is common ground that very limited weight can be attributed to this document.
21. A neighbourhood plan is under preparation for Crowmarsh Gifford. Whilst work has commenced on the evidence base and consultation has taken place on potential site allocations and draft policies, the document is still at an early stage. I therefore consider that limited weight should be attributed to it.

#### Housing need and supply

22. At the Inquiry, whilst there was agreement between the parties that the Council could not demonstrate a 5 year supply of housing land, there was however disagreement between the appellant and the Council on the actual supply figure. The Council assessed housing land supply to be 4.1 years whilst the appellant submitted detailed evidence arguing the figure could be as low as 2.3 years.
23. After the close of the Inquiry, the Council published its updated housing land supply statement which concluded that the position had improved and a 5 year supply could now be demonstrated.
24. In terms of the approach I should take in this appeal, I have had regard to paragraph 14 of the Framework which sets out a presumption in favour of sustainable development and explains what it means for decision taking. In the first bullet point it states that this means approving development proposals that accord with the development plan without delay. In the second bullet point this means that where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted. This is known as the 'weighted' or 'tilted' balance.
25. In the context of paragraph 49 of the Framework, where a Council can demonstrate a five year housing land supply, the relevant policies for the supply of housing are not out of date. If the late evidence with regard to housing land supply is accepted, this would be the case here and the 'tilted' balance would not be engaged.
26. However I have also found that relevant development plan policies are silent and out of date. Therefore, irrespective of the position on housing land supply the 'tilted balance' would apply in any event. Therefore in the circumstances of this appeal, it is not necessary for me to determine the actual supply figure or whether the Council can demonstrate a 5 year supply of housing land. It is not determinative to my approach and subsequent reasoning.

*Landscape character and visual amenity*

27. The appeal site comprises an area of around 7.3 hectares located to the north east edge of Crowmarsh Gifford. At the northern edge of the site is Marsh Lane, an ancient byway set at a lower level to the site, enclosed by mature hedges and trees. Part of the western site boundary abuts the car park of the village community hall and the rear gardens of properties on Benson Lane. The remainder abuts Benson Lane itself and is screened by existing hedgerow and trees on the boundary of the highway. On the other side of Benson Lane lie existing housing and employment areas. The southern site boundary consists of the rear gardens of residential properties on The Street. The eastern edge of the site is undefined but follows the line of a public footpath which runs from Marsh Lane to the village boundary. Beyond that is a mature hedgerow and vegetation running along the A4074 Wallingford Bypass.
28. CS Policy CSEN1 aims to protect the district's landscape character and key features and gives high priority to the conservation and enhancement of the Chilterns and North Wessex Downs AONB's. It goes on to state that planning decisions will have regard to their setting.
29. Saved Policy G2 of the SOLP aims to protect the districts countryside, settlement and environmental assets from adverse developments. Saved Policy G4 seeks to protect the countryside for its own sake as an important consideration when assessing proposals for development. Both these policies were found to be out of date in the same appeal and subsequent High Court Decision I have referred to in paragraph 19 above. The above policies are restrictive of development in the countryside and were prepared in a different policy context. They do not accord with paragraph 17 of the Framework which seeks to recognise the intrinsic character and beauty of the countryside. I therefore conclude that they are out of date.
30. Saved Policy C4 of the SOLP is also a relevant landscape policy and seeks to protect important local landscape features and the setting of settlements. Saved Policy D1 aims to achieve high quality design and states that the protection and reinforcement of local distinctiveness should be taken into account in all new development.
31. The appeal site is not subject to any landscape designations but lies outside but close to two Areas of Outstanding Natural Beauty (AONB), the Chilterns AONB to the east and the North Wessex Downs to the north west. It is located in the Upper Thames Clay Valleys National Character Area which consists of low lying clay based flood plains to the River Thames. The County Landscape Character Assessment describes the site as being within the 'Terrace Farmlands' landscape type. This is characterised by broad flat gravel terraces with large scale regularly shaped fields predominantly in arable use. This character type is further sub-defined in the District Local Character Assessment, where the appeal site is described as being part of the 'River Thames Corridor' landscape type. This comprises mostly flood plain to the River Thames, with settlements located in close proximity to watercourses and busy transport corridors crossing through the area including the A4074.
32. CRAG made the case at the Inquiry that the site forms a valued landscape. Both the appellant and CRAG use the criteria set down in the GVLIA (3<sup>rd</sup>

- Edition)<sup>5</sup> to make their individual assessments but come to different conclusions.
33. The appeal site forms an agricultural field close to the edge of the village. It has no particular landscape features of merit and I agree with the appellant that it is of medium landscape quality. The Wallingford Bypass exerts an urban influence over the site and disconnects the site from the wider landscape. I observed on my site visit that the noise from the Bypass, and to a lesser extent from Benson Lane, adversely affects the tranquillity of the site. Reference was also made at the Inquiry to the noise from the Chinook helicopters which pass over the area on a fairly regular basis. The site does not include any rare landscape features and whilst there may be some heritage interest on the site, such as Bronze Age barrows, these are not considered to be so significant that they would prevent development. Any historic associations with particular people appear to me to be anecdotal and without substantive evidence.
34. In terms of recreational interests, public footpaths run along the northern, southern and eastern site boundaries of the site, not across the site itself. The site is in agricultural use and therefore does not have open access, even though I heard evidence that the site may be used in this way by local people. I acknowledge that the public footpaths provide a recreational value. As they are unaffected by the development, these recreational interests are maintained.
35. I acknowledge that the site is valued by the local community. However it has no particular landscape merit or significant scenic quality. Whilst it forms an area of attractive countryside, I conclude that it does not form a valued landscape in terms of paragraph 109 of the Framework.
36. With regard to landscape impact, the site is well contained by existing development in the village and the existing boundary hedgerows and vegetation on the site boundaries. The development of the site would result in the loss of an agricultural field and a significant change to the appearance of the land. However these impacts would be localised. In middle and longer distance views, intervening trees and hedgerows screen the site to a large extent, so that the development would not have a material effect on the wider landscape.
37. As I have stated earlier, the site lies close to two AONB's. The most significant in this case is the Chiltern AONB which includes a small part of the wider field to the east. This area of land was separated from the wider AONB when the bypass was constructed. CRAG have argued that whilst the boundary of the AONB needs to be hard and be able to be mapped, in effect it should be viewed as a fuzzy line. They consider that the appeal site lies within these fuzzy limits. However the appeal site is clearly outside the defined boundary, with the bypass providing a physical barrier between the site and the wider AONB.
38. I acknowledge that glimpses of the appeal site can be obtained from within the Chilterns AONB, for example from The Ridgeway. However the appeal site lies north of Newnham Manor, an approved development site, and would be seen in the context of built development in the village. Together with the existing boundary hedgerows and trees on intervening land, views of the site from the AONB would be limited. Furthermore the proposed landscaping scheme for the

<sup>5</sup> Guidelines for Landscape and Visual Impact 3<sup>rd</sup> Edition – Landscape Institute, IEMA. 2013

- development would, when mature, screen the site and filter views. I therefore conclude that the development would not cause harm to the setting of the AONB.
39. Turning to the visual impact of the development, views into and of the site would be fairly localised. The proposal would be seen in the main from Benson Lane, the residential properties which bound the site and the village hall car park. Some partial views would be achievable from the A4074 to the east but these would be filtered by the mature planting on the highway and the proposed landscaping along the eastern site boundary.
40. Immediate residential occupiers would experience a significant change in view out of their properties. Whilst acknowledging that the proposal is in outline form, the set back of built development from the site boundaries as indicated on the submitted Masterplan, together with the proposed landscape mitigation and retention of the existing public footpath routes would, when established, assist to screen the development. These measures could be secured through the consideration of the detailed layout at reserved matters stage.
41. The appeal proposal would be viewed as a continuation of built development along Benson Lane and an extension to the village. With the retention and enhancement of existing landscaping and the provision of new planting, the development would be softened and any landscape and visual impacts would be appropriately mitigated.
42. I therefore conclude that the proposal would not cause any material adverse harm to the landscape character or visual amenity of the area. It would comply with Policy CSEN1 of the CS and saved policies G2, G4, D1 and C4 of the SOLP. The proposal would also comply with paragraphs 7, 17, 109 and 115 of the Framework, which aim to recognise the intrinsic character and beauty of the countryside and give great weight to conserving landscape and scenic beauty in areas with the highest level of protection such as AONB's.
- Local highway network.*
43. The Rule 6 parties and local residents have raised concern with regard to the traffic impact of the development. The appellant prepared a Transport Assessment as part of the submission at planning application stage. A further supplementary statement was provided at the Inquiry in order to address some of the concerns raised.
44. As part of the preparation of the Transport Assessment a formal scoping exercise was undertaken with the highway authority to agree the methodology to be used, including the junctions to be analysed and the trip rates to be applied. I am satisfied that the assessment has been carried out in a systematic and robust way. Whilst the assessment relies on survey data from one day, I have no evidence before me to suggest that it is not representative of a typical weekday under normal traffic conditions. I therefore conclude that it is robust and appropriate to be used as the basis for the assessment.
45. The appellant applied traffic growth assumptions of around 7% to the period 2021. CRAG raised concern that this level of growth did not take account of committed development in the area and therefore underplayed the likely cumulative impact on Wallingford. However having noted the location of many

of these sites<sup>6</sup>, the traffic generated would more than likely make use of the A4130 to the south, which would be a more convenient and reliable route. Consequently as little traffic from these developments would be likely to pass through the centre of Wallingford and subsequently Crowmarsh Gifford, I am satisfied that the transport assessment could not reasonably have been expected to consider the additional traffic movements from these developments on the highway network.

46. I heard evidence that a traffic survey undertaken by the Parish Council in February 2018 found approximately 15% more vehicles heading north on Benson Lane than that indicated by the appellant's Transport Assessment. The two surveys used different methodologies. The Parish Council's survey was undertaken manually whilst the appellant used an electronic count. They were also undertaken on different days. These factors may have led to different traffic flows being recorded.
47. Putting these figures into context, the appellant's data amounts to around 9 vehicles per minute (542 vehicles per hour) and the Parish Council's figures equate to around 10 vehicles per minute (622 vehicles per hour) on Benson Lane. This difference is not significant. Even if I were to accept the higher level as being more accurate, I have no evidence before me to indicate that Benson Lane would be at capacity. I therefore have no reason to conclude that the development would result in unacceptable traffic impacts on Benson Lane.
48. Having regard to the lack of objection from the Highway Authority and the proposed off site mitigation measures to increase capacity at the Crowmarsh Hill roundabout junction and the A4074/A4130 roundabout, I conclude that the proposed development would not result in any significant adverse impacts on the wider highway network. The appeal scheme would therefore comply with paragraph 32 of the Framework which advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts would be severe.

#### Air quality

49. An Air Quality Management Area (AQMA) has been designated in Wallingford due to exceedances in the annual mean objective for nitrogen dioxide. The appellant submitted an Air Quality Assessment with the original planning application but also provided a revised assessment and Rebuttal Statement before the start of the Inquiry in response to the concerns raised by the Rule 6 parties.
50. All parties accept that development traffic would lead to increases in the annual mean objective for nitrogen dioxide within the AQMA. However such increases would be small, around 0.02 micrograms per cubic metre. This equates to a 0.1% change relative to the annual mean objective with a predicted impact of low to imperceptible with reference to the Council's Developer Guidance on Air Quality.
51. Dr. Upcraft representing CRAG provided evidence that recent published data has shown that nitrogen oxide levels have increased since 2015. He questioned the appellant's assessment that the impact of the development on the AQMA would be minimal and even if this were to be the case, the increase

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<sup>6</sup> Plan attached to Mr Witt's Cumulative Transport Review document

in pollution in the AQMA would be at odds with the Council's statutory obligations to address such pollution. However Dr. Upcraft's analysis concerns nitrogen oxide rather than nitrogen dioxide. The latter is the key indicator with regard to air pollution and it is exceedances of nitrogen dioxide, not nitrogen oxide, upon which the AQMA designation is predicated and subsequently monitored.

52. In conclusion on the basis of the evidence before me, and the lack of objection from the Council in this regard, I am satisfied that, with the proposed mitigation measures, the proposed development would not result in unacceptable impacts on air quality.

#### *Education provision*

53. The Rule 6 parties and local residents have expressed concern that the existing schools in the area are at capacity and cannot cope with more pupils from the proposed development. Particular concern is raised with regard to primary school provision.
54. The appellant has provided detailed evidence on the availability of school places in 10 primary schools in a 2 mile radius of the appeal site. Whilst this data shows different levels of surplus places at individual schools, I am satisfied that in the area as a whole there would be sufficient capacity.
55. In terms of Crowmarsh Gifford Primary School, Oxfordshire County Council's data demonstrates that around half of pupils come from outside the village. Whilst this reflects parental choice, without these pupils the primary school would have surplus places for children from the village. It would therefore be able to accommodate pupils from the proposed development. The consequence of the appeal scheme may be that children travelling from further afield then have to attend schools closer to where they live.
56. The Local Education Authority do not oppose the proposed development and have withdrawn their original request for a financial contribution towards education provision through the section 106 agreement.
57. Accordingly, I am satisfied that the local education infrastructure has adequate capacity to accommodate additional pupils from the proposed development.

#### *Best and most versatile agricultural land*

58. The appeal site comprises 7.3 hectares of predominantly Grade 2 agricultural land. Land of such quality is classed as BMV and the proposed development would inevitably result in its loss.
59. The Framework in paragraph 112 advises local planning authorities to take account of the economic and other benefits of the BMV agricultural land. Where significant development of agricultural land is demonstrated to be necessary, authorities should seek to use areas of poorer quality land in preference to the higher quality.
60. I note that the appeal site would be less than the 20 hectare threshold for consultation with Natural England. Having regard to the numerous examples of development proposals involving the use of agricultural land provided by the appellant, I agree that appeal scheme, a development of just over 7 hectares of land, would not be significant.

61. There is a high proportion of BMV agricultural land in the South Oxfordshire District, particularly around Didcot and Wallingford. There are few areas of poor quality agricultural land in the district and the majority of these have been allocated for development. This means that in order to meet the need for development land around Didcot and Wallingford, BMV land would be required. A number of draft allocations in the emerging local plan involve BMV agricultural land.
62. In economic terms, the proposal would result in the loss of productive farmland. However it forms part of a larger farm holding and its development would not have a significant impact on the viability of the enterprise. It would not result in severance or result in other adverse impacts such as the loss of access to the wider field.
63. In summary, I conclude that whilst the appeal scheme would result in the loss of BMV agricultural land, for the reasons given above, this would result in limited harm.

## **Other matters**

### *Housing Need*

64. CRAG put forward the case that the 5 year housing land supply is arguable and nebulous and that little weight should be given to it. In light of my finding that 5 year housing land supply is not determinative in this case, I do not address this matter further.
65. The Group also provided evidence that since January 2016, 1912 dwellings had been granted planning permission on sites in Crowmarsh Gifford, Wallingford and Cholsey. This represents 38% growth in the number of dwellings in these parishes, putting increased pressure on local services and infrastructure. However I understand that many of these sites are large strategic developments that will deliver housing over the plan period. I am advised by the appellant that around 409 dwellings are included in the five year land supply which equates to a population growth of 8% over the next 5 years. This does not in my view amount to significant growth.
66. CRAG has made reference to the figure of 110 dwellings allocated to Crowmarsh Gifford in the 2014 SHMA and draft Policy H4 of the emerging local plan as a numerical limit to new housing. The draft local plan, for the reasons I have explained earlier, has been put on hold and it may be that the distribution of housing in the district may need to be reviewed. The 110 dwelling figure has not been tested; it has not been adopted and therefore has no standing in policy terms. It cannot therefore be considered to provide a ceiling to development in the village.

### *Health care provision*

67. CRAG, the Parish Council and local residents have raised concern about the capacity of the local doctor's surgery to take on new patients emanating from the development. I have borne in mind that future occupiers of the appeal scheme may be local to the area and may be existing patients at the health centre. Furthermore not all patients will go to the nearest health centre; many will stay with their existing GP if they are moving house. This is demonstrated to an extent by the fact that the practice in Wallingford has around 16,500

patients of which about 11,000 come from north and south Wallingford and the Cholsey area.

68. I was advised that the Wallingford surgery is still accepting new patients and the Clinical Commissioning Group has not objected to the appeal scheme. Whilst I accept that existing patients may experience difficulty in getting an appointment to see their GP, I have no substantive evidence before me to suggest that the existing provision in the locality has reached capacity and that further patients could not be accommodated. I am therefore satisfied that adequate provision can be made.

#### *Flooding and drainage*

69. I also heard from a local resident concerned about flooding and drainage. The appeal site lies in the floodplain of the River Thames and there is a high water table. The appellant submitted a Flood Risk Assessment with the original planning application which notes that the site is located within Flood Zone 1, an area with the lowest probability of fluvial flooding. It is proposed that surface water drainage be dealt with through a sustainable urban drainage scheme (SuDS) including three attenuation ponds which would ensure that surface water run-off from the site is at the same rate as current greenfield run off. Furthermore the scheme has been designed to accommodate a 1 in 100 year storm event with a 35% allowance for climate change.
70. With regard to foul drainage, in consultation with Thames Water, a strategy has been developed that meets current regulatory requirements, discharging to existing sewer. The detailed design work is ongoing.
71. In light of the above I am satisfied that appropriate schemes to deal with surface and foul drainage can be provided and that the scheme would not cause an increased risk of local flooding.

#### *Employment*

72. CRAG have raised the issue of the housing/employment balance in Crowmarsh Gifford and the surrounding parishes arguing that there are limited job opportunities in the area. However the village is home to a number of significant employers with the specialist science companies on Howbery Park (one of the five largest employment sites in the district) and the adjacent Centre for Ecology and Hydrology. I acknowledge that due to the specialist nature of these jobs they may not suit local skills. However these organisations will also provide other non-specialist jobs which could be taken up by local people. Accordingly I am not persuaded on the evidence before me that there is a lack of employment opportunities in the area.

#### *Scout Group*

73. At the Inquiry I heard from Mr Edmunds from the local scout group informing me about the current lack of suitable accommodation in the village and that they would find it difficult to increase their numbers with new residents. Whilst I acknowledge the scout's position, it appears to me that potential solutions have yet to be fully explored with all stakeholders.

#### *Biodiversity*

74. The loss of biodiversity should the appeal site be developed was also raised as

a concern by local residents. I have noted the appellant's submitted Ecological Appraisal. There are no designated habitats of national, regional or local importance within or near the site and being a field in agricultural production; the ecological value of the site is low. I have had regard to the ecological enhancements proposed in the appeal scheme. These include the creation of new wetland habitat as part of the SuDS proposals, strengthening existing tree lines and hedgerow corridors and species rich planting in open space areas. Subject to appropriate measures to safeguard any protected species on the site such as bats, I am satisfied that the scheme would be acceptable in terms of biodiversity.

#### *Retail provision*

75. The limited retail facilities in Crowmarsh Gifford have been raised as a concern by CRAG. I acknowledge that the village has one small shop but nearby Wallingford has a considerable range of retail outlets. The appellant estimates that Wallingford Town Centre is about 15 minutes walking distance from the site and Benson Lane is a bus route, providing access to Wallingford and further afield including Oxford and Reading. Whilst there may be limited shopping outlets in Crowmarsh Gifford, there is good access by means other than the car to nearby centres. I am therefore satisfied that future residents of the appeal scheme would have adequate access to local shops, services and facilities.

#### **Planning obligation**

76. The appellant has provided three separate section 106 agreements. The first one made between the appellant and South Oxfordshire District Council secures the provision of 40% affordable housing and financial contributions in relation to street naming, public art and recycling and waste provision for the new dwellings. It also secures the maintenance of areas of public open space.
77. The Framework confirms that planning obligations should only be sought to mitigate the effects of unacceptable development therefore making it acceptable. The Framework in paragraph 204 and CIL Regulation 122 (2) set out 3 'tests' for seeking planning obligations. They must be necessary to make the development acceptable in planning terms, be directly related to the development and fairly and reasonably related in scale and kind to the development.
78. The 40% affordable housing contribution is required to ensure that the development accords with CS Policy CSH3. I am satisfied that the financial contribution to street naming and numbering is necessary in order to ensure that infrastructure as a consequence of development is provided in line with CS Policy CSI1. A recycling contribution is required to fund the provision of refuse bins to new properties and ensure adequate waste management is put in place. CS Policy R6 requires the provision of open space in all new residential developments. Measures to ensure its maintenance are necessary to protect the character and appearance of the area.
79. Turning to the requested financial contribution towards public art, this is supported by SOLP Policy D12. Whilst I accept that public art can contribute to place making and high quality design, I do not consider that in this case, it would be necessary to mitigate the effects of the development. It does not

- therefore meet the Framework and CIL Regulation tests and I take no account of it in my decision.
80. The second and third section 106 agreements are made between the appellant and Oxfordshire County Council and relate to off-site highway works, the bus service contribution, a travel plan monitoring fee and the funding of a potential traffic regulation order should it be required.
81. As I have set out in earlier in this decision, off site highway mitigation works to the Crowmarsh Hill roundabout junction and the A4074/A4130 roundabout, are necessary to increase capacity at these junctions. The bus service contribution is sought to improve the frequency and reliability of bus services in the day and extend the operation further into the evening. I am satisfied that this is necessary to promote non-car use and minimise air pollution. Additionally the contribution to improving bus stop infrastructure and provide real time bus timetable display is necessary to meet the same objectives. A fee for travel plan monitoring is required in order to ensure the implementation of the plan and monitor outputs. A financial contribution to fund the costs of promoting and consulting on a traffic regulation order for the proposed highway works, would be necessary should such an Order be required by the Highway Authority.
82. With the exception of the public art contribution, I am satisfied from the evidence before me that the above 3 tests are met and that the obligations comply with the Framework and the CIL Regulations. I am also satisfied that the contributions, which are site specific, meet that the pooling restrictions of Regulation 124 of the CIL Regulations. I shall therefore give them full regard in my decision.
83. The Parish Council suggested that financial contributions be sought for a number of local infrastructure projects including a pedestrian crossing on The Street, a new play area for the village and accommodation for the local scout group. Whilst such schemes may be desirable and would benefit the village, I have no evidence before me to demonstrate that these contributions are necessary to make the proposed development acceptable in planning terms. They do not therefore meet the tests of the Framework and the CIL Regulations and I consider them no further.
- ### **Planning Balance**
84. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine the appeal in accordance with the development plan unless material considerations indicate otherwise. I have concluded that whilst the proposal would comply with CS Policy CSH1 and SOLP saved Policies G2, G4, C4 and D1, it would not comply with CS Policy CSR1 as it lies outside the village in the open countryside. The appeal scheme would therefore not accord with the development plan.
85. I have already concluded that the 'tilted balance' is to be applied in this case as relevant development plan policies are silent and out of date. The proposal would provide 150 dwellings contributing to the housing need in the borough. I attach significant weight to this benefit. The proposal would also provide 60 affordable homes. The appellant has provided detailed evidence that there is a significant shortfall in affordable housing in South Oxfordshire. In Crowmarsh Gifford only 10 affordable homes have been delivered in the last 10 years. The

proposed development would assist to meet this deficit and I therefore attach significant weight to this benefit.

86. In relation to economic matters, I acknowledge that future occupiers of the dwellings would spend locally and support local shops and services. The construction of the dwellings would provide employment opportunities and support jobs in related industries and suppliers. However as these jobs would be short term during the construction period only, I attribute moderate weight to the economic benefits of the scheme.
87. I have found that the proposal would comply with the landscape policies of the development plan. Areas of existing green infrastructure are to be retained and enhanced in the scheme and existing public footpaths are maintained preserving the recreational amenity of the site and surrounding area. Biodiversity protection and enhancement proposals are also included in the scheme. These measures are primarily designed to mitigate the impact of the development or maintain existing provision and are therefore of neutral benefit. However as there is the potential for some environmental gain, I give them limited weight. I have found that the loss of BMV agricultural land as result of the development would not be significant and would therefore result in limited harm.
88. In regard to other matters, I have concluded that the scheme would not cause harm to the local highway network or air quality, that local infrastructure has capacity and the proposal would not cause increased risk of flooding.
89. Bringing all the above together, I consider that the adverse impacts of the development would not significantly or demonstrably outweigh the benefits. The proposal therefore constitutes sustainable development as defined in the Framework. The factors above provide the material considerations to grant planning permission other than in accordance with the development plan. I therefore allow the appeal.

### **Conditions**

90. The Council provided a list of agreed conditions at the Inquiry which I have considered having regard to the advice in the Framework. I have revised the wording as discussed at the Inquiry and where necessary made amendments in the interests of clarity and enforceability. The numbers in brackets relate to the conditions I have imposed in the attached schedule.
91. In the interests of good planning it is necessary to impose conditions setting out time limits for development and the submission of reserved matters (conditions 1-3). In regard to condition 2, an application for the approval of reserved matters is to be made within 1 year of the permission. The appellant expressed concern that this may not be achievable should the permission be challenged. He provided additional wording extending the time for the submission to the conclusion of any such process. I am satisfied that this is necessary. I also impose conditions defining the approved plans (condition 4) and restricting the number of dwellings to 150 (condition 5) for the avoidance of doubt.
92. In order to ensure that an appropriate mix of market dwellings is constructed, Conditions 6 is necessary. Condition 7 relates to the submission of reserved

- matters to ensure that the details submitted provide a satisfactory form of development.
93. Conditions requiring that the means of access to the site and the proposed dwellings be completed before first occupation and to prevent surface water discharging onto the carriageway are required in the interests of highway safety (conditions 8, 9 and 10). Condition 11 requiring the submission of a travel plan is necessary to promote non car means of travel and to minimise the effects on air quality. Control over the emissions of gas boilers to be installed in the dwellings is also necessary to mitigate any impacts on air pollution (condition 13).
94. In order to protect the living conditions of future occupiers, condition 12 is necessary to safeguard against potential noise nuisance from Wallingford bypass and nearby employment areas.
95. The submission of a Landscape Management Plan and a Biodiversity Enhancement Strategy and Management Plan are necessary to ensure the protection and enhancement of biodiversity and to assimilate the development into the landscape (conditions 14 and 15). Condition 16 is required in order to protect existing trees on the site during construction. In order to ensure a satisfactory sustainable surface water drainage scheme condition 17 is necessary.
96. Conditions 18 and 19 require the submission of a Construction Management Plan and control over the hours of construction. These are necessary to protect the living conditions of existing and future residents. A condition requiring a scheme of archaeological recording is necessary (condition 20) in order to appropriately record any finds on the site. A requirement for the provision of electric vehicle charging points is required in order to reduce pollution and minimise the impact on the nearby AQMA (Condition 21). In the interests of providing sustainable living environments and to promote home working, condition 22 regarding the provision of superfast broadband is also necessary.
97. I have omitted the suggested condition requiring 10% of market dwellings to be built to lifetime homes standard or equivalent. It is unnecessary because those matters should be adequately covered in the Building Regulations, given the Government advice on housing standards in its Written Ministerial Statement of 25 March 2015. A further condition relating to foul drainage was suggested by the Rule 6 parties however in light of the water authority's obligations in this regard this is not required. The highway authority suggested a condition protecting the public rights of way on the site boundaries. This is also unnecessary as this is a matter covered by highways legislation. I do not impose it. Discussion took place regarding the need to impose a condition to control building heights. I consider this matter can be addressed by the Council at reserved matters stage when a detailed layout has been prepared.

## **Conclusion**

98. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should succeed.

*Helen Hockenhull*

INSPECTOR

**APPEARANCES****FOR THE LOCAL PLANNING AUTHORITY:**

Tom Cosgrove QC

Instructed by Ian Price, Head of Legal, South Oxfordshire District Council

He called

Phillipa Jarvis<sup>7</sup>  
BSc (Hons) DipTP MRTPI

PJPC Ltd

Dr Paul Yoward<sup>8</sup>

Senior Engineer, Oxfordshire County Council

**FOR THE APPELLANT:**

Mr Christopher Young QC

Instructed by Douglas Bond, Woolf Bond Planning

He called

Mr Matthew Spry  
BSc (Hons) DipTP (Dist)  
MRTPI MIED FRSA

Lichfields

Mr Mark Hewett

Intelligent Land

Mr James Stacey  
BA (Hons) DipTP MRTPI

Tetlow King Planning

Mr Stephen Clyne  
LCP DipSMS Cert Ed MAE

EFM Partnership Ltd

Mr Lee Witts  
BEng(Hons) MICE

Brookbanks

Mr Brian Duckett  
BSc (Hons) BPhil CMLI

Hankinson Duckett Associates

Mr Tony Kerton  
BSc (Hons) MRICS FBIAC

Kerton Countryside Consultants Ltd

Mr Douglas Bond  
BA (Hons) MRTPI

Woolf Bond Planning

Mr Alexander Bennett  
BSc (Hons) MCIHT MTPS

M-EC Consulting Development Engineers

<sup>7</sup> Contributed to discussions on planning obligation and conditions only<sup>8</sup> Contributed to discussions on planning obligation and conditions only

**FOR THE CROWMARSH PARISH COUNCIL**

Mr Nigel Hannigan	Vice Chair Parish Council
Mrs Ford	Chair of Governors Crowmarsh Gifford Primary School

**FOR THE CROWMARSH RESIDENTS ACTION GROUP (CRAG)**

Mr Nick Robins	Local resident
Mr Ian Gunn	Local resident
Cllr Elaine Hornsby	Ward Member for Wallingford
Mr Lee Upcraft	Local resident
Cllr Adrian Lloyd	Wallington Town Council
Mr Steven Brown	Local resident

**INTERESTED PERSONS:**

Mr John Farrow	Local resident
Mr Trevor Cotton	Local resident
Mrs Lucia Gunn	Local resident
Mr Ross Edmunds	Chair 1 <sup>st</sup> Crowmarsh Scout Group

**DOCUMENTS SUBMITTED DURING THE INQUIRY**

1. Crowmarsh Parish Neighbourhood Plan Baseline Reports and draft policies.
2. Opening statement on behalf of the local planning authority
3. Statement from Mr Gunn
4. Statement from Dr. Upcraft
5. Statement from Cllr Lloyd
6. Revised list of conditions
7. Thames Water Developer Guidance
8. Signed and dated section 106 agreement between the appellant and South Oxfordshire District Council.
9. Further revised list of conditions
10. Secretary of State Decision Ref APP/W1715/W/15/3130073, Land to the north West of Boorley Green, Winchester Road, Boorley.
11. Secretary of State Decision Ref APP/P2395/V/16/3158266, Land at Highthorn, Widdrington, Northumberland.
12. Extract from Parish Council Traffic Count data
13. Supplementary Note by Mr Witts, Cumulative Traffic Review.
14. Response by Mr Bennett to Dr Upcrafts' evidence on air quality.
15. Core Strategy Policy Map extracts.
16. Plan of areas from which the appeal site can be viewed.
17. Plan for site visit
18. Signed section 106 agreement between the appellant and Oxfordshire County Council.
19. Closing submissions on behalf of the appellant
20. Stratford on Avon District Council v SSCLG [2013] EWHC 2074 (Admin)
21. Application for costs made by the appellant.
22. Appeal decision and costs decision Ref APP/E3525/W/17/3183051, EMG Group site, Tayfen Road, Bury St Edmunds.
23. Response to costs application by the Council.

**DOCUMENTS SUBMITTED AFTER THE INQUIRY**

1. Reply by the appellant to the Council's response on costs.
2. South Oxfordshire Council's Housing Land Supply Statement 2017-18 published 30 April 2018

## SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission or one year from the conclusion of any subsequent Section 288 process, whichever is the later.
- 3) The development hereby permitted shall take place not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 2079-32-05A – Site Location Plan, Drawing No. 10423-HL-01/A- Proposed Site Access Plan, Drawing No. 2079-32-06B – Parameters Plan.
- 5) The development hereby permitted shall comprise no more than 150 dwellings.
- 6) The reserved matters for the scheme shall be designed to secure a mix of market dwellings as set out in the supporting documents as follows:
  - 1 bed - 6.6%
  - 2 bed - 24.4%
  - 3 bed - 44.4%
  - 4 bed - 24.4%

or in accordance with a mix that shall be set out for approval as part of the reserved matters submission to reflect the latest housing needs assessment.

- 7) The details to be submitted in compliance with condition 1 shall include:
  - i. details of internal estate roads, access and footpaths;
  - ii. samples of all materials to be used in the external construction and finishes of the development;
  - iii. details of vehicle and cycle parking facilities for all dwellings;
  - iv. details of all street lighting and street furniture;
  - v. details of recycling / waste storage facilities;
  - vi. location of fire hydrants.

The development shall be implemented in accordance with the approved details.

- 8) No dwellings shall be occupied until the means of access onto Benson Lane has been constructed in accordance with the approved details as indicated on the proposed site access plan Drawing No. 1023-HL-01/A and made available for use.
- 9) No surface water from the development shall be discharged onto the adjoining carriageway surface.

- 10) No dwelling shall be occupied unless there is pedestrian, cycle and vehicular access to the highway serving that dwelling.
- 11) Prior to the occupation of the first dwelling a Residential Travel Plan for the encouragement of the use of sustainable modes of transport for the development shall be submitted to and approved in writing by the local planning authority. It shall include a Travel Plan Statement and details of a Travel Information Pack to be provided to the first residents of each dwelling upon occupation. The Travel Plan shall be implemented upon occupation of the first dwelling and thereafter updated upon 50% occupation (75<sup>th</sup> dwelling). It shall be monitored and reviewed in accordance with details to be set out in the approved plan.
- 12) Prior to the occupation of the first dwelling a detailed scheme for protecting the dwellings from the external noise environment of the area in particular from the A4074, has been submitted to and approved in writing by the local planning authority. The scheme shall incorporate, as a minimum; the specifications detailed in Appendix B to the report prepared by Brookbanks Consulting Ltd, ref. 10423/NM/01 dated 9 January 2017. Thereafter the development shall be carried out in accordance with the approved scheme, which shall be completed before any of the dwellings hereby are occupied.
- 13) Any gas fired boilers to be installed in any of the dwellings hereby permitted shall meet a minimum standard of <40mgNOx/kWh.
- 14) Prior to the commencement of development, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, including replacement planting in the event of failure and details of soil handling, for all landscape areas other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.
- 15) Prior to the commencement of development (including groundworks and vegetation clearance) a Biodiversity Enhancement Strategy and Management Plan (to include the construction period) shall be submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority. Thereafter the agreed enhancement strategy shall be implemented and maintained in accordance with the approved plan.
- 16) No development or site clearance works shall take place until an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the local planning authority. The approved protective measures shall be in place prior to commencement of any site works including demolition. The matters to be encompassed within the arboricultural method statement shall include the following:
  - i) a specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities;
  - ii) the specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the

- vicinity of trees to be retained, in accordance with the recommendations of the current edition of BS 5837 "Trees in relation to construction", and details of the timing and duration of its erection;
- iii) the definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
  - iv) the means of demolition any existing site structures, and of the reinstatement of the area currently occupied thereby;
  - v) the specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees; Consideration will be made to avoid the siting of utilities and service runs within the Root Protection Area (RPA) of all trees to be retained. Only where it can be demonstrated that there is no alternative location for the laying of utilities, will encroachment into the RPA be considered. Methodology for any installation works within the RPA will be provided and must be in compliance with NJUG Volume 4, 2007 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees';
  - vi) the details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels;
  - vii) the details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the RPA, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage;
  - viii) provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the local planning authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the local planning authority.
- 17) Sustainable drainage details, based on the Brookbanks Flood Risk Assessment Rev 3 of 24 Oct 2016, should be submitted to and approved in writing by the local planning authority prior to the commencement of development. These should include:
- i) full details of a sustainable surface water drainage system based on ground permeability tests including a full consideration of groundwater flooding issues, including historic events, and off-site implications;
  - ii) design calculations relating to the approved run-off rates, storage / attenuation areas sizing, and suitable off-site drainage outfalls;
  - iii) full Suds proposals based on the above;
  - iv) exceedance flood flow routing;
  - v) timescale for the works including phasing;

- vi) a full future management and maintenance plan for the Suds features, including arrangements for any off-site watercourses which are required to ensure the efficient functioning of the on-site Suds.
- 18) Construction works shall not take place outside the hours of 07:30 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. Works shall not take place at all on Sundays or Public Holidays without the prior written approval of the local planning authority.
- 19) No development shall commence on site until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be complied with throughout the construction period, and shall provide details of the following:
- i) a construction traffic management plan; including access and haul routes;
  - ii) vehicle parking facilities for construction workers, other site operatives and visitors;
  - iii) site offices and other temporary buildings;
  - iv) loading and unloading of plant and materials;
  - v) storage of plant and materials used during construction;
  - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - vii) wheel washing facilities;
  - viii) measures to control the emission of dust and dirt during construction;
  - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - x) measures for the protection of the natural environment.
- 20) Prior to the commencement of the development, an Archaeological Written Scheme of Investigation, relating to the application site area, shall be submitted to and approved in writing by the local planning authority. The Written Scheme of Investigation shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication. The development shall be implemented in accordance with the agreed scheme.
- 21) All dwellings shall be provided with access to electric vehicle charging points in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved details are operational for that property.
- 22) Prior to first occupation, details of the means by which the dwellings hereby approved may be connected to the utilities to be provided on the site to facilitate superfast broadband connectivity shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.



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## Costs Decision

Inquiry Held on 27 – 29 March 2018

Site visit made on 4 April 2018

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 29 May 2018**

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### **Costs application in relation to Appeal Ref: APP/Q3115/W/17/3186858 Land to the East of Benson Lane, Crowmarsh Gifford, Wallingford OX10 8ED**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Bloor Homes and Hallam Land Management for a full award of costs against South Oxfordshire District Council.
  - The inquiry was in connection with an appeal against the refusal of planning permission for up to 150 dwellings together with associated access, public open space, landscaping and amenity areas.
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### **Decision**

1. The application for an award of costs is allowed, in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Claims can be procedural, relating to process; or substantive, relating to the issues arising from the merits of the appeal.
3. In the interests of expediency at the Inquiry, the application was made in writing but not presented orally. The Council's response was made in the same way at the event. With my agreement, the applicant submitted final comments in writing after the close of the Inquiry.
4. It is submitted that the Council find the appeal proposal acceptable and present no evidence against the development. They have therefore acted unreasonably in delaying a proposal which should have been granted planning permission. It is argued that the Council should have reviewed their case promptly following the appeal being lodged as part of sensible ongoing case management. The applicant brings my attention to a costs decision for a site in Bury St Edmunds<sup>1</sup> to support their application.
5. It is important to consider the chronology of events in this case. The planning application was refused by the Council's Planning Committee against a positive recommendation by Officers on 4 April 2017. The appeal was lodged on

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<sup>1</sup> APP/E3525/W/17/3183051

29 September 2017. In their Statement of Case dated 5 January 2018, the Council outlined its arguments and the case it would present at the Inquiry. Subsequently the Council reviewed its position and informed the applicant on 16 February 2018 that it no longer intended to defend the reasons for refusal. This was approximately 10 days before the Proofs of Evidence were due to be submitted.

6. I note that in deciding not to defend its case, the Council reconsidered the weighted balance. Whilst recognising the appeal scheme would conflict with development plan policy and result in a degree of harm, the Council determined this harm no longer significantly or demonstrably outweighed the benefits of the proposal. However this reassessment occurred at a very late stage, over a month after the submission of their Statement of Case, and close to the submission of proofs of evidence. The applicant would have already substantially prepared his evidence by this time. This reassessment should have taken place much earlier as part of ongoing case management, ideally when the appeal had been lodged. The failure to do so amounts to unreasonable behaviour.
7. I recognise that it is good practice for parties to try to minimise the areas of dispute between them in order to reduce inquiry time, achieve a more efficient appeal process and reduce costs. However the PPG sets out that the aim of the costs regime is, amongst other things, to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal that stand up to scrutiny on the planning merits of the case. The Council now accepts that, subject to an appropriate s106 agreement, planning permission should have been granted. In refusing the original planning application, and having regard to my finding that the appeal should be allowed, the Council were preventing a development that should clearly have been permitted.
8. I acknowledge that the Council have continued communication with the applicant at every stage and discussed the approach to housing land supply in order to ensure that the evidence to be presented at the Inquiry was proportionate to the case. Whilst this may have helped to reduce Inquiry time, had the planning application been approved in the first place, an Inquiry would not have been necessary. I conclude that unreasonable behaviour on behalf of the Council has been demonstrated.
9. I must now go on to consider whether this unreasonable behaviour has incurred unnecessary costs for the applicant. The Council have argued that in the event that I find unreasonable behaviour had occurred, then a partial award of costs, not a full award, is justified. This is because there were two Rule 6 parties participating in the Inquiry raising a wide range of issues. These included air quality and transport, matters on which the Council had raised no objection and which did not form part of the Council's case. Therefore the applicant would have incurred the cost of producing detailed evidence in respect of these matters in any event.
10. However the key point here is that if the Council had granted planning permission in the first place, the appeal would not have proceeded and the applicant would not have had to incur the cost of preparing any evidence at all. I therefore conclude that a full award of costs is justified.

11. In respect of housing land supply, the Council contend that it was not proportionate or necessary to present such evidence as there was agreement that a 5 year housing land supply could not be demonstrated and that the benefit of the appeal scheme in contributing to the supply of housing should be given significant weight. Bearing in mind the timing of the Council's withdrawal of its case, the applicant would have already prepared evidence on this matter. Whilst I acknowledge that evidence was presented in a proportionate way at the Inquiry, resulting in a reduction in sitting time, the preparation of such evidence constituted unnecessary expense for the applicant which could have been avoided if the Council had not acted unreasonably.
12. I accept the Council's argument that costs relating to the preparation of the section 106 agreement itself would have been incurred irrespective of the Council's position. However any costs incurred by the applicant in preparing evidence relating to the justification of the obligations to mitigate the impact of the development would still have been incurred during the appeal process. This expense should therefore be included in the cost award.
13. I have noted the Cost Decision referred to me by the applicant where similarly a Council had decided not to defend an appeal. I am not fully aware of the circumstances around this case and the background to the Council's position. This was a case where the Council had failed to determine the application in the prescribed period. This leads me to the view that there were significant differences with this appeal. I have therefore considered this application on the merits of the case.
14. I am aware that the applicant has submitted a duplicate planning application and has informed the Council that if this is approved, any award of costs would not be pursued. This is not a matter on which I am required to comment further.

### **Conclusion**

15. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. For the reasons given above, a full award of costs is justified.

### **Costs Order**

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Oxfordshire District Council shall pay to Bloor Homes and Hallam Land Management, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
17. The applicant is now invited to submit to South Oxfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Helen Hockenhull*

INSPECTOR



# Appeal Decision

Site visit made on 2 August 2018

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28<sup>th</sup> September 2018

**Appeal Ref: APP/Q3115/W/17/3173982**

**Thames Valley Police, Greyhound Lane, Thame OX9 3ZD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Churchill Retirement Living against South Oxfordshire District Council.
- The application Ref P16/S3525/FUL, is dated 21 October 2016.
- The development proposed is the redevelopment to form 41 sheltered apartments for the elderly, including communal facilities, access, car parking and landscaping.

## Decision

1. The appeal is allowed and planning permission is granted for the redevelopment to form 41 sheltered apartments for the elderly, including communal facilities, access, car parking and landscaping at Thames Valley Police Station, Greyhound Lane, Thame OX9 3ZD in accordance with the terms of the application, Ref P16/S3525/FUL, dated 21 October 2016, subject to the conditions set out at the end of my decision.

## Preliminary Matters and Main Issues

2. I have slightly amended the address of the appeal site in my formal decision above from that stated on the application form to more accurately reflect the location of the site.
3. In 2014-2015 an application and subsequent appeal was refused and dismissed for a proposal to redevelop the appeal site for a scheme of 45 sheltered apartments. The appeal, which was recovered by the Secretary of State, was dismissed on the grounds that the proposal would neither preserve nor enhance the character and appearance of the conservation area and would adversely harm the living conditions of the residents of No 39 North Street.
4. Subsequent to this decision a further application was made for 41 apartments on the same site, and the appeal before me was made against the failure of the Council to decide this planning application. Subsequent to the making of the appeal, the Council issued a decision notice stating that they would have refused the application, had they had the power to do so.
5. This notice contains 4 reasons for refusal, relating to a lack of car parking, the overdevelopment of the site that the proposal would cause as evidenced by the lack of car parking and amenity space that would be provided for future occupiers, the adverse effect of the scheme upon the local Conservation Area, and the absence of a Section 106 agreement relating to affordable housing.

6. Subsequently the Council have stated that following reconsideration, they no longer consider that the scheme would cause issues in terms of car parking, and subject to certain reservations a unilateral undertaking has been submitted concerning affordable housing.
7. I see no reason to disagree with this analysis of the key matters, and therefore consider that the main issues in this case are as follows:
  - Whether the proposal would preserve or enhance the character or appearance of the Thame Conservation Area;
  - Whether the proposal would provide acceptable living conditions for future residents, with regard to the provision of amenity space.

### Reasons

8. The appeal site lies to the north of Thame town centre, and is located in a bell shaped curve formed by North Street and Bell Lane off the High Street. The site and immediate surroundings lie within the Thame Conservation Area (TCA), the boundary of which tracks along the northern side of North Street opposite to the site. The Conservation Area is a large one and covers the historical centre of Thame. As a result of this size, there are a range of differing character areas within the TCA.
9. Within the bell shaped area there is a mix of commercial, retail and residential development, with residential properties largely set along Bell Lane and North Street. At the southern end of the area, Greyhound Walk, a pedestrianised path lined with shops on one side, leads from the High Street to Waitrose and its adjacent car park. The appeal site lies on the other side of the access road to Waitrose, Greyhound Lane, which leads from the roundabout junction of Bell Lane, North Street, and Aylesbury Road to the north. Further houses are located opposite to the site. In the vicinity of the site the northern side of North Street has various bungalows sited on it, with a cricket pitch on the north west side of the roundabout.
10. As such the site has the character of a transition zone between the commercial heart of the bustling town centre to the south, and the firmly residential areas to the north and west. The site is dominated at the moment by the former police station, which was derelict at the time of my visit. This rather uninspiring building, constructed in red brick with ashlar gable features and blue brick detailing is 2 storeys high but appears taller, appearing as a large mass of building with a substantial roof. An access to the rear and parking area is set on the northern side of the building, between the property and the northern edge of Waitrose, which is a large red brick building with steeply angled roof lines whose scale dominates the view into the town from the Aylesbury Road; the TCA Appraisal<sup>1</sup> states that the sheer scale of Waitrose overwhelms its setting. At present in my view the site detracts from the character and appearance of the TCA; such an impression is inevitably increased by the vacant nature of the site but the architecture, design, and massing of the building is not in keeping with the surrounding transition area.
11. The proposal seeks to demolish the former police station and construct sheltered apartments for the elderly. The fairly large building would have the plan form of a reverse 'L' shape, largely covering the southern and western

<sup>1</sup> Thame Conservation Area Character Appraisal, South Oxfordshire District Council April 2006.

sides of the roughly triangular shaped site. Car parking and a communal garden area would be sited in the middle and northern area of the site, accessed via an undercroft driveway from Greyhound Lane. The proposal would be largely designed to appear as individual houses with differing materials, roof lines and treatments proposed to differentiate separate parts of the building. Heights of the building range from 2 storey to 2½ /3 storey.

12. From North Street, the proposal would appear as a 2 storey primarily red brick building with a jumble of roofs behind, beginning to bridge the gap in height between the structure and Waitrose behind. The increased enclosure over the existing site on the northern side would provide a more defined firm edge to the town in this location. From Greyhound Lane to the west, the roof line variation would allow the structure to build towards Waitrose, following the slight gradient of this road. Dormer windows towards this southern end of the site would add to this feeling and sense of increasing height. The view from the southern side of Greyhound Lane as it wraps around the site to access the supermarket car park would be less interesting, with a more standardised elevation but would still retain some detail and interest within it. Much of this elevation would also be hidden due to site levels and the existing tall red brick wall bordering the side of the road.
13. When complete, the differing heights, materials and varying roof lines would all assist in reducing the bulk of the proposed building and would fill the gap in the TCA that the demolition of the former police station would cause. Furthermore, while the proposal would undeniably have a significant footprint and an substantial depth, the staggered and 'L' shaped design of the proposal would assist in reducing the effect of such mass of development.
14. I do not consider that such an effect would be contrived; if detailed in terms of materials appropriately then the resulting building could effectively appear as a series of terraces as opposed to a single large block artificially faced to appear smaller. The stepped and staggered design towards the south would provide an effective transition between the roof heights of the High Street area and the higher density of this area towards the lower heights and density of the area further to the north.
15. While the design would still appear significantly more built up than the bungalows on the northern side of North Street, much proposed development would do given the scale and mass of the bungalows, and I am not convinced that the scale and typology of the single storey dwellings is something to necessarily emulate in this edge of town centre location. Sufficient separation between the developments would also exist due to the reasonably wide North Street.
16. My attention is drawn to a catslide roof included in the proposals. However, this element of the scheme is a relatively small part of the design and would not have a significant effect on views due to its set back nature in the site when viewed from North Street and the adjacent roof forms. While the lack of front doors would slightly detract from the effect of the design as a series of terraces, when considering proposed boundary treatment and landscaping, I do not consider such an effect would be significant.
17. I noted that dormer windows were not especially common in the TCA during my visit and also that the scheme has a fairly large number of them proposed. However, they are not present in the view from North Street (aside from side

views) and those proposed on the Greyhound Lane (west) elevations relate reasonably well to the windows set below, and help to break up the roofscape of the proposal. While I note the raised cills of the kitchen windows on the bays on the Greyhound Lane (south elevation), I do not consider these would make the bays appear as rear extensions; the rhythm and regularity of them across the elevation would ensure that while appearing subsidiary as the previous Inspector found, I also consider that they would appear as part of a coherent whole.

18. A range of listed buildings lie reasonably close to the appeal site, including the Grade II listed 6-8 and 9 Bell Lane, Godbegot, Gable Cottage, Ash Tree Cottage, Jasmine Cottage and the Wool Warehouse adjoining Jasmine Cottage, all on Aylesbury Road, and Tripps Cottage and Bishops Palace on Moorend Lane, as well as the Grade II\* listed Lashlake House on Aylesbury Road. The settings of these heritage assets inevitably overlap to a certain extent. No 9 Bell Lane is the closest listed building to the appeal site, being sited at the north end of Bell Lane. However, for the same reasons as given above, I do not consider that the proposal would cause harm to the settings, and therefore the significance of such heritage assets.
19. When considering all such matters together, I consider that the proposal would preserve the character and appearance of the Thame Conservation Area. In this context I also consider that the introduction of residential uses into this area of the TCA would enhance the character of the area. The proposal would comply with policies CON6 and CON7 of the Local Plan<sup>2</sup>, as well as policies CTHA1 and CSQ3 of the Core Strategy<sup>3</sup>. When taken together these policies state that proposals for development in Thame should be consistent with the strategy which is to support schemes which enhance the quality of the town's environment and allow housing on suitable redevelopment sites, that development should be of a high quality design that responds positively to and respects the character of its site and its surroundings, particularly the historic significance and heritage values of the historic environment, with the design and scale of development to be in sympathy with the established character of the area required. Consent to demolish a building in a conservation area will be granted only if the loss would not adversely affect the character of the area and if there are detailed and acceptable plans for the redevelopment of the site.
20. The Thame Neighbourhood Plan (the TNP) was made in March 2013. Policies ESDQ15, ESDQ16, ESDQ17, ESDQ18 and ESDQ20 of the TNP together state that developers must show how their scheme reinforces the character of Thame, development must respond to the specific character of the site and its local surroundings, make a positive contribution to the character of Thame as a whole, create a sense of place and support the town centre as the main focus of activity, and building style must be appropriate to the historic context. For the reasons given above I consider that the proposal would comply with these policies. The proposal would also comply with the National Planning Policy Framework (the Framework) which states that developments should be visually attractive as a result of good architecture and layout, and be sympathetic to local character and history, including the surrounding built environment setting, while not preventing appropriate change (such as increased densities).

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<sup>2</sup> South Oxfordshire Local Plan 2011, 2006.

<sup>3</sup> South Oxfordshire Core Strategy December 2012.

*Living conditions*

21. An area of outdoor amenity space is provided within the scheme on its eastern side. This involves a green area, with a proposed central pergola. This would be accessed by a paved path from the eastern side of the building or via grassed paths from behind the parking spaces set in the middle of the scheme. A further grassed path is shown on a landscape strategy plan circling around the southern side of the building, allowing a walk around the structure and ending up back at the western side of the building, crossing a paved path to Greyhound Lane on route. The eastern access to the main amenity area could be accessed using the buildings main circulation corridor at ground floor level, and would not require residents to get to this space via the car park.
22. The northern side of the building has a further green space shown on its east side, where a grassed area and bench is shown to be sited. This can also be accessed via paths from the central circulation corridor of this section of the building.
23. While the level of shared amenity space is not high in terms of volume or quantity, I consider that the landscape strategy plan shows that such outdoor space can be of a high quality and beneficial to the future residents of the apartments. The scheme allows for areas for sitting out in, as well as small areas and routes of paths that can be walked both around the buildings and to link up with circulation routes into the town centre or onto North Street. The eastern amenity area is located adjacent to the lowest 1 storey part of the building and would receive good levels of sunlight in the morning, as would the northern area, and reasonable levels of sun and daylight in the summer months. The detail of the proposals could be defined further through conditions.
24. Concern is raised over air quality and noise conditions for the proposed amenity spaces. An air quality assessment was submitted by the appellants for the whole site which shows that concentrations of relevant pollutants will remain below objective levels, that the proposal would not have an adverse impact on local air quality conditions and does not introduce new exposure within an area of poor air quality. The Council's Air Quality Officer raises no objection, subject to the imposition of a condition concerning electric vehicle charging points, and based on all that I have seen and read I have no reason to disagree with this view. The main amenity area is also sited away from the route taken by delivery lorries to Waitrose.
25. Similarly a noise assessment concludes that external noise levels are expected to be low enough to avoid serious annoyance, provided that windows in the apartments are suitably glazed, which could be conditioned. In this respect I note that the plan attached to the noise assessment appears to show a different amenity area to the one where the pergola would be sited; however the closest measurement position to this area demonstrates the lowest noise readings of those taken on the site.
26. I therefore conclude that the proposal would provide acceptable living conditions for future residents, with regard to the provision of amenity space, and as such, would not be indicative of overdevelopment. The scheme would comply with policy CSQ3 of the Core Strategy, policy D3 of the Local Plan and policy EDSQ28 of the TNP, which state that development should have well designed external areas and a good quality shared outdoor amenity space, with

the amount of land determined by the size of the dwellings proposed and the character of surrounding development.

#### *Other Matters*

27. Considerable concern is raised by the Town Council and local residents over proposed highways issues, including access proposals and car parking provision. While on my visit I witnessed issues of disruption and congestion on Greyhound Lane when a lorry leaving Waitrose coincided with another trying to access the lane, leading to backing up and significant congestion around the roundabout.
28. However, I am not convinced that the proposal itself would add to such issues of congestion and disruption. Subject to section 106 provisions and conditions the Highways Authority raises no objection to the scheme, and a submitted transport assessment, using figures from existing similar schemes, concludes that expected trip generation figures from the proposal would be low, at some 61 trips a day. While noting reservations expressed by various parties over this figure and comparable assessments, this also needs to set against the previous use of the site as a Police Station, which would have created reasonably significant traffic movements by itself. The statement also demonstrates that cars and small vans would be able to enter and exit the site in forward gear. Concerns are raised that some higher vehicles may not be able to enter the site due to the height of the undercroft. However, medium sized and standard long wheel base vans should still be able to enter and emergency vehicles would be able to wait in the site bell mouth, removing them from the highway flows. Any short term disruption to the vehicles entering or leaving the site would be reasonable given the nature of the situation.
29. 14 car parking spaces would be provided as part of the scheme, a ratio of 0.34 spaces per unit. Evidence is submitted of the same comparable schemes, and the level of car parking proposed does not concern the local planning authority. Future residents of the scheme would be aware of the car parking situation and would take such provision into account. Given the evidence submitted of similar schemes of the appellant, and the survey information provided I consider that the proposal would by and large provide adequate car parking for the scheme, and would not lead to issues of highway safety. Overall, I consider that the proposal would accord with policy T2 of the Local Plan and GA6 of the TNP which state that development should provide parking on site for occupants and visitors.
30. While noting comments that the site is set a fair distance from the doctor's surgery, I consider the proposal to be in a sustainable location, within walking distance of the town centre and with several bus stops nearby. Proposed monies within a section 106 agreement would improve the quality of these stops. Particularly given the demographic of the future residents of the proposal, the scheme is well located in this regard and pedestrian routes to the town centre do not pose an unacceptable risk to highway safety.
31. Concern is raised over the effect of the proposal on the living conditions of the residents of nearby dwellings. I visited the gardens of such properties during my visit. Many houses are located across Greyhound Lane and North Street, and for the reasons given above I do not consider that the change in views that the proposal would cause to the residents of these properties would cause

- harm to their outlook, and the distance is such that overlooking would not occur to a significant degree.
32. No 39 High Street is the closest property, with the rear garden of this attractive house sharing its west and south boundary with the site. The outlook from this garden and the house will inevitably alter through the development of the scheme. However, the southern boundary will be located closest to the car park and surrounding landscaped areas for the proposal, removing an existing single storey structure. The windows of the proposal would be a reasonable distance from No 39 with the closest windows within the 2 storey elements of the scheme. Such windows could be conditioned to ensure that their glass was obscured and with such a condition in place I do not consider that the proposal would cause harm to the living conditions of nearby residents.
33. Within a submitted unilateral undertaking, some £502,235 is provided for an off-site affordable housing contribution, together with an £258,952 to be paid should Ground Rent be charged in respect of the development. Such sums represent a benefit of the scheme, although I agree with the previous Inspector that the benefit is reduced by virtue of it not being fully policy compliant and not providing an on-site contribution. Nevertheless, I note that the Council raises no objections to this and agrees that the sum represents a benefit, and based on all that I have read I see no reason to disagree with this view.
34. Concern is raised over the size of the internal apartments. While compact the apartments appear to me to allow a reasonable amount of space for the future residents of the building. I also note in this context the provision of a central owners lounge, as well as shared spaces for storage of refuse and buggies.
35. On 12 September 2018 a written ministerial statement (WMS) on housing land supply in Oxfordshire was issued. This WMS concerned the use of a 3 year housing land supply requirement in the County as opposed to a 5 year supply. The Council in their case attributed a significant contribution from the scheme towards housing supply in light of the lack of a 5 year supply, but remained of the view that such benefits did not outweigh the harm caused by the scheme. However, subsequent to this statement the 2018 Housing land statement of the Council confirmed a supply of 5.4 years of housing land. This is not disputed by the appellant and given that I am allowing the appeal I have not considered this matter further.

#### *Conditions and Obligation*

36. Above I have noted that a submitted unilateral undertaking (UU) provides sums for affordable housing and public transport contributions. In addition to this the UU also provides sums towards recycling and waste and monitoring fees for both the County and District Councils. The UU states that all such obligations are conditional upon myself expressly stating that the UU itself, and all the obligations individually, comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL regulations), although the Council disagree with the former clause. Regulation 122 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The same tests are stated in paragraph 56 of the Framework.

37. From the evidence that has been submitted, and my site visit, I consider that the affordable housing and public transport contributions are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. The scheme provides no affordable housing on site, and the demographics of the future residents of the proposal are likely to use public transport significantly. The sustainable location of the proposal weighs in favour of the scheme and the transport contributions would go towards improving identified local bus stops and services, detailed by the County Council.
38. It is also self-evident that the proposal will produce waste and recyclable materials and I am satisfied that such contributions also meet the relevant tests. For the avoidance of doubt therefore the Affordable Housing Contribution, Additional Affordable Housing Contribution (if necessary), Highways Contribution, Public Transport Contribution, and the Recycling and Waste Contribution all meet the tests within Regulation 122 and the Framework. When taken together such obligations would ensure that the proposal would comply with Policy CSI1 of the Core Strategy, which states that new development must be served and supported by appropriate on and off site infrastructure and services.
39. I have considered the matter of the monitoring fees carefully, and I am of the view that both monitoring fees are required to enable both authorities to monitor the sums received via financial obligations and ensure that the money is spent on the required projects. Such monitoring fees are relatively modest and reasonable, are directly related to the development via the justified fees that they are intended to cover, and are also acceptable in planning terms, and would not, I consider, fall within the scope of the reasonable everyday functions of the authorities. I therefore consider both the County and the District Monitoring Fee to meet the tests in Regulation 122 and the Framework.
40. Concern is raised over the requirement in the UU for myself to expressly state that the UU itself complies with the CIL regulations. However, notwithstanding such concerns, given my conclusions above that all the obligations within the UU meet the required tests, and having considered the other details of the submitted UU, I am content that the UU itself complies with regulation 122 of the CIL Regulations.
41. I have imposed conditions relating to time for implementation and approved plans, in the interests of certainty. The landscape strategy plan referred to above is included within the approved plans condition. Conditions are also imposed as stated above concerning landscaping, obscure glazing to relevant windows, noise mitigation, and electric vehicle charging points. I have amended the suggested noise mitigation scheme slightly in the interests of precision.
42. In the interests of the character and appearance of the area, I have imposed a condition to ensure that the external materials to be used in the scheme are submitted to and approved by the Council prior to implementation. For the same reasons I have imposed a condition requiring details of boundary treatments to be agreed.
43. The County Council request a condition is imposed requiring a written scheme of archaeological investigation. Given the location of the appeal site within the

historic core of Thame I agree that such a condition is necessary. In the interests of the protection of the water environment, I have also imposed a condition requiring details of foul and surface water drainage to be agreed prior to implementation.

44. In the interests of highway safety and the living conditions of local residents, conditions are also imposed requiring the submission of a construction management plan (CMP), hours of works, and for the parking, turning and access areas to be completed prior to occupation. I have amended the wording of the CMP condition slightly to ensure it covers the period of demolition. In this respect I see no need for a condition concerning the need for vehicles to be able to enter and exit the site in forward gear as the plans indicate that this will be possible within the scheme design, and as such completion in accordance with the approved plans will achieve the same result.
45. I have imposed a condition requiring details of external lighting to be agreed, in the interests of the environment, and for new residents to receive a travel information pack, the contents of which to be agreed, in the interests of sustainable travel. Finally a condition is imposed restricting the occupancy of the apartments to the designated age group – such a condition is required as the apartments and their surrounding amenity space are designed specifically for such an age group of person for which there is a confirmed need.

### **Conclusion**

46. I have concluded that the proposal would preserve the character and appearance of the Thame Conservation Area and would provide acceptable living conditions for future residents, with regard to the provision of amenity space. With the imposition of suitable conditions and the submitted UU, the proposal would accord with the development plan, and material considerations in the case do not lead me to an alternative decision.
47. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Jon Hockley*

INSPECTOR

### SCHEDULE OF 16 CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10063TH - PLOC, Location Plan, Rev.B; 10063TH - P16 - 01, Site Plan, Rev. C; 10063TH - P16 - 02, Ground Floor Plan, Rev. C; 10063TH - P16 - 03, First Floor Plan, Rev. A; 10063TH - P16 - 04, Second Floor Plan, Rev. A; 10063TH - P16 - OS,

Roof Plan, Rev. A; 10063TH - P16 - 06, Elevations - Sheet 1, Rev. A; 10063TH - P16 - 07, Elevations - Sheet 2, Rev. A; 10063TH - P16 - 08, Elevations - Sheet 3, Rev. B; 10063TH - P16 - 09, Elevations - Sheet 4, Rev. A; 131-LS-001 (Landscape Strategy Plan).

- 3) With the exception of any demolition works, no development shall take place until details of the materials to be used in the construction of external surfaces shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a Written Scheme of Archaeological investigation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of investigation shall be implemented prior to the start of construction.
- 5) With the exception of any demolition works, no development shall take place until details of surface water and sewerage disposal shall have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details.
- 6) With the exception of any demolition works, no development shall take place until details of the boundary treatments shall be submitted to and approved by the Local Planning Authority in writing, and the approved boundary treatments shall thereafter be completed prior to first occupation of any part of the building.
- 7) Prior to the commencement of any development including demolition a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be complied with throughout the construction period, and shall provide details of the following:
  - Site offices and other temporary buildings;
  - The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - On site wheel washing facilities
  - Measures to control the emission of dust and dirt during
  - Construction vehicle routing, access and traffic management plan
- 8) No development shall take place until a detailed scheme for protecting the dwellings from the external noise environment of the area has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate those mitigation measures specified in the Noise Impact Assessment prepared by Clarke Saunders Acoustics, report ref. AS9419.161214.NIA dated 24 January 2017, as amended by the email from Dan Saunders of Clarke Saunders Acoustics dated 24 February 2017. Thereafter the development shall not be carried out other than in accordance with such approved scheme, which shall be completed before any part of the accommodation hereby approved is occupied.

- 9) Prior to first occupation of the building a scheme of hard and soft landscaping shall be submitted to and approved by the Local Planning Authority specifying species, planting sizes, spacing and numbers of trees/shrubs to be planted, including replacement planting for protected trees. The works approved shall be carried out in the first planting and seeding seasons following the first occupation or completion of the building whichever the soonest. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) Prior to the first occupation of the building, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Any external lighting shall be designed and installed in accordance with the guidance to be found in the Institution of Lighting Professionals' Guidance Notes for the Reduction of Obtrusive Light GN01:2011`.
- 11) Prior to first occupation of the building, the secondary window to the living room and the window to the kitchen of apartment 29; the window in the first floor corridor and the secondary living room window of apartment 30 shall be fitted with fixed obscure glazing and retained as such thereafter.
- 12) Prior to first occupation of the development hereby approved a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.
- 13) Prior to first occupation electric vehicle charging points shall be installed and be operational in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.
- 14) Each of the apartments hereby permitted shall be occupied only by:
  - Persons aged 60 or over; or
  - A spouse/or partner (who is themselves over 55 years old) living as part of a single household with such a person or persons; or
  - Persons who were living in one of the apartments as part of a single household with a person or persons aged 60 or over who has since died; or
  - Any other individual expressly agreed in writing by the Local Planning Authority.
- 15) The access, parking and turning area shown on the approved drawings shall be completed and made ready for use prior to the first occupation of the building and shall thereafter be retained.
- 16) The hours of operation for construction and demolition works shall be restricted to 08:00-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written authority of the Local Planning Authority.



# Appeal Decisions

Inquiry Opened on 26 June 2018

**by Ken Barton BSc(Hons) DipArch DipArb RIBA FCIArb**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 December 2018**

## **Appeal A: APP/Q3115/W/17/3187058**

**Land south of Greenwood Avenue, Chinnor, Oxfordshire OX39 4HN  
(nearest)**

## **Appeal B: APP/Q3115/W/17/3187059**

**17 and 19 Greenwood Avenue, Chinnor, Oxfordshire OX39 4HN**

- Appeal A is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant outline planning permission
- Appeal B is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant full planning permission.
- Appeals A and B are made by Persimmon Homes against the decisions of South Oxfordshire District Council.
- The applications, Refs P16/S3284/O and P16/S3285/FUL both dated 30 September 2016, were refused by notices dated 1 June 2017.
- The development proposed in Appeal A is the construction of up to 140 dwellings, new public open space, associated landscaping and site infrastructure.
- The development proposed in Appeal B is the demolition of 2 no dwellings and the construction of a new access road.

## **Application for Costs**

1. At the Inquiry a partial application for costs was made on behalf of Persimmon Homes, limited to the costs associated with preparing evidence in relation to landscape character and visual impact. This application is the subject of a separate Decision.

## **Preliminary Matters**

2. The Inquiry sat for 14 days between 6 June and 26 October 2018. An unaccompanied site visit to the area around the sites was undertaken on 25 June 2018. Accompanied site visits were made on 26 June, and on 12 July 2018 to look at heritage and landscape matters respectively. Transport matters were observed during both accompanied visits.
3. In July 2018 the *National Planning Policy Framework* (NPPF) was replaced by NPPF2. Additionally, a consultation document was issued on 26 October 2018 outlining possible changes to NPPF2. All the parties were given the opportunity to comment on these changes and the consultation document and comments have been considered in this decision.
4. To avoid repetition, and to make efficient use of Inquiry time, the matter of housing land supply (HLS) in South Oxfordshire was heard in conjunction with another appeal (Appeal C: APP/Q3115/17/3188694). Where similar arguments were made by both developers, reference is made in the following text to

- 'appellants'. The site in Appeal C is located relatively close to the sites in Appeals A and B.
5. The original appeal A was amended by plans and additional information accompanying the former agent's letter dated 21 December 2016. This 'main' application was validated on 3 October 2016 and recommended for approval by Officers. The proposal in Appeal A is in outline with all matters reserved. Whilst there were originally three reasons for refusal the Council maintains that material changes have since taken place, and relies on a revised reason for refusal 1. This has not been taken to Committee but was approved under officer delegated authority. The separate Appeal B, for the construction of an access road via Greenwood Avenue, was also refused at Planning Committee.

## Decisions

6. The appeals are allowed and planning permission is granted for:

Appeal A, the construction of up to 140 dwellings, new public open space, associated landscaping and site infrastructure on land south of Greenwood Avenue, Chinnor, Oxfordshire OX39 4HN (nearest) in accordance with the terms of the application Ref P16/S3284/O, dated 30 September 2016, and the plans submitted with it, subject to the conditions listed in Appendix A attached, and;

Appeal B, the demolition of 2 no dwellings and the construction of a new access road at 17 and 19 Greenwood Avenue, Chinnor, Oxfordshire OX39 4HN in accordance with the terms of the application P16/S3285/FUL dated 30 September 2016 and the plans submitted with it subject to the conditions listed in Appendix B attached.

## The Sites and Their Surroundings<sup>1</sup>

7. Appeal sites A and B are located approximately 4 miles south-east of Thame at Chinnor, a designated Large Village in South Oxfordshire. The sites together are around 3.9 hectares in size and comprise a flat open field in agricultural use which is not contiguous with any other agricultural land. Former agricultural land on either side is now being developed for housing. The site is bordered by hedgerows and trees but is not subject to any statutory landscape designations or Tree Preservation Orders. A separate area of land, accessed from Greenwood Avenue, is identified in the Chinnor Neighbourhood Plan as Local Green Space.
8. The site is bounded to the north-west by houses and to the south-east by a railway line that runs north of a former quarry and is used by the Chinnor and Princes Risborough Railway Trust as a recreational line. Beyond the railway line is the recent Bellway Homes development known as Old Kiln Lakes.<sup>2</sup>
9. Within a radius of approximately 0.6 mile from the village centre there is a range of facilities, the majority of which are also within walking distance of the appeal site. The nearest bus stops are around 325 metres from the site on Oakley Road and are served by bus services 40, 120, 121 and 320. Two further stops are some 380 metres from the site served by the same bus services. Princes Risborough Railway Station is nearest to the site, approximately 8.5km

<sup>1</sup> CD7.3 Sect 2

<sup>2</sup> CD7.3 2.4

to the east, and provides links to major towns and cities. There is a bus link between Chinnor and Princes Risborough Station. There are 12 cycle spaces at the Station and a 24 hour car park with 280 parking spaces.

10. The site is currently accessed by a single track off Greenwood Avenue and there is no public right of way across the site, which is in Flood Zone 1 where any flooding is least likely. There are no other known environmental constraints on the land. Chinnor Conservation Area is around 970 metres to the north of the site and the Oakley Conservation area roughly 150 metres to the west. The Council does not allege that there would be any effect on the settings of either of the conservation areas or any listed building and there is little evidence that would indicate otherwise. Further to the south of the village are Chinnor Chalk Pit and Aston Rowant Woods Sites of Special Scientific Interest (SSSI), Chilterns Beechwoods Special Area of Conservation (SAC) and the escarpment of the Chilterns Area of Outstanding Area (AONB). All are within around 400-600 metres south of the site. The site is outside any landscape designations and the Council does not allege any impact on the SSSI or SAC.

### **Policy Context**

11. The development plan comprises the South Oxfordshire Core Strategy (CS), 2012, the saved policies of the South Oxfordshire Local Plan (LP), 2006, and the Chinnor Neighbourhood Plan (CNP), made 2017. The policies relevant in these cases are agreed in a Statement of Common Ground. It is necessary to consider the adopted housing requirement and the spatial strategy for delivering it. However, the parties disagree on the interpretation of the development plan, particularly in relation to the housing strategy.<sup>3</sup>
12. The strategy is informed by recent housing provision. The Parish of Chinnor had 2,389 dwellings in 2011. Subsequently, permission has been granted for a further 782 dwellings including 296 affordable units. Of the 782, 310 have been completed and 264 are under construction representing an increase of 33% since 2011.<sup>4</sup>
13. The emerging LP covers the same period, 2011-2033, as the CNP. The housing numbers in the emerging LP are based on the 2014 Oxfordshire SHMA and make provision for addressing the unmet need of 3,750 new homes from Oxford City with monitoring from 2021-22. The emerging LP anticipates proportionate growth of some 15% in the plan period for LVs, including Chinnor. The existing permissions in Chinnor are already double the planned-for proportionate growth as stated in Table 5f of the emerging LP. It therefore indicates that additional residential development is not required in Chinnor but could be allocated if residents wished.<sup>5</sup>
14. It is agreed that the adopted CS housing requirement is out of date as it was based on the now revoked South East Plan. Apart from the Council's figure in this case, all other studies use a higher requirement. The 2014 SHMA, described by the Council as "robust and up to date", indicates 725-825dpa, the emerging LP was proceeding on the basis of 945dpa, and the Oxford Housing Growth Deal (OHGD) assumes delivery of 1,023dpa towards the 100,000 by

<sup>3</sup> SODC7 Para 18, CD1.1, CD1.2, CD1.4, CALA7 Para 6.1, CD7.5

<sup>4</sup> SODC7 Para 19, SODC6 Sect A Para 2.6, SODC6C

<sup>5</sup> SODC7 Para20-21, CD1.4 Para 4.3, CD1.5, CD1.7 Table 5f and Paras 5.25, 5.28, 5.17

2031. It is agreed that the emerging LP, and the consultation document, should only be afforded limited weight given the stage they have reached.
15. The overall housing strategy is set out in CS Policy CSS1. Whilst it is claimed that the proposals would support Chinnor's role as a local service centre that could be said of many housing developments in or adjacent to Chinnor. Notwithstanding that, the aim in rural areas is to identify land for 1,154 new homes in Larger Villages to support local services and to support limited further housing in the villages.
  16. Local planning authorities are required to plan to meet objectively assessed needs rather than unrestrained growth. Unrestrained growth around villages is not consistent with the principals of sustainable development set out in the NPPF2 or the vision and objectives of the CS outlined in Sect 3.<sup>6</sup>
  17. Irrespective of the housing requirement, development in Chinnor has been recognised as consistent with the strategic role of the LVs. Its sustainability has been demonstrated in the Council's Settlement Assessment Paper 2017 that ranks Chinnor as 7th out of 120 in the district and 3<sup>rd</sup> overall out of the 12 identified LVs.
  18. Policy CSS1 should be informed by context. Whilst other Inspectors have concluded that development in Chinnor would accord with CSS1 that has been in the context of there being no recently adopted neighbourhood plan and no 5 year HLS. In this case the Chinnor NP has come forward and housing sites are being delivered more quickly than envisaged by the CS. Policy clarifies that the development management process can deliver housing in villages but recognises that material circumstances might be sufficient to overcome conflict with the development plan.<sup>7</sup>
  19. CS Policy CSH1 (Amount and distribution of housing) identifies a minimum target of 11,487 (547dpa) during 2006-27 with at least 1,154 dwellings to be in the Larger Villages, including Chinnor. It is agreed that 1,154 was never a cap and the Site Allocation DPD has been abandoned in favour of a revised LP. It is also argued that if Policy CSH1 is out of date that infects the whole chapter of the core strategy on housing. This is inconsistent with the SOS's recent approach in an appeal at Watlington Road, Benson in July 2018 where he found that the tilted balance was not engaged as the Council could demonstrate a 5 year housing land supply. In this case the housing supply can be achieved<sup>8</sup>.
  20. The most specific strategic policy against which to assess the proposals is CSR1. Policy CSR1 (Housing in villages) is out of date as it was intended to deliver the outdated housing requirement in Policy CSH1. However, it is a permissive policy and the proposal does not conflict with it. The Council has referred to *Canterbury and SoS v Gladman Developments Ltd [2018] EWHC 1611 (Admin)*. However, Dove J's judgement in that case was "based solely on the texts of Policies H1 and H9" and concluded they were part of a clear restrictive development strategy when the plan is read as a whole. The context is therefore better reflected in *Chichester DC v SoSHCLG and Beechcroft Ltd EWHC 2386 (Admin)*.

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<sup>6</sup> SODC7 Paras 24-25

<sup>7</sup> SODC7 Paras 26-29

<sup>8</sup> CALA7 Para 6.2, CD6.45 para 39, CD6.74 Para 22, SODC7 Paras 33-36

21. In that case the High Court rejected the Council's argument that simply because the appeal proposal was not an identified site and not within the settlement boundary it must conflict with the NP.
22. Policy CSR1 provides where housing will be acceptable in rural communities. Housing will be allowed in LVs through allocations, infill, a rural exception or potentially a redevelopment. If a proposal is outside the four corners of CSR1 it would be contrary to the strategy for new housing. The appellants both maintain that although the appeal proposals might not fall within the four categories in the policy it does not follow that they are in conflict or are otherwise incompatible with it. This argument was rejected by Dove J as a matter of principle.<sup>9</sup>
23. However, it is argued that whilst the Persimmon site is not a rural exception site, not allocated and not a redevelopment site, it is an infill site within the built up area of Chinnor. Paragraph 13.10 of the supporting text states "Infill development is defined as the filling of a small gap in an otherwise built up frontage, or on other sites within settlements where the site is closely surrounded by buildings". CNP Policy CH H1 also contemplates infill development within the existing built-up form of Chinnor village, albeit of a smaller scale.<sup>10</sup>
24. Size is not a factor as the table within CSR1 notes in relation to Smaller Villages and Other Villages sizes up to 0.2 hectare and 0.1 hectare respectively whilst for the Larger Villages which includes Chinnor the sites are stated to have no limit on size.
25. There is no defined settlement boundary so it is a matter of judgement whether the site is within the settlement. The Chinnor community centre and associated playing fields cover a large site but are clearly within the settlement. Similarly, the appeal site would have existing development on all sides
26. Turning to "closely surrounded by buildings", it is not necessary to have 4 or even 3 sides occupied by development nor are adjacent buildings required to be hard up against the boundary. In this case the site is nearly 4 hectares of agricultural land. However, it is surrounded on all 4 sides by existing and approved development being built out. Back gardens adjoin the site and will provide residential curtilage and some containment. An electricity sub-station is close to the south eastern boundary which is otherwise bounded by a railway line whilst the south western part of the site completely adjoins existing identified local green space and a proposed open space on the adjoining Bellway site.
27. Analysis in the Council's LCA says of the site before the latest development "contained on 3 sides", "heavily influenced by adjacent housing", "well contained by the existing built form at Chinnor" and "would not extend the settlement footprint into the wider landscape". The proposal would therefore be perceived as infill development in terms of the CS Policy CSR1 and, albeit of a smaller scale, CNP Policy CH H1 and would accord with the development plan housing strategy.

<sup>9</sup> SODC7 Paras 37-41

<sup>10</sup> SODC7 Paras 55-57

## Housing Land Supply

28. NPPF2, like the NPPF, seeks to significantly increase the delivery of housing and paragraph 11 footnote 7 identifies that, for housing, the most important development plan policies are deemed to be out of date where a 5 year supply of deliverable housing sites, in accordance with paragraph 73 of the NPPF2, cannot be demonstrated. A WMS dated 12 September 2018 has introduced a temporary change for Oxfordshire authorities, the Oxford Housing Growth Deal (OHGD). This sets out that, for decision making, footnote 7 only applies where a three year supply of housing sites cannot be delivered.<sup>11</sup>
29. The housing requirement set out in the adopted strategic policies in SODC is more than 5 years old. Consequently, in accordance with paragraph 73, the three year supply of housing sites should be tested against 'local housing need' (LHN). This is defined in the glossary to NPPF2 as "the number of homes identified as being needed through the application of the standard method set out in national planning guidance, or a justified alternative approach". The default position is the standard method and any alternative needs to be justified.<sup>12</sup>
30. It is accepted that the Council can demonstrate both a 3 and 5 YHLS on the basis of the Standard Method (SM). It is also accepted that the Council can demonstrate a three year land supply, but not a 5 YHLS if figures from the SHMA excluding unmet needs are used as a justified alternative.
31. The Government has realised that in some cases the SM would produce anomalous results. The SM formula identifies the minimum number of houses expected to be planned for and produces an annual requirement of 556hpa, significantly below current levels of delivery and even further below the emerging Local Plan requirement of 945hpa which in turn is below the 1023hpa requirement to deliver the Council's commitment to the OHGD. Previously delivery has exceeded the SM annual requirement but the recent SHMA suggests a much higher level of need. Although at this stage little weight can be attributed to the consultation document on housing land supply, higher need figures would be justified to achieve the policy aim of significantly increasing the amount of housing.<sup>13</sup>
32. The WMS supports the delivery in Oxfordshire of 100,000 homes by 2031, a figure recognised as above housing need. It accepts that in the short term there would be fewer permissions and states that a plan-led approach will deliver more housing in the longer term. In contrast, the appellants advocate the approval of a significant number of residential planning applications now. This does not factor in interventions a plan might provide for or how a stepped trajectory could be implemented such as that in West Oxfordshire. However, it is not for this inquiry to predict what the housing land position might be when the LP comes to be examined.
33. A Memorandum of Co-operation (MOC) sets out the assumption that Oxford City will have an unmet need of 15,000 homes that will be delivered by other authorities. Paragraph 3.5 assumes that the apportioned unmet need will not apply until 2021 due to the "complexity of the issues being considered

<sup>11</sup> SODC7 Para 94

<sup>12</sup> SODC7 Para 95

<sup>13</sup> SODC7 Para 96

- and.....to factor in reasonable lead in times to enable options to come forward and to be fully considered through the Local Plan process. This long term approach is also a feature of an Outline Agreement.<sup>14</sup>
34. PPG identifies that where, as here, there is a SHMA then any lower LHN will have to be justified. In this case, post NPPF2, the SHMA has been found to be sound by an Inspector in West Oxfordshire District Council. The SHMA takes account of economic growth and other factors, including affordable housing, and identifies an overall need for 100,000 dwellings or 5,000pa. Originally the Council identified the 775dpa in the 2014 SHMA as a realistic figure for housing need despite not addressing Oxford City's unmet need, which it is agreed is 15,000, or the OHGD commitment.
  35. For decision making, paragraph 73 requires housing land supply to be tested only against local housing need. NPPF2 paragraph 60 identifies that 'unmet needs' are in addition to local housing need. Alternatives should not include any needs that cannot be met within neighbouring areas. CALA's HLS witness accepted in a recent Statement of Common Ground relating to an inquiry at Emmer Green in August 2018 that "It is agreed that the only potential local housing need figures which exclude unmet needs are the figures which arise from the standard method and the SHMA"<sup>15</sup>
  36. This view is no longer held due to a perceived change in the interpretation of NPPF and guidance. Paragraphs 2a-010 and 2a-014 are relied on to justify the change in position but these relate to plan making not decision making. The courts confirm that national policy and guidance draw a distinction between plan-making and decision making, as in *Gladman v Daventry* [2016] EWCA Civ 1146 paragraphs 47-49. NPPF2 and PPG maintain the distinction. How the standard method is calculated is set out in 2a-004 but how it applies in decision making is addressed in separate guidance (Paragraph 3a-030). This paragraph sets out the expectation that the standard method will be used, although it is only guidance and can be departed from.<sup>16</sup>
  37. The appellants also refer to two appeal decisions where a justified alternative was used to determine local housing need but both predate revisions to the PPG and concern areas not subject to a specific WMS and so turn on their own facts.<sup>17</sup>
  38. The Council would still have to demonstrate a 5YR HLS with a base date of April 2019 for plan-making. Based on a trajectory to restore a 5YHLS the Council would need to deliver between 2,259 and 4,653 homes in the single year 2023-4 compared to 785, the highest number of completions ever achieved in a single year. On the basis of the Council's average lead in times it would need between 57-78 additional applications of less than 100 dwellings by 1 April 2019. There is an overwhelming need for housing now, which would justify an alternative approach. The Council would only need to demonstrate a 3YHLS but that should be against the justified alternative housing requirement arising from the SHMA.
  39. Rather than use the standard method or the SHMA figures to calculate local housing need the appellants use a figure that includes a substantial amount of

<sup>14</sup> CD5.4 Para 11, CD5.15 Para 1.2.3, CD5.17 SODC7 Para 111

<sup>15</sup> CD5.26 Para 2.11 SODC7 Paras 96-98

<sup>16</sup> SODC7 Paras 99-102, CD1.20, CALA5 Paras 6.22 & 6.28

<sup>17</sup> CALA5C App 2 and 3

- 'unmet need' from Oxford City Council. This is contrary to the wording of NPPF2.<sup>18</sup>
40. The Report on the Examination of the West Oxfordshire Local Plan 2031, relied on by the appellants, exemplifies the point made by SODC that unmet need should be addressed through plan-making. South Oxfordshire is expected to have its local plan examination in 2019.
  41. On any approach to determining local housing need which accords with NPPF2, the Council can demonstrate in excess of a three year land supply. If it is accepted that unmet need is a part of local housing need the Council contends that it should be phased as set out in the MOC and the expectations of the Delivery Plan which recognises that housing delivery is "likely to be skewed towards the later years of the deal".
  42. NPPF2 paragraph 73 requires the supply of sites to include a buffer. A 5% buffer is applied as a minimum in all cases but a 20% buffer should be applied "where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply. Paragraph 3a-037 of the PPG explains that "the buffer for authorities where delivery of housing over the previous 3 years, has fallen below 85% of the housing requirement, is 20%.
  43. The issue of an appropriate buffer only arises if local housing need is based on figures in the MOC. That is phased from 2021 and if a 5% buffer is added there is no dispute that a three year supply can be demonstrated. However, if a 20% buffer should be applied then the matter of supply will become determinative of whether a three year supply could be achieved. The Council's housing delivery has not fallen below 85% of the figures in the MOC if delivery is phased. 99% of the phased local housing need has been met over the previous three years and therefore a 5% buffer should be used.

### **Landscape, Character and Appearance**

44. The sole remaining reason for refusal in the 'main' appeal has two limbs, firstly, because the site "provides separation between two approved housing developments and mitigates against the harmful impacts that these developments would have on the character and appearance of the area", and secondly, the built up area would be consolidated and the rural, green, open character, which can be seen from the Chilterns AONB would be diminished.<sup>19</sup>
45. Although a third of South Oxfordshire District is Green Belt and another third AONB the appeal site is not subject to any statutory or landscape policy related designations. Moreover the Chinnor NP does not identify the site as a significant open space that contributes to the openness and attractiveness of the village. The site is within the built up envelope of Chinnor but has no public access and performs no recreational function. It is a field that from time to time is ploughed but which is severed on every side from any other agricultural land.
46. In terms of visual impact, the reason for refusal is directed to views of the appeal scheme in conjunction with adjoining developments. The open space on the edge of the Bellway scheme is designated in the CNP for its ecological,

<sup>18</sup> SODC7 Para108

<sup>19</sup> PH8 Sect 1

rather than visual, value. Enhanced ecological connectivity further afield would be provided by the proposal. Proposed planting would be assimilated at year 1 insofar as it would be noticed at all.

47. Turning to the photomontages submitted by PH, it was accepted that the 10 year photographs were the most relevant and that VP5 was the worst case scenario, albeit with a finding of only a minor adverse impact in the LVIA. Indeed, the appeal site cannot be seen from the footpath at VP5 only from the relatively high banking alongside the footpath. The skyline and foreground would be unaffected as the new built form would be seen from within the development envelope. The development edge of Chinnor would not be brought any closer to the AONB and would not have a material impact on the setting of the AONB. The effects of development would be softened by planting and would echo the character of this part of the village where trees are interspersed with buildings. The site might be capable of being pointed out but it would not be noticed by walkers casually looking at the view. Indeed, the Chilton Conservation Board's (CCB's) consultation response does not raise any objection or allege any harm to the setting of the AONB.
48. The Council's landscape witness's firm contributed to the 2014 Landscape Capacity Appraisal which referred to the appeal site and "recommended that the whole site be considered as a site option on landscape and visual grounds". The Inspector who allowed the development of the two fields that adjoin the application site made reference to the appeal site and said "as that proposed development would be separated from the appeal development by a large field, some green space would still penetrate the settlement. The NP post-dates those decisions but didn't include the appeal in the NP list of significant open spaces.
49. The most up to date landscape related policy in the reason for refusal is CS Policy CSEN1. This does not impose a zero impact case but seeks to ensure that impacts are kept to a minimum. The site does not conflict with CSEN1 and is in accordance with the development plan. There would also be compliance with CSQ3 in relation to design. If any policies in the old LP (such as C4, G2, and G4) pull in a different direction to CSEN1 the latter would prevail as the most up to date policy.

### **Other Matters**

50. At application stage there were 13 objections to the original scheme with 8 objections to the amended drawings. These are summarised in the reports to committee dated March and May 2017. More objections were made at appeal stage and overall in the order of 50 written submissions were read out at the Inquiry.
51. A variety of topics were raised with the most common being the effect on the character and appearance of the surroundings, and access and traffic.
52. The Council's Conservation Officer raises no objection subject to appropriate design details at reserved matters stage. The Urban Design Officer's comments led to the revised scheme and any outstanding matters could be addressed at detail stage. Whilst a concern has been raised about possible flooding the site is in Flood Zone 1, with the lowest probability of flooding. Air quality and pollution have also been raised. Mitigation would be addressed by conditions and a Section 106 Obligation. These matters would not justify

- dismissing the proposal. Noise, odour and contaminated land will also be conditioned. During construction the scheme would have time restrictions to prevent 'mass disruption'.
53. In terms of transportation, Chinnor has a good range of sustainable transport infrastructure to serve the size and scale of proposed development. Whilst the capacity of the local highway network and pollution are not issues between the two main parties, they are serious concerns of many local residents. However, despite having considered the wealth of data provided by residents the highways experts maintain their views.
54. In terms of the local road network, the expert witnesses accept that the capacity of a single straight carriageway such as the Crowell Road is generally taken to be about 1500 vph although the road from the site access to Oakley has a narrower stretch. The maximum peak hour traffic on Crowell Road has been recorded as 918 vehicles in the AM peak and 851 in the PM peak averaging 14 vehicles per minute. The agreed traffic associated with the scheme would be an additional 32 and 34 two-way vehicle movements in the AM and PM hours respectively equating to one additional trip on the highway network every two minutes. The network would continue to operate safely well within capacity.
55. Using the survey data gathered by local residents in the peak periods (05:00-09:00 and 17:00-21:00) the overall traffic difference between AM and PM peak periods is only around 10 vehicles in a 4 hour period. The B4009 is operating at around 45-50% of its capacity. The traffic counts broadly support those submitted in the Transport Assessment and Oxfordshire County Council's conclusions and the residual cumulative impact cannot be considered 'severe' which is the key NPPF2 policy test.
- ### **Planning Balance**
56. In terms of social benefits, the provision of market housing and the significant need for affordable housing, together with the increased choice of tenures, size, and mix, would constitute major benefits. Moderate benefits would arise from the location in one of the Larger Villages with services and public transport facilities. Contributions through CIL and a Section 106 Obligation would have a limited indirect benefit in terms of improvement to the quality of facilities.
57. Turning to economic benefits, up to 420 construction jobs would be created as well as an estimated 258 economically active residents contributing to the local economy. Little visual impact would arise and most viewpoints would not have a view of the development. Moderate benefits would arise from better ecological enhancement and habitat creation. Public open spaces would be provided as would additional tree planting. Linking development to the east and west would create a limited benefit through more permeable development.
58. Greenfield sites are required to achieve housing targets so the development of a greenfield site would have a neutral impact. Two further limited benefits would be reduced run-off in extreme rainfall events through the provision of SuDs and additional tree planting.
59. These benefits would support the fact that the appeal scheme would be infill and that the landscape and visual impact would be minimal. Both would be in

accordance with the development plan.

### **Conditions and Section 106 Obligations**

60. The main parties have agreed a number of conditions in respect of both Appeals A and B and pre commencement conditions have been justified. I consider that they are necessary to meet the tests unless there are comments in this section of the decision to explain otherwise.
61. Condition 5 of Appeal A is not agreed. The Council relies on the SHMA for a desirable housing mix but is using it as a substitute for a SPD that has not been published. A similar condition in the Watlington Road, Benson case was considered by the Inspector to be too vague and unnecessary in the light of Policy CSH4. In the absence of the SPD I consider that a mix of dwelling types and sizes to meet the needs of current and future households as set out in CS Policy CSH4 should be required by condition.
62. Condition 18 of Appeal A was suggested by the Council but is not agreed. The proposal includes an Air Quality Report. This has been the subject of a consultation response by environmental health in January 2017 which raised a number of points that do not appear to have been fully resolved. Although other agreed conditions relate to noise, and odour and pollutant mitigation and may overlap with condition 18 I consider that the condition relating to air quality should still be attached.<sup>20</sup>
63. Whilst Thames Water originally required further information its most up to date comments confirm that it no longer requires a further water impact report. Condition 23 (play space) was added to the agreed conditions as it is not covered by a Section 106 Deed of Agreement.
64. The completed Agreement covers provision of Affordable Housing whilst Schedules 2 and 3 require contributions to the District Council including for street naming, recycling and refuse, open space and public art. Contributions to the County Council include bus stop and public transport contributions. Justifications have been provided and I consider that the contributions would meet the tests in CIL Regulations 122 and 123.
65. However, a letter from the County Council dated 25 October confirms its acceptance that an administration and monitoring fee referred to at clause 8.3 of the Section 106 agreement should be £500 and not £3750. The only signed Agreement before the Inquiry would include the unjustified fee of £3750 and so I have given no weight to this provision of the Agreement.

### **Conclusion**

66. The Council confirmed that the focus should be on the surviving reason for refusal. In policy terms the proposal would be perceived as infill policy in accordance with the development plan. SODC can demonstrate in excess of a 3YHLS, in landscape and visual impact terms there would be only minor adverse impact and in transportation terms the highway network would continue to operate within capacity. On balance the benefits of the scheme would clearly outweigh any adverse impacts and in terms of the development plan as a whole the proposal would accord with the development plan. It is common ground between PH and SODC that if the 'main' appeal for housing is

<sup>20</sup> CD7.22

allowed then that should also be determinative of the 'secondary' proposal for a new access. I agree with this.

***Ken Barton***

INSPECTOR

**Appendix A****Schedule of Conditions Appeal A: APP/Q3115/W/17/3187058**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than [2] years from the date of approval of the last of the reserved matters to be approved.
- 4) That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, 15.240-LP-01 Rev A and 15.240-LP-02 Rev A, 15.240/P401 Rev C, 15.240/P403 Rev C and 15.240/P402 Rev B, except as controlled or modified by conditions of this permission.
- 5) Prior to the commencement of development details of a mix of dwelling types and sizes to meet the needs of current and future households shall be submitted to and approved in writing by the local planning authority.
- 6) Prior to the commencement of development detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved detail
- 7) Prior to the commencement of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.
- 8) A Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved CTMP shall be implemented prior to any works being carried out on site, and shall be maintained throughout the course of the construction of the development.
- 9) Before any of the dwellings hereby permitted are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with the specification details that shall have been first submitted to and approved in writing by the Local Planning Authority.
- 10) Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation

- relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority
- 11) Following the approval of the Written Scheme of Investigation referred to in condition 10, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.
  - 12) Development shall not commence until a drainage strategy detailing any on and off site drainage works, has been submitted to and approved in writing by the Local Planning Authority. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
  - 13) The development hereby permitted shall not be occupied until surface water drainage works in accordance with the principles of sustainable urban drainage (SUDS) have been carried out in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.
  - 14) Prior to the commencement of any site works (including demolition or site clearance) a protected area shall be designated for all existing trees which are shown to be retained, and the trees shall be protected in accordance with a scheme which complies with the current edition of BS 5837: "Trees in relation to design, demolition and construction" that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The agreed measures shall be kept in place during the entire course of the construction of the development.
  - 15) Concurrent with the submission of comprehensive details of the proposed landscape works pursuant to condition 1 above, a fully detailed scheme for the timing of planting, its maintenance and a long-term management shall be submitted to and approved in writing by the Local Planning Authority. The schedule and plan shall be implemented and maintained in accordance with the agreed programme.
  - 16) No development shall commence until a scheme of noise mitigation measures has been submitted to, and approved by the Local Planning Authority. The development shall be built in accordance with the approved scheme prior to first occupation of any of the dwellings and retained thereafter.
  - 17) No development shall commence until a scheme of odour and pollutant mitigation measures has been submitted to, and approved by the Local Planning Authority. The development shall be built in accordance with the approved scheme prior to first occupation of any of the dwellings and retained thereafter.
  - 18) Prior to the first occupation of the dwellings hereby approved details of measures to mitigate the impact on air quality shall be submitted to and approved in writing by the Local Planning Authority. The mitigation

measures shall be installed prior to completion of the development and retained as such thereafter.

- 19) Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to and approved in writing by the Local Planning Authority.

Phase 1 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and if significant contamination is identified to inform the remediation strategy.

Phase 2 requires that a remediation strategy be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use.

- 20) The development shall not be occupied until any previously approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.
- 21) In connection with the implementation of this permission no construction works shall take place outside the hours of 07:30 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. Works shall not take place at all on Sundays or Bank Holidays without the prior written authority of the Local Planning Authority.
- 22) Prior to first occupation details of the means by which the dwellings hereby approved may be connected to the utilities to be provided on site to facilitate super-fast broadband connectivity shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 23) No dwelling shall be occupied until details of the layout and equipment to be included in the children's play space, and a timetable for their implementation, have been submitted to and approved in writing by the Local Planning Authority. The play space shall be implemented in accordance with the approved details and be maintained thereafter.

**Appendix B****Schedule of Conditions Appeal B: APP/Q3115/W/17/3187059**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans, 15.240-A/LP-01, 15.240-A/SL-01, 15.240-LP-03 and 21610\_03\_020\_01 Rev C, except as controlled or modified by conditions of this permission.
- 3) This permission shall only be implemented in combination with the development permitted under planning application P16/S3284/O.
- 4) Prior to the commencement of the development hereby permitted a scheme for the landscaping of the site, including the planting of live trees and shrubs, the treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation or use of development and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.
- 5) Prior to the commencement of the development a plan of the access to Greenwood Avenue shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of development, the access shall be constructed in accordance with the approved plan.
- 6) A Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved CTMP shall be implemented prior to any works being carried out on site, and shall be maintained throughout the course of the development.
- 7) Prior to development a detailed design for the management of surface water shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented and maintained appropriately. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details.
- 8) Prior to any demolition and the commencement of development details of measures for the control of noise and dust during demolition shall be submitted to and approved in writing by the Local Planning Authority and implemented as approved.  
Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of

- Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority
- 9) Following the approval of the written scheme of investigation referred to in condition 8, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication.

**Appendix C****Appearances**

(Replicated in App/Q3115/17/3188694 as only one Inquiry was held but two reports have been produced)

**FOR SOUTH OXFORDSHIRE DISTRICT COUNCIL:**

Thomas Cosgrove QC and Ben Du Feu of Counsel	Instructed by Margaret Reed, Head of Legal, South Oxfordshire District Council
They called	
Bettina Kirkham DipTP BLD CMLI	(Landscape) Kirkham Landscape Planning
Dr Valerie Scott MA PhD (English architectural history)	(Heritage) Head of Conservation, Built Environment Advisory and Management, (BEAMS), The Castle, Hertford SG1 1HR
John Patey BSc CEng MICE	(Transport) Transport Development Control, Environment and Economy, Oxfordshire County Council, County Hall, New Road, Oxford OX1 1ND
Thomas Rice BSc MSc MRTPI	(HLS) Senior Planning Officer, Development Management, South Oxfordshire District Council
Philippa Jarvis BSc(Hons) DipTP MRTPI	(Planning) Principal PJPC Limited

**FOR CALA MANAGEMENT LIMITED:**

Paul Cairnes QC	Instructed by Pegasus Planning Group, Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire GL7 1RT
He called	
Andrew Cook BA(Hons) MLD CMLI MIEMA CEnv MID	(Landscape) Director, Pegasus Planning Group
Gail Stoten BA(Hons) MCIfA FSA	(Heritage) Director, Pegasus Planning Group
David Frisby BEng(Hons) CEng FCIHT	(Transport) mode transport planning, Lombard House, 145 Great Charles Street, Birmingham B3 3LP
Neil Tiley BSc(Hons) Assoc RTPI	(HLS) Associate Pegasus Planning Group
David Hutchison BSc(Hons) Dip TP MRTPI	(Planning) Director Pegasus Planning Group

**FOR PERSIMMON HOMES:**

Charles Banner of Counsel

Instructed by Hunter Page Planning, Thornbury House, 18 High Street, Cheltenham, Gloucester GL50 1DZ

He called

Tom Robinson BPhil  
CMLI

(Landscape) Director, Robinson Landscape Design Limited, The Studio, Hedgelay, North Bank, Haydon Bridge, Hexham NE47 6LY

Guy Wakefield MRTPI  
BA(Hons)

(Planning) Director, Hunter Page Planning

**INTERESTED PERSONS**

IP1 IP1A Danny Woodward Chinnor and Princes Risborough Railway Association Limited

IP2 Statement by John Howell MP Read by Lee King

IP3 Residents of Glynnswood Chinnor Represented by Lee King

IP4 Holly Cringle

David Layton

IP5 Martin Wright Chinnor Parish Council

IP6 Susan Ashdown Chinnor Parish Council

IP7 IP7A Paul Martin

IP8 Maxine Pickard

IP9 Roger Pickard

Ian White District Councillor

IP10 Mrs Crockett

Lynn Davern

IP11 Sophie Lacey 'Stand up for Chinnor' Petitions Coordinator 2220 signature petition and e-petition with 413 signatures and 200+ comments at time of submission. Updated 4 July.

IP12 Lee King

IP13 Diane Eyre

IP14	Jo Gaulsworthy	
IP15	Brian Fagan	
IP16	Jeremy Peters	
IP17	Daryl Ridgley	
IP18	David Layton	
IP19	Bernard Braun	
IP20	Mrs Pickard	
IP21	Diane Carver	
IP22	Keith Webley	
IP23	Mr Radnege	
IP24	Susan Ashdown	Chinnor Parish Council
	Jo Wills	
IP25	Mr Dodds	Represented by Lee King
IP26	Darayus Motivala	
IP27	Roger Pickard	
IP28	Bev Cort, Jackie Pritchard, Jennie Dunse	
IP29	Roger Payne	
IP30	Mrs Twomey	
	Janet Erskine	
IP31	Barbara Bestwick	
IP32	Robert Dobbs	
IP33	Lee King	
IP34	Bev Cort, Robert Dobbs	Traffic Survey
IP35	Mrs Lee King	Concluding argument from Stand Up For Chinnor

**Appendix D****Documents**

(Replicated in App/Q3115/17/3188694 as only one Inquiry was held but two reports have been produced)

**South Oxfordshire District Council Documents**

- SODC1 South Oxfordshire District Council Opening
- SODC2 Ms Kirkham's Proof of Evidence (Landscape)
- SODC2A Appendices to Ms Kirkham's Proof of Evidence
- SODC2B Ms Kirkham's Rebuttal Proof of Evidence and Appendices
- SODC3 Dr Scott's Proof of Evidence (Heritage) and Appendices
- SODC4 Mr Patey's Proof of Evidence (Highways)
- SODC4A Mr Patey's Rebuttal Proof of Evidence and Appendix
- SODC5 Mr Rice's Proof of Evidence (Housing Land Supply)
- SODC5A Appendices to Mr Rice's Proof of Evidence
- SODC5B Mr Rice's Rebuttal Proof of Evidence (Housing Land Supply)
- SODC5C Appendices to Mr Rice's Rebuttal Proof of Evidence
- SODC5D Mr Rice's Supplementary Proof of Evidence (Housing Land Supply)
- SODC6 Ms Jarvis's Proof of Evidence (Planning)
- SODC6A Appendices to Ms Jarvis's Proof of Evidence
- SODC6B Ms Jarvis's Rebuttal Proof of Evidence
- SODC6C Ms Jarvis's Supplementary Proof of Evidence (Planning)
- SODC7 Closing Submissions on behalf of SODC
- SODC8 Note By SODC on MHCLG Consultation on Housing Land Supply

**CALA Documents**

- CALA1 CALA Opening
- CALA2 Mr Cook's Proof of Evidence (Landscape)
- CALA2A Appendices to Mr Cook's Proof of Evidence(A3)
- CALA2B Mr Cook's Summary Proof of Evidence and Appendices
- CALA2C Detailed Methodology for the Production of Photomontages
- CALA3 Ms Stoten's Proof of Evidence (Heritage) and Appendices
- CALA3A Ms Stoten's Summary Proof of Evidence
- CALA4 Mr Frisby's Proof of Evidence (Highways)
- CALA4A Appendices to Mr Frisby's Proof of Evidence
- CALA4B Mr Frisby's Rebuttal Proof of Evidence

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|--------|---|
| CALA4C | Mode Transport Planning Technical Note  |
| CALA5  | Mr Tiley's Proof of Evidence (Housing Land Supply) also witness for Persimmon Homes |
| CALA5A | Appendices to Mr Tiley's Proof of Evidence  |
| CALA5B | Mr Tiley's Rebuttal Proof of Evidence   |
| CALA5C | Mr Tiley's Addendum Proof of Evidence (Housing Land Supply)                         |
| CALA5D | Appendices to Mr Tiley's Addendum Proof of Evidence (Housing Land Supply)           |
| CALA6  | Mr Hutchison's Proof of Evidence (Planning)   |
| CALA6A | Appendices to Mr Hutchison's Proof of Evidence                                      |
| CALA6B | Mr Hutchison's Summary Proof of Evidence  |
| CALA6C | Mr Hutchison's Addendum Proof of Evidence (Planning NPPF2)                          |
| CALA7  | Closing Statement on behalf of CALA Management Limited                              |
| CALA8  | Joint Statement on NPPF Consultation Paper October 2018                             |

### **Persimmon Homes Documents**

- |      |  |
|------|--|
| PH1  | Persimmon Homes Opening  |
| PH2  | Mr Robinson's Proof of Evidence (Landscape)  |
| PH2A | Appendices to Mr Robinson's Proof of Evidence  |
| PH2B | Mr Robinson's Rebuttal Proof of Evidence   |
| PH2C | Figures to Mr Robinson's Proof of Evidence   |
| PH2D | Illustrative Layout  |
| PH3  | Mr Wakefield's Proof of Evidence (Planning)  |
| PH3A | Mr Wakefield's Rebuttal Proof of Evidence  |
| PH3B | Mr Wakefield's Addendum Proof of Evidence  |
| PH3C | Plan and Note on Chinnor Constraints Plan  |
| PH3D | Site Location Plan   |
| PH3E | Wider Development Context Plan   |
| PH3F | Chinnor Basic Conditions Statement   |
| PH3G | SODC Report 6 Planning Committee 14 Sept 2011  |
| PH4  | Mark Hewitt CV   |
| PH4A | Court of Appeal Order Canterbury CC v SoS for Housing, Communities and Local Government                  |
| PH4B | Gladman Skeleton Argument Gladman v Canterbury CC and SoS for Housing, Communities, and Local Government |
| PH5  | Rebuttal Statement relating to Noise Matters by Rosie James BSc PIEMA                                    |

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- PH6      Supplementary Proof of Simon Prescott, Associate Transport Engineer at M-EC Consulting Engineers on Highways and Transportq
- PH7      Costs Application on behalf of Persimmon Homes
- PH8      Closing Submissions on behalf of Persimmon Homes

**Core Documents****CD1 Planning Documents**

- 1.1    South Oxfordshire Core Strategy (adopted 2012)
- 1.2    South Oxfordshire Local Plan (adopted 2006)
- 1.3    South Oxfordshire Core Strategy Inspector's Report
- 1.4    Chinnor Neighbourhood Plan (referendum version), 2017
- 1.5    Oxfordshire SHMA 2014
- 1.6    National Planning Policy Framework
- 1.7    South Oxfordshire Local Plan 2033, Publication version October 2017
- 1.8    South Oxfordshire Settlement Assessment Background Paper Updated 2017
- 1.9    The Housing White Paper – Fixing our Broken Housing Market – 2017
- 1.10   Chinnor Neighbourhood Plan Examiner's Report
- 1.11   CIL Charging Schedule and Reg. 123 List 2016
- 1.12   Planning Obligations SPD 2016
- 1.13   Affordable Housing SPG 2004
- 1.14   Joint Henley and Harpsden Neighbourhood Plan Final Submission 2012-27
- 1.15   Written Ministerial Statement on Neighbourhood Plans, December 2016
- 1.16   South Oxfordshire Settlement Assessment Background Paper 2011
- 1.17   Draft NPPF2
- 1.18   Draft NPPG
- 1.19   NPPF2
- 1.20   NPPG – Housing Needs Assessment
- 1.21   NPPG - Housing and Economic Land Availability Assessment
- 1.22   "Housing Land Supply in Oxfordshire: Written Statement" – Written Ministerial Statement, 12 September 2018 Not Provided

**CD2 Landscape Documents**

- 2.1    Oxfordshire Landscape Character Assessment Not Provided (see 2.1 and 2.2)

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- 2.2 South Oxfordshire District Council Landscape Character Assessment, 1998, Adopted July 2003
  - 2.3 South Oxfordshire District Council Landscape Character Assessment, 2017
  - 2.4 National Character Area 108: Upper Thames Clay Vales
  - 2.5 South Oxfordshire Design Guide 2008
  - 2.5A South Oxfordshire Design Guide 2016
  - 2.6 Chilterns AONB Management Plan 2014-19, (2014)
  - 2.7 Position Statement – Development Affecting the Setting of the Chilterns AONB (2011)
  - 2.8 Not used
  - 2.9 South Oxfordshire Landscape Capacity Assessment for the Larger Villages, 2015 (Introduction and Chinnor site CH21 extracts only)

### **CD3 Heritage**

- 3.1 The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), December 2017.
- 3.2 Managing Significance in Decision taking in the Historic Environment Good Practice in Planning Note 2, July 2015
- 3.3 Extracts from the PPG
- 3.4 Listed Building Descriptions
- 3.5 Conservation Principles, Policies and Guidance, Historic England, April 2008
- 3.6 Scheduling Guidance Funerary

### **CD4 Highways Documents**

- 4.1 Oxfordshire County Council Local Transport Plan 2015 – 31 Vol 1
- 4.2 Oxfordshire County Council Local Transport Plan 2015 –31 Vol 2 part 1
- 4.3 Oxfordshire County Council Local Transport Plan 2015 –31 Vol 2 part 2
- 4.4 Oxfordshire County Council Local Transport Plan 2015 –31 Vol 3
- 4.5 Oxfordshire County Council Local Transport Plan 2015 –31 Vol 4

- 4.6 DMRB Vol 6 section 2 part 3 TD16/07 Geometric design of roundabouts
- 4.7 Residential Roads Design Guide, 2015
- 4.8 DMRB Vol 6 section 2 part 6 TD42/95 Geometric design of major/minor priority junctions
- 4.9 Manual for Streets (Foreword and introduction).
- 4.10 OCC Highways consultation response dated 28/09/17
- 4.11 OCC Highways consultation response dated 15/11/17

**CD5 Housing Land Supply Documents**

- 5.1 Extracts of the PPG
- 5.2 South Oxfordshire Housing Land Supply Statement 20185.3 Memorandum of Co-operation
- 5.4 Oxfordshire Growth Deal Outline Agreement
- 5.5 South Oxfordshire Local Plan to 2033, Housing Topic Paper, October 2017
- 5.6 Nathaniel Lichfield & Partners Report "*Start to Finish: How quickly do large-scale housing sites deliver?*" (November 2016)
- 5.7 Trading Statements of Volume Housebuilders
- 5.8 Gloucester, Cheltenham and Tewkesbury Housing Implementation Strategy
- 5.9 Stroud Housing Land Supply Statement
- 5.10 Wiltshire Housing Land Supply Statement
- 5.11 Not used
- 5.12 South Oxfordshire Annual Monitoring Report 2016/17
- 5.13 South Oxfordshire DC Assessment of Housing Land Supply May 2017
- 5.14 Not used – see CD5.6
- 5.15 Oxfordshire Growth Deal Delivery Plan
- 5.16 Objectively Assessed Needs and Housing Targets Technical Advice Note (PAS)
- 5.17 Memorandum of Co-operation (signed version)
- 5.18 Extract from Thame Neighbourhood Plan March 2013 Not

Provided

- 5.19 Email from Nick Ireland (GL Hearn) dated 22.6.2018
- 5.20 Extract of the report to and minutes of meeting of the OGB 26th September 2016
- 5.21 Oxfordshire Growth Board Joint Statutory Committee Terms of Reference (revised April 2018)
- 5.22 Objections from OGB Members
- 5.23 NIC – Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes - Oxford Arc
- 5.24 Extracts from the Autumn Budget 2017
- 5.25 Oxfordshire Housing and Growth Deal Planning Freedoms and Flexibilities 3 Year Housing Land Supply Consultation
- 5.26 Housing Land Supply Statement of Common Ground – Emmer Green Inquiry (Planning Inspectorate Reference: APP/Q3115/W/17/3185997 and LPA reference: P16/S3630/O.)
- 5.27 "How is the minimum annual local housing need figure calculated using the standard method" – MHCLG – July 2018
- 5.28 Draft Updated Advice Note on Oxford's Development Capacity – Fortismere Associates for the Oxfordshire Growth Board –  
<https://www.oxfordshiregrowthboard.org/wp-content/uploads/2018/04/UpdatedadvisenoteOxfordHousingCapacity.pdf>
- 5.29 "A Countywide Approach to Meeting the Unmet Housing Need of Oxford" – Oxfordshire Growth Board (September 2016)  
<https://www2.oxfordshire.gov.uk/cms/sites/default/files/folders/documents/communityandliving/partnerships/GrowthBoard/PostSHMAStrategicWorkProgramme.pdf>
- 5.30 Housing Delivery Test Measurement Rule Book – MHCLG - (July 2018)
- 5.31 South Oxfordshire Local Development Scheme
- 5.32 Report to Cabinet Meeting of 2 August 2018
- 5.33 Minutes of Cabinet Meeting of 2 August 2018

#### **CD6 Relevant Appeal Decisions and Court Cases**

- 6.1 Land south of Crowell Road, Chinnor  
(APP/Q3115/W/14/3001839)

- 6.2 Land adjoining Greenwood Avenue, Chinnor  
(APP/Q3115/A/14/2229389)
- 6.3 Stroud DC v SSCLG and another [2015] EWHC 488 (Admin)
- 6.4 Thames Farm, Reading Road, Shiplake, Henley-on-Thames, RG9 3PH (APP/Q3115/W/16/223161733)
- 6.5 South Oxfordshire District Council v Secretary of State for Communities and Local Government & Anor, Court of Appeal [2016] EWHC 1173 (Admin)
- 6.6 Suffolk Coastal District Council and Cheshire East District Council in Suffolk Coastal District Council v Hopkins Homes Ltd & Richborough Estates Partnership LLP v Cheshire East Borough Council [2017] UKSC 37
- 6.7 The Barn House, 46 Lower Icknield Way, Chinnor  
(APP/Q3115/W/17/3179647)
- 6.8 R (on the application of Cherkley Campaign Ltd) v Mole Valley DC [2014] EWCA Civ 567
- 6.9 Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government, Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin)
- 6.10 R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin)
- 6.11 Crane v Secretary of State for Communities and Local Government [2015] EWHC 425 (Admin)
- 6.12 Woodcock Holdings Ltd v Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin)
- 6.13 Not Used – see CD6.38
- 6.14 Forest of Dean DC v Secretary of State for Communities and Local Government [2016] EWHC 2429 (Admin)
- 6.15 Gladman Developments Ltd v Daventry District Council [2016] EWCA Civ 1146
- 6.16 Keith Langmead Limited v Secretary of State for Communities and Local Government, Arun District Council [2017] EWHC 788 (Admin)
- 6.17 R (on the application of Leckhampton Green Land Action Group Limited) v Tewkesbury Borough Council v Redrow Homes

- Limited, Martin Dawn (Leckhampton) Limited [2017] EWHC 198 (Admin)
- 6.18 Not Used – see CD6.6
- 6.19 Barwood Strategic Land II LLP v East Staffordshire BC [2017] EWCA Civ 893
- 6.20 St Modwen Developments Ltd v Secretary of State for Communities and Local Government [2017] EWCA Civ 1643
- 6.21 Jelson Ltd v Secretary of State for Communities and Local Government, Hinckley and Bosworth Borough Council [2018] EWCA Civ 24
- 6.22 Preston New Road Action Group v Secretary of State for Communities and Local Government [2018] EWCA Civ 9
- 6.23 Richborough Estates Ltd v Secretary of State for Housing, Communities and Local Government [2018] EWHC 33 (Admin)
- 6.24 Not Used – see CD6.4
- 6.25 Wainhomes v Secretary of State for Housing, Communities and Local Government [2013] EWHC 597 (Admin)
- 6.26 Court of Appeal Judgment - City and District Council of St Albans v R (on the application of) Hunston Properties Limited et al [2013] EWCA Civ 1610
- 6.27 Appeal decision - Land between Iron Acton Way and North Road, Engine Common APP/0119/A/12/2186546
- 6.28 Appeal decision - Land south of Filands, Malmesbury APP/Y3920/A/12/2183526
- 6.29 Appeal decision – Land at Mansfield Road, Farnsfield (APP/B3030/W/17/3169436)
- 6.30 Appeal decision – Land at Horsepond Road, Gallowstree Common (APP/Q3115/W/17/3166856)
- 6.31 Appeal decision – Mulberry House, Old Bix Road, Bix (APP/Q3115/W/17/3169079)
- 6.32 Appeal decision – Land off St Helen's Avenue, Benson (APP/Q3115/W/16/3163844)
- 6.33 Appeal decision – CABI International, Nosworthy Way, Mongewell, Wallingford (APP/Q3115/W/16/3165351)
- 6.34 Appeal decision – Newington Nurseries, Newington Road,

- Stadhampton (APP/Q3115/W/15/3035899)
- 6.35 Appeal decision – Land east of Chalgrove, Chalgrove (APP/Q3115/W/17/3177448)
- 6.36 Appeal decision – Land off Fieldside Track, Long Wittenham (APP/Q3115/W/17/3169755)
- 6.37 Appeal decision – East End Farm, South East of Wallingford Road, Cholsey (APP/Q3115/W/17/3179191)
- 6.38 Court of Appeal Judgement, Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council & Ors [2014] EWCA Civ 137
- 6.39 Mordue v Secretary of State for Communities and Local Government [2015] EWCA Civ 1243
- 6.40 Appeal Decision – Gallows Hill, Heathcote (APP/T3725/A/14/2229398)
- 6.41 Steer v Secretary of State for Communities and Local Government [2017] EWHC 1456 (Admin)
- 6.42 Bedford BC v Secretary Of State For Communities And Local Government [2013] EWHC 2847 (Admin)
- 6.43 South Lakeland v Secretary of State for the Environment [1992] 2 W.L.R. 204
- 6.44 Palmer v Herefordshire Council and ANR [2016] EWCA Civ 1061
- 6.45 Appeal Decision – Land North of Lower Icknield Way, Chinnor (APP/Q3115/W/15/3097666)
- 6.46 Appeal Decision – Land North of Littleworth Road, Benson (APP/Q3115/A/14/2222595)
- 6.47 Tesco Stores Ltd v Dundee City Council [2012] UKSC 13
- 6.48 Not Used
- 6.49 Not used – see CD6.29
- 6.50 Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government [2016] EWCA Civ 1040 (October 2016)
- 6.51 Appeal decision (SoS) - Land west of Castlemilk, Moreton Road, Buckingham (APP/J0405/V/16/3151297)
- 6.52 Dr Anna Hoare v Vale of White Horse DC v Oxfordshire County Council, Faringdon DC [2017] EWHC 1711 (Admin)

- 6.53 Appeal decision – Mount Hill Farm, Tetsworth (APP/Q3115/W/15/3136319)
- 6.54 Appeal decision – land east of Newington Road, Stadhampton (APP/Q3115/W/15/3035899)
- 6.55 Appeal decision (SoS) – Land south of Verney Road, Winslow (APP/J0405/W/15/3137920)
- 6.56 Appeal decision – land south of the Strand, Quainton (APP/J0405/W/16/3157098)
- 6.57 Appeal Decision – Spencers Wood (APP/X0360/A/13/2209286)
- 6.58 Appeal Decision - Land South of Oxford Road (APP/D3125/W/17/3182718)
- 6.59 Appeal Decision - Land South of Love Lane (APP/F1610/16/W/3151754)
- 6.60 Appeal Decision - Land and Buildings off Watery Lane (APP/K3415/A/14/2224354)
- 6.61 Appeal Decision - Land east of Marlborough Road (APP/U3935/W/16/3147902)
- 6.62 Appeal Decision - Burgess Farm (APP/U4230/A/11/2157433)
- 6.63 Appeal Decision - Land adj Gretton Road (APP/G1630/A/12/2183317)
- 6.64 Anita Colman v Secretary of State for Communities and Local Government, North Devon District Council and RWE Npower Renewables Limited [2013] EWHC 5 (Admin)
- 6.65 Borough of Telford And Wrekin v Secretary of State for Communities and Local Government and Gladman Developments Limited [2016] EWHC 3073 (Admin)
- 6.66 Appeal Decision – Mitchelswood Farm (APP/P1425/W/15/3119171)
- 6.67 Appeal decision – Steeple Claydon (APP/J0405/W/16/3154432)
- 6.68 Appeal Decision – Soulbury (APP/J0405/W/16/3146817)
- 6.69 St Modwyn Developments Ltd v Secretary of State and East Riding of Yorkshire Council [2016] EWHC 968 (Admin)
- 6.70 Appeal Decision – Crowmarsh Gifford (APP/Q3115/W/17/3186858)
- 6.71 High Court – R on application of Simon Shimbles v City of

- Bradford Metropolitan District Council [2018] EWHC 195 (Admin)
- 6.72 Canterbury and Secretary of State v Gladman Developments Ltd [2018] EWHC 1611 (Admin)
- 6.73 Appeal Decision – Land East of Park Road, Didcot (APP/Q3115/W/17/3188474)
- 6.74 Appeal Decision – Land south of Watlington Road, Benson (APP/Q3115/W/17/3180400)
- 6.75 Appeal Decision – Land at Kennylands Road, Sonning Common (APP/Q3115/W/17/3183391)
- 6.76 Chichester DC v SoS for Housing Communities and Local Government and Beechcroft Ltd [2018] EWHC 2386 (Admin)
- 6.77 Appeal Decision – Land Rear of 59-63 Lower Icknield Way, Chinnor (APP/Q3115/W/17/3192374)
- 6.78 City of Edinburgh Council, SoS for Scotland, Revival Properties

## **CD7 Parties Statements of Case and Statements of Common Ground**

- 7.1 Persimmon Homes' Statement of Case
- 7.2 LPA Statement of Case on Persimmon Homes' Appeal
- 7.3 Persimmon Homes/LPA Statement of Common Ground
- 7.4 CALA Homes' Statement of Case
- 7.5 CALA Homes' Planning Statement of Common Ground
- 7.6 CALA Homes Landscape Statement of Common Ground
- 7.7 CALA Homes' Highways Statement of Common Ground
- 7.8 Housing Land Supply Statement of Common Ground
- 7.8A Updated Housing Land Supply Statement of Common Ground
- 7.9 Draft Conditions Persimmon Scheme
- 7.10 Persimmon comments on draft condition 3 not agreed
- 7.11 Section 106 signed Deed of Agreement – Persimmon scheme
- 7.12 Letter re mistake in Section 106 Obligation Admin and Monitoring sum in appeal 3187058 should be £500 not £3750.
- 7.13 Oxfordshire County Council's Regulation 122 Compliance Statement – Persimmon Scheme
- 7.14 South Oxfordshire District Council's Note on Compliance with CIL Regulations – Persimmon Scheme

- 7.15 Agreed List Of Draft Conditions CALA Scheme
- 7.16 Signed S106 Planning Obligation Appeal Ref 3188694 dated 2 July 2018 CALA Scheme
- 7.17 Signed S106 Deed of Unilateral Undertaking (Additional Affordable Housing) Appeal Ref 3188694 dated 4 July 2018 CALA Scheme
- 7.18 Signed S106 Deed of Agreement Appeal Ref 3188694 dated 4 July 2018 CALA Scheme
- 7.19 Signed S106 Deed of Variation Appeal Ref 3188694 dated 25 October 2018 CALA Scheme
- 7.20 Oxfordshire County Council's Regulation 122 Compliance Statement – CALA Scheme
- 7.21 South Oxfordshire District Council's Note on Compliance with CIL Regulations – CALA Scheme
- 7.22 Statement of Common Ground between Persimmon Homes and the Chinnor and Princes Risborough Railway Association

**CD8 Not Used See Parties' Documents****CD9 Application Documents for both applications**

- 9.1 Application Form Site Ownership Certificate (part of application form)
- 9.2 Location Plan
- 9.3 Tree Survey
- 9.4 Design and Access Statement
- 9.5 Ecological Appraisal
- 9.6 Flood Risk Assessment and Surface Water Drainage Strategy
- 9.7 LVIA
- 9.8 Planning Statement
- 9.9 Statement of Community Involvement
- 9.10 Transport Assessment

**CD10 Documents sent to SODC Following Submission**

- 10.1 Letter from Boyer 20<sup>th</sup> December
- 10.2 Proposed Access Arrangements drwg no 21610\_03\_020\_01c

**CD11 Not Used**

**CD12 Committee Report**

12.1 Full Committee Reports (2 applications)

- a. 1<sup>st</sup> March (outline)
- b. 24<sup>th</sup> May (outline)
- c. 1<sup>st</sup> March (full)

12.2 Minutes of Committee Meeting

- a. 24th May
- b. 1st March

**CD13 Decision Notice**

13.1 Decision Notice outline

13.2 Decision Notice full

**CD14 Consultation Reponses****Full Application (LPA ref: P16/S3285/FUL)**

14.1 Chinnor Parish Council

14.2 Conservation Officer

14.3 Air Quality – December 2016

14.4 Air Quality – October 2016

14.5 Environmental Protection Team

14.6 Oxfordshire CC Transport and Archaeology December 2016

14.7 Oxfordshire CC Transport and Archaeology January 2017

**Outline Application (LPA ref: P16/S3284/O)**

14.8 Chinnor Parish Council

14.9 Conservation Officer

14.10 Countryside Officer

14.11 Drainage Engineer

14.12 Forestry Officer

**14.13 Air Quality November 2016**

**14.14 Air Quality January 2017**

14.15 Contaminated Land

14.16 Environmental Health

14.17 Housing

14.18 Leisure

14.19 Oxfordshire CC Transport and Archaeology

14.20 Thames Water November 2016

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- 14.21 Thames Water February 2017
  - 14.22 Urban Design November 2016
  - 14.23 Urban Design January 2017
  - 14.24 Waste Management

**CD15 Not Used****CD16 Application Documents****DOCUMENTS RELEVANT TO CALA APPLICATION** Application Form

- 16.2 Not used
- 16.3 Site Location Plan
- 16.4 Site Layout Plan
- 16.5 Site Layout Plan Colour
- 16.6 Site Layout with Storey Heights Plan
- 16.7 Site Layout with Wall Materials Plan
- 16.8 Site Layout with Roof Materials Plan
- 16.9 Site Layout with Tenure Plan
- 16.10 Site Layout with Building Heights Plan
- 16.11 Site Layout with Shed Locations Plan
- 16.12 Street Scenes
- 16.13 House Types (Various)
- 16.14 Landscape Strategy edp2770\_08g
- 16.15 Soft Landscape Design (Overview) EDP2770\_11e
- 16.16 Soft Landscape Design (Sheet 1 of 2) EDP2770\_11e
- 16.17 33 Soft Landscape Design (Sheet 2 of 2) EDP2770\_11e
- 16.18 Soft Landscape Design edp2770\_12c (Overview)
- 16.19 Soft Landscape Design edp2770\_12c (Sheet 1 of 2)
- 16.20 Soft Landscape Design edp2770\_12c (Sheet 2 of 2)
- 16.21 Planning Statement
- 16.22 Chinnor Design and Access Statement 19.07.17
- 16.23 Chinnor Design and Access Statement Addendum RFS
- 16.24 Aboricultural Impact Assessment
- 16.25 Addendum to Aboricultural Impact Assessment
- 16.26 Tree Survey and Report
- 16.27 Flood Risk Assessment
- 16.28 Flood Risk Assessment Appendices

- 16.29 Foul Water Drainage and Utilities Assessment
- 16.30 Foul Water Strategy
- 16.31 Not used
- 16.32 Transport Statement
- 16.33 Transport Statement Addendum
- 16.34 Transport Design Team Response
- 16.35 Travel Plan Statement
- 16.36 Environmental Noise Assessment
- 16.37 Air Quality Assessment
- 16.38 Ecological Appraisal
- 16.39 Transport Technical Note TN004 REV C
- 16.40 Transport Technical Note TN005 REV C
- 16.41 Ecological Appraisal Addendum
- 16.42 Statement of Community Involvement
- 16.43 Revised Landscape Visual Impact Assessment
- 16.44 Heritage Assessment
- 16.45 CIL Information Form
- 16.46 Archaeological Evaluation
- 16.47 Ground Investigation Report

**CD17 Not used****CD18 Officer Delegated Report**

- 18.1 Full Delegated Report

**CD19 Consultation Responses**

- 19.1 Air Quality
- 19.2 Archaeology
- 19.3 Chinnor Parish Council
- 19.4 Contaminated Land
- 19.5 Countryside (Biodiversity)
- 19.6 Crowell Parish Council
- 19.7 Chilterns Conservation Board
- 19.8 CPRE
- 19.9 CPRE (PROW)
- 19.10 Drainage
- 19.11 Education – See 19.15 for County Joint Response

- 19.12 Environmental Protection
- 19.13 Forestry
- 19.14 Housing Development
- 19.15 Highways (dated 28/9/17 and 15/11/17)
- 19.16 Landscape
- 19.17 Thames Water
- 19.18 Urban Design
- 19.19 Waste Management
- 19.20 Cotswold Conservation Board 29.5.2018

**CD20 Not Used**

**CD21 Not Used**

**Appendix E****Glossary**

(Replicated in App/Q3115/17/3187058 and 3187059 as only one Inquiry was held but two reports have been produced)

3YHLS	3 year housing land supply
5YHLS	5 year housing land supply
CCB	Chilterns Conservation Board
CIL	Community Infrastructure Levy
CS	Core Strategy
DMRB	Design Manual for Roads and Bridges
DPD	Development Plan Document
dpa	Dwellings per annum
EA	Environment Agency
HLS	Housing Land Supply
LCA	Landscape Character Area
LCT	Landscape Character Type
LP	Local Plan
MfS	Manual for Streets
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
NPPF2	National Planning Policy Framework 2
OCA	Oakley Conservation Aea
OHGD	Oxford Housing Growth Deal
PH	Persimmon Homes
PPG	Planning Policy Guidance
RSA	Road Safety Audit
SAC	Special Area of Conservation
SHMA	Strategic Housing Market Assessment
SM	Standard Method
SoS	Secretary of State
SODC	South Oxfordshire District Council
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
SuDs	Sustainable urban drainage system
WMS	Written Ministerial Statement





## Costs Decision

Inquiry Opened on 26 June 2018

Site visits made on 25 and 26 June and 12 July 2018

**by Ken Barton BSc(Hons) DipArch DipArb RIBA FCIArb**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 December 2018**

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**Costs application in relation to Appeal Ref: APP/Q3115/W/17/3187058  
Land south of Greenwood Avenue, Chinnor, Oxfordshire OX39 4HN  
(nearest)**

- The application is made under the *Town and Country Planning Act 1990*, sections 78, 320 and Schedule 6, and the *Local Government Act 1972*, section 250(5).
  - The application is made by Persimmon Homes for a partial award of costs against South Oxfordshire District Council.
  - The inquiry was in connection with an appeal against the refusal of an outline application for planning permission for the construction of up to 140 dwellings, new public open space, associated landscaping and site infrastructure.
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### Decision

1. The application for an award of costs is refused.

### The submissions for Persimmon Homes

2. Persimmon's written application for a partial award of costs was made before the close of the Inquiry. The first component of the sole remaining reason for refusal is an objection to the impact of the development on landscape character and/or its visual impact on the landscape. At the Planning Committee, Members rejected the Case Officer's recommendation to grant planning permission on the basis that they "did not agree that the impact on the landscape setting or character of the local area would be acceptable. However, the reason for refusal has not been substantiated.
3. The Council did not call any expert evidence in support of this aspect of its case, despite having an expert landscape witness at the Inquiry.<sup>1</sup>This expert had previously advised the Council that there were no landscape or visual grounds for ruling the site out as a candidate for residential development. Instead, the Council's planning witness maintained in cross examination that she could express judgements on landscape and visual impact from a 'planners perspective'. This is wholly inadequate and inconsistent with the landscape witness's expert advice. The council has made assertions unsupported by any objective analysis. Judgements need to be properly considered, which means an appraisal undertaken by a suitably qualified landscape expert applying the Landscape Institute's Guidelines for Landscape and Visual Assessment 3<sup>rd</sup> edition (GLVIA3). The only such evidence is that of Persimmon's landscape expert whose analysis must be accepted.

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<sup>1</sup> Costs Application, CD2.2a page6

**The response by South Oxfordshire District Council**

4. The Council's verbal response is based on paragraphs 181 to 185 of its closing submissions. Its planning witness confirmed at the outset that her evidence was not only based on her extensive planning experience but that she had, in a number of appeals, applied her expertise in assessing the impact of developments in landscape and visual terms becoming familiar with all three editions of GLIVIA that had been current during her time in practice.
5. In this case she had made judgements based on much of the landscape assessment work produced in relation to the Landscape and Visual Impact Assessment (LVIA) relied on by the appellant at application stage, and used relevant material to form her own judgements. Whether the development would result in an unacceptable loss of an area that separates developments is a judgement well within her experience and expertise in the light of the landscape assessment and site visits in and around the proposed developments.
6. Indeed, when properly considered, many of the LVIA findings indicate a harmful proposal with some of the appellant's assessments based on erroneous assumptions. The Council's evidence was clear, robust and provided cogent and suitably expert evidence to support the position in the reason for refusal.

**Reasons**

7. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.<sup>2</sup>
8. PPG paragraph 049 sets out a non-exhaustive list of examples where a local planning authority's behaviour might give rise to a substantive award of costs against it. I consider that bullet points 2, failure to produce evidence to substantiate each reason for refusal, and 3, vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, are the most relevant in this case.
9. Members disagreed with the view expressed by the Council's Officers, which in itself is not unreasonable. It is for each party to decide how to present its case. There is no requirement to use an expert of any particular type or level of expertise, although this might affect the weight given to such evidence. An experienced planning witness would be perfectly capable of reaching a view on the impact of a proposal considering evidence provided by others and reaching a conclusion. Indeed, it is not particularly unusual for experts dealing with the same topic to reach differing views based on the same proposals.
10. In this case the Council's landscape evidence was predominantly based on the landscape assessment work produced in relation to the Landscape and Visual Impact Assessment (LVIA) and relied on by the appellant at application stage, and the judgement of the Council's planning witness. Whether the development would result in an unacceptable loss of an area that separates developments is a judgement well within her experience and expertise in the light of the landscape assessment and site visits in and around the proposed

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<sup>2</sup> PPG Para 029

- developments. Consequently, the reason for refusal was supported by objective analysis.
11. Regardless of whether some of the appellant's assessments were based on erroneous assumptions ,the Council's evidence was clear, robust and provided cogent and suitably expert evidence to support the position in the reason for refusal
  12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in this case.

***Ken Barton***

INSPECTOR



# Appeal Decision

Site visit made on 29 April 2019

**by V Bond LLB (Hons) Solicitor (Non-Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> May 2019.**

**Appeal Ref: APP/Q3115/W/19/3220743**

**Land off Fieldside Track, Long Wittenham OX14 4PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Kler Group against the decision of South Oxfordshire District Council.
- The application Ref P18/S1964/FUL, dated 7 June 2018, was refused by notice dated 29 November 2018.
- The application sought planning permission for outline residential development with all matters reserved except access for up to 36 dwellings without complying with a condition attached to planning permission granted on Appeal Ref APP/Q3115/W/17/3169755, dated 3 January 2018 (Local Planning Authority Ref P16/S1124/O).
- The condition in dispute is No 4 which states that: 'The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan and site access design drawing WIE 006 005 A07.'
- The reason given for the condition is in the interests of 'certainty'.

## Decision

1. The appeal is allowed and planning permission is granted for outline residential development with all matters reserved except access for up to 36 dwellings at Land off Fieldside Track, Long Wittenham OX14 4PZ in accordance with the application Ref P18/S1964/FUL, dated 7 June 2018 without compliance with condition no 4 previously imposed on planning permission appeal ref APP/Q3115/W/17/3169755 (Local Planning Authority Ref P16/S1124/O) but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions which shall replace those with the same numbering:
  - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from 3 January 2018.
  - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan and site access design drawing WIE 006 005 A18

## Preliminary matters

2. The decision notice issued on 29 November 2018 identifies the application with a 'FUL' suffix. It is apparent from all of the application documentation that the

application related to outline consent with all matters reserved except for access and I deal with the appeal on that basis.

3. Amended plans were submitted during the course of the application. On the basis that these appear to have been consulted upon, I deal with the appeal based upon the same plans upon which the Council made its determination and I do not consider any prejudice to result from this.

### **Background and Main Issue**

4. Outline planning permission was granted at appeal for 36 dwellings on the site and associated access works in January 2018. The appellant submitted an application to vary the plans condition in order to amend the approved means of access to the site. This was so as to avoid any potential for the visibility splay crossing unregistered or third-party land. The main issue is the effect of the proposed variation of the condition on the character and appearance of the area.

### **Reasons**

5. The appeal site sits opposite existing residential development and planning permission has been granted for 36 dwellings on the site. This section of the road has very wide grass verges on the western side, with a hedgerow boundary on the east side of the road. These aspects assist in creating a rural setting for the village.
6. The revised access would not alter the design of the junction itself as previously permitted but would reposition this forward of its approved position, within the adopted highway. The width of the road itself would remain unaltered but rather the consequence would be to reduce the width of the existing grass verge. This would though essentially be replaced with an area of equal grass verge on the eastern side of the road.
7. Whilst the proposed access would be closer to residential properties on the opposite side of the road than the access previously approved, a fair width of grass verge would remain and these properties are also set back some distance from the road. Although the proposal would mean that there would be a footway in front of the hedge and either side of the access road, given that the western side of the road already has a footway, this is not uncharacteristic of the immediate area. Consequently, the informal rural village character would remain.
8. There is no detailed evidence sufficient to indicate that the new proposed footway to the eastern side of the road will result in the loss of the hedgerow. Nor is there any robust justification as to why the likely root spread of trees outside 1-6 Saxon Heath has been assessed incorrectly, such as to mean that relocating the water main and drainage culvert could not be achieved without harm to those trees. As such, I am not persuaded that these features could not be retained. In view of this and extent of the proposed grass verges, the road would certainly not appear as a town road. There is nothing to suggest that the zebra crossing and traffic calming measures would have a materially different effect to those already approved given that these are essentially just relocated.
9. I conclude then on the main issue that the proposed variation of the condition would not have a harmful effect on the character and appearance of the area.

There would thus be no conflict with Policy LW4 of the Long Wittenham Neighbourhood Plan (2018) (LWNP) which indicates that proposals for new development will be supported where they conserve and enhance the character and appearance of the immediate area and street scene as well as the wider rural character of the village as outlined in the Long Wittenham Character Assessment Report (2016).

10. It would accord also with Policy C4 of the South Oxfordshire Local Plan (adopted 2006) which states that development which damages the attractive landscape settings of the district will not be permitted. As regards Policy LW7 of the emerging Long Wittenham Neighbourhood Development Plan, given that the appeal proposal would result in replacement grass verges being provided, there would be no conflict with the aims of this policy regarding the preservation and enhancement of incidental green spaces within the village.

### **Other Matters**

11. Numerous detailed concerns have been raised by local residents and the Parish Council. However, s73 of the Act does not permit a reconsideration of the entire scheme, but rather only the effects of the variation of condition proposed. As such, many of the concerns raised are not relevant to the present proposal and I deal only with those which are of relevance below.
12. Concern has been expressed by local residents that the proposed variation would have the effect of moving the road nearer properties at 1-6 Saxons Heath, 1-4 and 22, 23, 24 Didcot Road and no. 1 The Crescent. There is no substantive evidence though to indicate that this would have any more than a negligible impact in terms of noise as compared to the previous position.
13. A number of concerns have been raised related to potential highway safety issues in respect of the new proposed access and it would appear that the Highway Authority initially was opposed to the proposal. However, the provision of swept path analyses, a stage 1 Road Safety Audit and revised plans persuaded the Highway Authority that the proposed access would be acceptable. In view of this, and bearing in mind the details to be addressed pursuant to the Section 278 process, together with the relatively low traffic speeds in the immediate area, there is no convincing evidence to indicate that the proposal would result in adverse highway safety impacts. There also no robust justification as to why the appeal proposal would conflict with the proposed improvements for Fieldside in the NDP.
14. Temporary inconvenience related to construction works is not a valid planning reason to resist otherwise acceptable development. Potential effects on property values are not a relevant consideration as these relate to a private interest. As regards impacts in relation to the proposed community hub, it would appear that this scheme is at an early stage and there is no substantive evidence to suggest that appeal proposal would be likely to impede those plans in any way.
15. In the context of the already approved access, the proposed access would preserve the settings of the Long Wittenham Conservation Area and of Grade II listed buildings including those at Challis Farmhouse, The Old Farmhouse, the barn to the south of The Grange and The Grange. In making this assessment, I have had regard to my statutory duties pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the

desirability of preserving listed buildings and their settings, and of preserving the character or appearance of the CA.

*Deed of Variation*

16. The second reason for refusal in the Council's decision notice indicated that in the absence of a completed Deed of Variation related to a previous S106 Agreement and Unilateral Undertaking, the proposal would fail to secure on and off site infrastructure necessary to meet the needs of the development. During the course of the appeal a completed Deed of Variation dated 25 April 2019 has been submitted and the Council has therefore confirmed that this reason for refusal has fallen away. There is no evidence to suggest that the obligations sought would not accord with regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the revised National Planning Policy Framework (2019).

**Conditions and conclusion**

17. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. There is no substantive evidence to suggest that any additional conditions are required regarding the protection of trees or biodiversity beyond those already imposed on the permission granted pursuant to the previous appeal. Nor is there any detailed evidence such as to suggest that other conditions should be varied from those imposed on the previous permission granted on appeal.
18. I have amended the conditions stipulating timescale on the submission of reserved matters on the basis that s73(5) of the Act indicates that planning permission must not be granted under s73 to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which - (a) a development must be started; (b) an application for approval of reserved matters (within the meaning of section 92 of the Act) must be made. In the interests of clarity, it is necessary to apply a condition requiring development to be in accordance with the revised plans.
19. Although the Council's housing land supply position means that the 'tilted balance' contained within the revised Framework does not apply as it did in the previous appeal on site, nonetheless, this is not a reason to resist development that is otherwise acceptable. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

*Veronica Bond*

INSPECTOR



# Appeal Decision

Inquiry Held on 10-14 September and 17 & 18 September 2019

Site visit made on 18 September 2019

**by Kenneth Stone BSC Hons DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14<sup>th</sup> October 2019**

**Appeal Ref: APP/Q3115/W/19/3220425**

**Land to the east of Reading Road, Lower Shiplake**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Retirement Villages Developments Ltd, Vortal Properties Ltd & Dr Harjot Bal against the decision of South Oxfordshire District Council.
- The application Ref P18/S3210/O, dated 21 September 2018, was refused by notice dated 21 December 2018.
- The development proposed is described as 'the development of land to the east of Reading Road to consist of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2); associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures'.

## Decision

1. The appeal is allowed and planning permission is granted for the development of land to the east of Reading Road to consist of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2); associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures at Land to the east of Reading Road, Lower Shiplake in accordance with the terms of the application, Ref P18/S3210/O, dated 21 September 2018, subject to the conditions contained in the schedule at the end of this decision.

## Procedural matters

2. The application seeks outline planning permission with all matters, except for access, reserved for future consideration. The plans on which the Council took its decision, and which are the subject of this appeal, were identified in the Planning and Landscape Statement of Common Ground (PLSoCG) and confirmed at the start of the Inquiry as Site Location Plan No. 4602-LP01A, Site Parameters Plan 4602-PL110G, Building Parameters Plan 4602-PL111J and Site Levels Parameters Plan 4602-PL113. The parameters plans confirm the limitations on development and on which the landscape and various assessments have been undertaken. The proposed access is shown on plan 1606-30 SK24 and a footway link to the north is detailed on plan 1606-30 SK19A. I have had regard to these plans in my decision.

3. The application was supported by an Illustrative Site layout 4602-PL112H. This is an illustrative plan identifying one way in which the scheme could come forward but does not form part of the formal details for which approval is sought.
4. Two Statements of Common Ground had been produced in advance of the Inquiry; the first related to Planning and Landscape matters and the second on Highways matters. An Addendum to the Statement of Common Ground on Highway Matters was submitted during the Inquiry (APP3). This confirmed that it was agreed that South Oxfordshire District Council and Oxfordshire County Council, as local planning authority and as highway authority respectively, no longer sought to pursue any highway or transport related reasons for refusal. This was on the basis of further speed surveys and additional plans identifying that the visibility splays included on drawing SK24 were to be maintained and that the details of the footway on drawing SK19 A could provide for a footway, with a minimum width of 1.5m, within the highway boundary and that the structure must be maintainable within the highway boundary or via easement/land dedication. The structural details would be provided as part of a section 278 agreement prior to implementation. As such the first part of reason for refusal 1, related to accessibility by sustainable modes of transport, and the entirety of reason for refusal 2, related to visibility and geometry of the proposed access, had been satisfactorily addressed. These matters however remained issues for third parties.
5. A completed planning obligation, dated 18 September 2019, in the form of an agreement under section 106 of the Town and Country Planning Act 1990 as amended (106 Agreement) was submitted on the final day of the Inquiry and I deal with its provisions in my reasoning below.
6. Closing submissions were provided in writing at the close of the Inquiry but were not read out. The appellant provided a brief response to the closing submissions of the LPA in writing by the close of play on that day (APP15). The LPA confirmed there were no additional matters raised on which they wished to comment.
7. A completed planning obligation, dated 20 September 2019, in the form of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 as amended (UU) was submitted, on 23 September 2019, (APP16) in line with the timetable agreed at the Inquiry. I deal with its provisions in my reasoning below.
8. It is agreed in the PLSoCG that a completed section 106 agreement would partially address reason for refusal 4 in respect of the infrastructure needs of the development. The Council confirmed in closing that it accepted that with the Community Levy Infrastructure contributions and planning obligations submitted by the appellant the development would make adequate provision for its infrastructure needs therefore satisfactorily addressing reason for refusal 4 in respect of infrastructure matters, other than affordable housing.

## Main Issues

9. On the basis of the above the main issues are:
  - Whether the proposed development is in accordance with the spatial strategy;

- The effect of the proposed development on the landscape character and appearance of the surrounding area;
- The effect of the use of the proposed access on highway safety of users of Reading Road; and
- Whether the proposal makes adequate provision for affordable housing.

**Reasons**

10. The development plan for the area comprises the South Oxfordshire District Council Core Strategy (adopted December 2012) (CS) and the saved policies of the South Oxfordshire Local Plan 2011 (adopted January 2006) (LP).
11. The PLSoCG sets out the policies that the Council and appellant consider are the most relevant to the appeal proposal at 3.4 (for the CS) and 3.6 (for the LP).
12. The CS policies identified are: CSS1 which sets out the overall strategy for development in the district. CSR1 which sets out the scale and nature of housing in villages and also states that local character and distinctiveness will be protected. CSM1 and CSM2 which seek to support improvements to transport infrastructure, enable modal shift, encourage sustainable modes of transport and ensure development proposals are supported by appropriate transport assessments and travel plans amongst other matters. CSEN1 which seeks to protect the landscape character and key features of the district against inappropriate development. Policy CSQ3 seeks to ensure that new development is of a high quality and inclusive design, while CSH3 requires 40% affordable housing provision on all sites where there is a net gain of three or more dwellings and CSH4 requires a mix of dwelling types and sizes to meet the needs of current and future households (including specialist accommodation for older people). CSI1 requires new development to be supported by appropriate infrastructure.
13. In terms of the LP the policies identified are: G3 which seeks to resist development that would give rise to development that would increase traffic in relatively inaccessible or isolated rural locations. Policies G2, G4 and C4 which seek to protect the environment, the countryside and the landscape setting of settlements and which are generally carried forward into the CS by CSEN1. T1 which identifies transport requirements for new developments in respect of access and convenience. Policy D1 which requires the principles of good design and the protection and reinforcement of local distinctiveness to be taken into account and D12 which requires a contribution to public art, although the Council conceded that public art would not be appropriate given the nature of the development.
14. The appellant also draws attention to policy CSH1, which sets the amount and distribution of housing in the plan period, primarily on the basis of seeking to justify that the plan is out of date as the requirement within the policy is based on the revoked South East Regional Strategy and not set on the basis of an objectively assessed need, amongst other matters.
15. The aforementioned policies include the policies referred to in the reasons for refusal and given the main issues I have identified I am satisfied that they are the policies most important for determining this appeal.

16. The South Oxfordshire Local Plan 2033 is in preparation. It has been submitted for examination with two sets of initial questions and comments provided noting that a further set will be produced. I was also informed that newly elected members are taking the opportunity to consider the plan and how to proceed. Given the current position, stage of plan preparation and the remaining steps required before adoption the plan and its policies can be given no more than limited weight. This is a matter agreed by the parties in the PLSoCG.
17. There is also a Neighbourhood Plan area designated for Shiplake and Lower Shiplake. However as yet no draft plan has been published.
18. Housing Land Supply in Oxfordshire: Written Statement HCWS955 (WMS) was a Written Ministerial Statement by the Secretary of State for Ministry of Housing Communities and Local Government. As part of its commitment to the Oxfordshire Housing and Growth Deal the government introduced planning freedoms and flexibilities to support the ambitious plan-led approach for housing in Oxfordshire. For the purposes of decision taking authorities in Oxfordshire need only demonstrate a 3 year supply of deliverable housing sites in the context of paragraph 11(d) in the National Planning Policy Framework (the Framework).

#### *Spatial Strategy*

19. The overall strategy for the CS is set out in CSS1 and seeks to focuses major development at Didcot, while supporting the regeneration of the town centres of the main towns and enhancing the larger villages. Other villages in the rest of the district, which would include Lower Shiplake, will be supported by allowing for limited amounts of housing and employment. Outside the towns and villages any change will need to relate to a specific need. Policy CSR1 then provides the policy framework for dealing with housing in villages and states housing will be allowed where the scale and nature of development is as set out in the table. The table entries for smaller villages, which Lower Shiplake is identified as, provides for infill development on sites of up to 0.2 ha (equivalent to 5-6 houses) and rural exceptions if need shown.
20. The proposal seeks consent for the development of a field on the edge of a smaller village, Lower Shiplake. The plan does not, through policy, identify countryside, but in the context of this appeal and on the basis of my site visit I am satisfied that the site is beyond the built up part of lower Shiplake and more appropriately considered to be countryside, not within the village, albeit it is adjacent to the settlement edge, I address this matter in greater detail below. Given the definition of infill development in the CS the scheme would not constitute infill and the site is not a rural exception or would not relate to the specific needs of agricultural industry or enhancement of the environment. These are matters accepted in the PLSoCG. On this basis the proposal is in direct conflict with policies CSS1 and CSR1.
21. In the context of the specific development type, an extra care development, Policy CSH4, which seeks a mix of dwelling types and sizes to meet the needs of current and future households, at bullet point 4, states specialist accommodation for older people should be provided in the new greenfield neighbourhoods and will be permitted in other suitable locations. Advice on suitable locations can be seen at paragraph 7.42 following the policy which advises such accommodation should be located on sites in or adjacent to the

- towns or within the larger villages. The site does not meet the requirements of policy CSH4 with which it conflicts in this regard.
22. On this issue I conclude that the proposed development conflicts with the spatial strategy and in particular policies CSS1, CSR1 and CSH4 in so far as it directs specialist accommodation for older people.
- Character and appearance*
23. The site is located in the National Character Area 110: Chilterns but the parties agree that given the scale of development it would have little influence on the overall character of the NCA. Of more relevance is the Landscape Character Assessment for the Local Plan 2033 dated November 2017. This identifies the site as lying within the Thames Valley and Fringes Character Area and within that within the semi enclosed dip slope landscape type. The key characteristics of this landscape type highlight the sloping ground around the foot of the Chilterns dip slope next to the valley floor around Lower Shiplake. Bullet points two and four draw attention to the mixture of medium scale fields and smaller scale field pattern and the predominantly rural character with ribbon development on minor roads and localised influences from roads and built-up areas around settlement edges. Importantly they, in particular, draw attention to a differentiation between land to the west of the A4155 which has medium scaled fields and a predominantly rural character and by inference less urban influences. The key characteristics of the area also include a strong structure of hedgerows, trees and small blocks of woodland providing visual containment and moderate intervisibility.
24. The appeal site is an unmanaged field, including encroaching scrub, with a shallow dry valley and is enclosed on three sides with mature tree and hedge vegetation. The fourth side has an open fence demarcating the boundary. The site is reasonably representative of the character area and the landscape type east of the A4155. The existing boundary vegetation in association with the general land form and topography in the area results in the site being visually contained with limited intervisibility from medium and longer views from all surrounding directions. The site is heavily influenced by the settlement edge of Lower Shiplake, particularly to the north east where the properties in Baskerville Lane do not have any significant vegetation on the boundaries.
25. The settlement edge around Lower Shiplake is not well defined. There are areas where there is an evident strong urban edge such as at Baskerville Lane. However, there are large detached properties dispersed along New Road to the east of the site, along Mill Lane to the south east and at the junction of Mill Lane, New Road and the A4155 to the South. Similarly, although on the west side of the A4155 Woodlands Road incorporates large detached properties. Characteristics similar to these lead the Inspector in respect of an appeal at Thames Farm (APP/Q3115/W/16/3161733), a short distance to the north west, to describe the area, in terms, as 'developed countryside'. This resulted from a recognition that the site was outside the settlement, within the countryside, as here, but also recognising the distinction between the more rural larger field patterns to the west of the A4155 with areas which although within the countryside were strongly affected by urban influences including the urban edge of the settlement and development along minor roads in the surrounding area which were not within the built up area of the settlement but still had an important influence on the character of the locality. Whilst a somewhat unusual

- phrase it is a reasonable characterisation of the area surrounding this appeal site also.
26. The strong degree of containment resultant from topography and vegetation would significantly reduce the impact of the development of the site on the character of the area. An impact that would be further reduced with structural landscaping, maturing planting and the management and maintenance of the existing tree and hedge screening. The replacement of the field with built development would have a negative effect but given the level of containment and the urban influences close by this would not significantly detract from the wider character of the landscape and the negative effects would be localised and limited.
27. In terms of the visual effect and the appearance of the area again the strong containment created by vegetative cover on the principal site frontage of the A4155 would ensure that there would be limited views into the site. These features would be further strengthened with landscaping and managed, following development, ensuring any residual effect would be reduced. There would, self-evidently, be the loss of some trees on this frontage to facilitate the access which would provide for an opening up of views into the development at the access point but this would be limited in width and not dissimilar to other accesses and junctions in the vicinity of the site. The opening of views into the development would result in a negative effect that would be harmful however with no footways on the A4155 past or opposite the site the views would be from motorists or passengers in passing vehicles and would be for a limited duration.
28. The proposals are in outline although parameters plans form part of the proposals and identify areas where built development would occur, buffer zones where built development would not be provided, but include landscaping, and structural landscaping zones. The parameters plans also identify building heights. Reserved matters details in respect of the development would give the Council control over building footprints, detailed design, articulation in the built form, elevational treatment etc. In this regard concerns over a potential institutional appearance of the development could be addressed and a more domestic appearance of development secured. Even so there are examples of institutional buildings in the area, Shiplake College, and larger detached domestic buildings such that the scale and nature of buildings could reasonably be controlled to ensure the buildings did not appear significantly out of keeping.
29. To the east of the site the properties in New Road sit on higher ground and would have views down into the site, there would also be glimpsed views for walkers along New Road, albeit such views would be limited in number given the screening of hedges along the boundaries of the road. Similarly, there would be views of the development from properties in Baskerville Lane given the open eastern boundary and the open boundaries to these properties. The proposals parameters plans identify a strong landscape buffer around the north eastern corner of the site which would assist in mitigating the effect of the development when matured. Although there is no entitlement to a view the appearance of the area would change and would be adversely affected for a number of receptors in the immediate vicinity of the site, albeit this would reduce as landscaping matured.

30. Further afield, in views from the west, the dipping topography and tree screen would ensure that there was limited if any views of the development once completed and landscaping had matured. If limited views are obtained this would be of roof tops amongst a well treed landscape and would be reasonably integrated with the existing character and appearance of the area. Similarly views from the south would be restricted and limited due to topography and tree cover and structural landscaping would reduce any residual effects.
31. Insofar as the development would have an effect on the separation of settlements and in particular Shiplake and Lower Shiplake an undeveloped field would be developed on the edge of Lower Shiplake that is closer to Shiplake. However, this is at a low point in the surrounding topography and well screened. There is limited intervisibility between the settlements. There is dispersed development at the Cross Roads of the A4155 and Mill Lane and development along Mill Lane and New Road, these areas already provide development in the intervening area between Shiplake and Lower Shiplake. On that basis I am satisfied that there would not be harm to the separation of settlements resultant from the proposed development.
32. Given the above I conclude that the proposed development would conflict with LP policies G2, G4 and C4 which seek to protect the countryside and landscape setting of settlements in the district, albeit this harm would be localised and limited. Similarly, there would be conflict with CS policy CSEN1 which brings these policy protections forward into the CS to protect the countryside and where possible enhance it.

#### Highway safety

33. In the HSoCG, as supplemented by the addendum to the HSoCG (APP3), it was confirmed that Oxfordshire County Council, as local highway authority, SODC, as local planning authority and the appellant agreed that the proposed access junction and previously agreed visibility splays would be acceptable (at both 30 mph and 40 mph speed limits) as illustrated on SK24. It is also agreed that a footway of a minimum width of 1.5m and associated structures could be provided within the highway boundary. In the light of these points it is accepted by the main parties that the first part of reason for refusal 1, related to accessibility, and the whole of reason for refusal 2, related to visibility at and geometry of the access, had been satisfactorily addressed.
34. Safety and accessibility concerns however have been raised by local residents the parish council and the Oxfordshire Councillor.
35. Although Inquiry time was spent debating the recent change to the increased speed limit the additional evidence in terms of speed surveys and overtaking surveys demonstrate that the average speeds had not increased and were of a similar order during the operation of the 30 mph speed limit and the 40 mph speed limit. The technical highway experts accept that the evidence demonstrated that the visibility splays were adequate. There was no robust or credible evidence to justify departing from the position agreed in the Statements of Common Ground. Similarly there was no challenge to the geometry of the access.
36. In terms of the footway the proposal shows a new footway from the north western corner of the site along the eastern boundary of the A4155 to join with the footway further to the north. This footway would be a minimum of 1.5m in

width and include a retaining structure. Although concerns were raised that there would be insufficient space to accommodate a footway, retaining structure and space to maintain such, the evidence provided demonstrates that a footpath and retaining structure could be erected within the space. The structures would have a long lifespan and given the nature of the detail could be inspected from within the highway boundary. The detail of the footway and maintenance would be further secured through the UU for works in the highway. The details of the design of the footway link can be secured by condition. On this basis I am satisfied that the footway link can be achieved and would facilitate pedestrian access to Lower Shiplake.

37. Whilst there were concerns raised that given the nature of future residents the gradients within the site and the distance would make this unattractive. However, although for elderly occupants these are not necessarily infirm and the detail of the gradients could be designed to accommodate resting locations. Moreover, the pedestrian access would also enable access by foot for visitors and employees etc. The footway link would therefore improve the accessibility of the site for modes of transport other than the private car.
38. Concern was also expressed that although the footway link may provide access to nearby bus stops given the nature of the residents the bus stops, particularly that on the west side of the A4155, would remain unattractive for residents due to the volume and speed of traffic. Again these stops would be reasonably attractive for visitors and employees and given the evidence from the Highways witness regarding interval spacing particularly outside the rush hours I am satisfied that the bus stops would be a viable method of transport for those who chose to use them.
39. The application was supported by a transport assessment and an outline travel plan and a detailed travel plan can be secured by condition.
40. The nature of the development includes the provision of facilities for future residents, which can include an onsite shop for day to day needs, library, and community facilities. A mini bus service is secured through the section 106 planning obligation to facilitate planned trips for future residents this would further add to the ability for future residents to access surrounding facilities by means of transport other than the private car. The nature of the residents, given the age restriction for occupation of the development, would reduce the need for access to employment, schools, sports facilities etc. Overall given the combination of services and facilities, the existing access arrangements and proposals and the nature of the future residents I am satisfied that the proposed development would be reasonably accessible for this form of development.
41. On the basis of the above I am satisfied that the proposed development would not result in an adverse effect in terms of highway safety for users of Reading Road (A4155). There would therefore be no conflict with policies CSM1 of the CS or policies T1 and G3 of the LP and that it would be in accordance with CSM2 of the CS.

#### *Affordable housing*

42. Policy CSH3 in the CS states 40% affordable housing will be sought on all sites where there is a net gain of three or more dwellings subject to viability. The main parties challenge the interpretation of the policy as contended by the

other party. As Mr Green points out the meaning of development plan policy is a matter of legal interpretation. To that end I have been provided with various opinions from each side setting out the legal basis of their interpretation and why it should be followed. There is no clear and unequivocal legal position that emerges from those opinions. What is clear is that the policy is not unambiguous or clear hence the differing opinions. A point further confirmed by the fact SODC had not applied policy CSH3 affordable housing requirement in respect of C2 development until relatively recently.

43. The proposed development is agreed to be C2. That is a residential institution in the context of the Use Classes Order. The policy as read states that the required level of affordable housing will be sought on sites where there is a net gain of three or more dwellings. The issue revolves around, in part, whether the accommodation provided would result in the provision of dwellings. As individual elements it is not unreasonable to consider each of the separate units of accommodation as dwellings. They have the form, function and facilities one would associate with a dwelling. However the development proposed is more than the provision of individual units it is the collection of a number of units the occupation of which is restricted and which the occupants have access to communal facilities and which require occupants to have a level of care need; hence the C2 classification. It would be inappropriate to dissect the development into its constituent parts and conclude that one element triggered the affordable housing threshold. The policy refers to the site. The site in this case incorporates the whole development. The development consists of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2) and associated communal facilities. Parts of the development could not be implemented independently, the communal facilities and extra care is an integral component of the development. In this regard I am of the view that the development does not result in a net gain of three or more dwellings but results in the provision of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2) and associated communal facilities, as the description of development confirms.
44. I was also referred to policy CSH4 by the Council to support its contention and in particular the reasoned justification at paragraph 7.42 where it states 'where any scheme providing specialist accommodation for the elderly (with or without care) includes an affordable housing component, this can count towards the overall 40% affordable housing requirement if part of a wider development'. I draw two points from this paragraph; firstly, the first sentence refers to 'where appropriate, specialist accommodation should be provided on a mixed tenure basis...' this would suggest that it is only in appropriate circumstances meaning there are circumstances where it would not be appropriate. I would suggest that that could very well be in the context of a retirement village where the service charge and model requires a different approach as discussed above. Secondly, the very fact there is a need in the paragraph to confirm that any affordable provision made within schemes for specialist accommodation can count towards the 40% affordable housing provision suggests, or appears to treat, the two as different elements.
45. The Council do not seek on site provision which the third bullet point of the paragraph requires. In this context the Council recognise the very different nature and model of the proposed development and therefore seek a payment in lieu. The calculation of the payment is not set out in policy or guidance and

even if I concluded it was appropriate to make such provision I am not satisfied that the level of contribution sought has been fully justified.

46. The final element I have had regard to is the basis on which the policy was justified. I accept that it is not appropriate to seek meaning for the interpretation of policy in background documents outside the plan. However, there is some strength in the argument that the justification for the 40% threshold and viability assessment related to the core strategy sought to justify the threshold based on market housing and did not consider extra care housing and whether this would be a viable threshold for that form of development. It would appear the Council acknowledge that position in that such work has been undertaken in the context of the emerging development plan. It is not for me to go into the detail of that in this appeal, however the fact such work is being undertaken acknowledges that there is potentially different consequences of a threshold for affordable housing for different types of development. When added to how the Council originally interpreted the policy for a number of years after its adoption, such that it did not require affordable housing on C2 developments, this in my view reflected its understanding of the policy as originally conceived and drafted and implemented.
47. On the basis of the above I conclude that there is not a requirement for the provision of affordable housing from the proposed development through policy CSH3 with which the proposals do not therefore conflict.

### **Other matters**

48. South Oxfordshire District Council is one of the authorities that has signed up to the Oxfordshire Housing and Growth Deal. As a consequence the WMS referred to above confirms that for the purposes of decision taking authorities in Oxfordshire need only demonstrate a 3 year supply of deliverable housing sites in the context of paragraph 11(d) in the National Planning Policy Framework (the Framework). The PLSoCG confirms that the Council has been able to demonstrate a three year supply of housing land since 2018. The CS is more than 5 years old and therefore the standard method for the calculation of the 5 year housing supply position should be used. In APP2 the appellant sets out its position on the 5 year housing supply position. Whilst it seeks to discount a number of supply sites from the Council's supply position, from its statement dated June 2019 (9.75 using the standard method or 5.17 based on the Local Plan), based on the definitions in the Framework the appellant still concludes that based on the standard method the Council could demonstrate a 6.26 years supply, whilst measured against the Local Plan it would be 3.22 years. Given the WMS flexibility the Council need only demonstrate a 3 year supply for decision taking purposes and therefore whichever way it is calculated paragraph 11(d) of the Framework is not engaged due to a failure to make an adequate housing land supply provision. I note the Council dispute the appellant's supply side figures however there is little value in conducting a forensic examination of the position given the overall conclusions.
49. The Appellant does not seek to make the case that paragraph 11(d) is engaged due to a shortfall in the housing land supply position or in respect of the Housing Delivery Test, which the Authority meets.
50. Concerns have been expressed with regard to the additional noise and disturbance that would be introduced as a result of the development. The site is not a tranquil location. The main road A4155 runs past the site, the

settlement edge of Lower Shiplake is in close proximity to the northern boundary. There are residential properties to the east on New Road. The proposed development would provide for accommodation for elderly people. There would be some consequent increase in activity given the site is presently an open field and would be developed such that attendant noise associate with comings and goings and general movements would be introduced. However, these are not significantly different from the residential accommodation of Lower Shiplake and the surrounding development. It would not lead to a significant increase in noise and disturbance.

51. Property values, per se, are not material. The factors that may lead to such changes such as changes to the character and appearance of the area or proximity to development and the consequences of it are matters that I have had regard to in considering this appeal.
52. The living conditions of the occupants of nearby properties through a loss of outlook would not result in a material effect. There is adequate separation between the existing properties and the site. The site proposals also include additional structural landscaping and planting which would further mitigate any impact.
53. Lighting of the site was discussed and it was suggested that this would primarily be through bollard lighting. The appellant's landscape witness confirmed that he had reviewed the sky on a site visit and did not consider that there was an issue in terms of additional lighting. Lighting can be more fully addressed through condition or the reserved matters and I have no evidence before this inquiry to demonstrate that there is an in principle objection on this ground and there is no reason why an acceptable lighting scheme could not be designed.

### **Benefits**

54. The PLSoCG recognises and agrees that there is a high level of need for housing for older people in the Oxfordshire Housing Market Area and within South Oxfordshire. Indeed, in closing the Council accepts that, and continues to accept, that whatever the estimate of need that is used there is a need for extra care housing and that the appeal scheme would help to meet that need. The Council however do question the extent and nature of that need.
55. It is not disputed that there is an ageing population in South Oxfordshire, with significant increases projected for the over 75 age range. It is also not disputed that South Oxfordshire has a significant owner occupation rate, above the national average, and that this is more so for older people. The need to address the needs of this section of the population is therefore likely to increase. A position that the Oxfordshire Market Position Statement 2019-2022 (OMPS) draws attention to.
56. The Council introduced the OMPS to the inquiry to support its position regarding the nature and extent of that need but accepted that it did not have the expertise or evidence to robustly defend or explain the conclusions or evidence upon which that document was based. The document seeks to address the position of the County Council and NHS Oxfordshire Clinical Commissioning Group to enable engagement with care providers across all services to ensure the population has access to a wide range of good value, high quality and innovative services. However, in respect of Extra Care

- housing it specifically excludes retirement villages from its definition of Extra Care housing. It does however also encourage the development of retirement villages as it recognises that these will suit the needs of many Oxfordshire residents.
57. The assessment of need in the OMPS is based on an estimate of need of 25 'extra care units' for every 1000 people aged over 75 derived from the Housing Learning & Improvement Network fact sheet 1. The appellant has undertaken its own assessment of need and identified a need based on 45 units per 1000 people, split two thirds for leasehold and one third rented based on the tenure profile in the area. The OMPS also projects provision based on assumed provision up to 2026 and 2031. There is little clarity on the degree of certainty of this assumed provision. The parties accept that the appropriate forum for a detailed analysis of the level of need would be more appropriately at a Local Plan examination and given the lack of robust analysis of the derivation of much of the OMPS figures there are legitimate reservations around, what the statement actually seeks to cover, whether this represents an assessment of the minimum need in the district or a reasonably achievable target. When added to the specific exclusion of retirement villages from consideration in the document this undermines the weight that I put on this document in this appeal.
58. On the basis of the above, in broad terms, I am satisfied that there is a need for the provision of extra care housing, that that need is high, and given the population profile that the need is likely to increase. There is currently under provision to meet that need and the evidence I have before this Inquiry to suggest that that need would be met in the medium to longer term is not robust. I am therefore satisfied that this is a factor which should weigh positively in the planning balance and given the evidence before me my judgement would be that that should attract significant weight.
59. In terms of the benefits that derive from the provision of extra care housing these are not significantly challenged. There would be an advantage to the future residents of the development as the specialist housing would provide for a range of lifestyle facilities for social, cultural, educational and recreational activity. There is access to a range of services and care that can respond flexibly to the needs of the residents. There are advantages to health providers as the care needs of residents can be changed dependant on circumstances which can facilitate earlier discharge from hospitals as support in the home can be easily organised, this has obvious cost advantages. Care provision at this point can also reduce the need for admissions to hospital and other pressures on GP and A&E services. There is evidence that demonstrates the provision of specialist housing would have a role in freeing up under occupied family housing, facilitating downsizing, bringing this housing back onto the market. There is with significant proportions of households over 65 under occupying properties in South Oxfordshire. Given the reasonable scale of this development I give these benefits derived from the occupation of this development significant weight.
60. Concern was expressed regarding the mix of the size of units provided as this was focused on two bed units. There is the opportunity to address this at reserved matters and a number of the units could have a third bedroom identified within the models currently operated by the developer. There was evidence to suggest that two bedrooms are more appropriate for this type of

development but that is a matter that can reasonably be explored in the reserved matters application and would not change my conclusion on the principle of the proposal or the benefits derived from it.

61. The proposal would also result in wider economic benefits through construction jobs and local investment during construction, expenditure in the local economy following occupation, and employment at the facility. I give these benefits moderate weight given the nature and scale of development.

### **Conditions and Planning Obligations**

62. A list of suggested conditions was discussed at the Inquiry, APP6. In considering the conditions to impose in the event that the appeal is allowed I had regard to the advice in the relevant section of the Planning Practice Guidance. The conditions that are imposed are set out in the schedule at the end of this decision, the following references to condition numbers are in relation to the conditions there. Minor textual changes to those in the schedule have been made to ensure the conditions are precise and enforceable. A number of suggested conditions have not been imposed as they covered matters more properly addressed through the reserved matters or to avoid duplication of effect.
63. Conditions 1-3 are standard time limit conditions for outline permissions while conditions 4-6 detail the development approved and the plans on which the decision is based to ensure clarity. Conditions 7 and 8 require additional details of highway and transport matters to ensure the safe and efficient operation of the highway and ensure the development would be reasonably served with modes of transport other than the private car.
64. Conditions 9 and 10 require details of mitigation for biodiversity and ecological matters to address the impacts of the development. Condition 11 requires necessary details to be included in the landscaping reserved matter to protect and retain trees to ensure the development is undertaken in accordance with the proposals as assessed.
65. Condition 12 is required to protect the living conditions of occupants of the surrounding properties and in the interests of Highway safety. Conditions 13 – 15 are required to ensure the development incorporates suitable drainage. Condition 16 is required in the interest of the character and appearance of the area and in the interests of ecology. Conditions 17 and 18 are required to ensure that the development would be safeguarded from any contamination and to safeguard any buried archaeological remains, respectively, that may exist.
66. Two planning obligations, a 106 agreement and a UU, have been completed as referred to above. I deal with the provisions of each of these separately.
67. The 106 agreement secures obligations between the Owner, developer, district Council and County Council. Schedule 1 provides for contributions towards street naming and numbering and where necessary refuse collection (in the event a private refuse collection operator is not procured). These are necessary infrastructure requirements resultant from the development. Schedule 2 controls the nature of development and its occupation. Including restrictions on age, requirement for care, necessity for health assessment and provision of personal care. The provisions also include the requirement to

secure the services of a care agency, require a basic care package, the provision of communal facilities, details of the operation of the management company and the provision of a mini bus. These matters are required to ensure the development provides extra care accommodation in line with the description of development and on the basis of the level of care and facilities that have supported the assessment of the impact of the development.

68. Schedule 3 of the 106 agreement secures financial contributions to the County Council to improve the availability of bus services following the Reading-Henley route and towards monitoring the implementation of the travel plan. The contributions are required to ensure the development is adequately served by means of transport other than the private car.
69. Schedule 4 are reciprocal obligations on the District and County Councils to use the contributions towards their intended purpose and to repay any unused moneys after an appropriate period. These are required to ensure the proper implementation and use of the referenced obligations.
70. The UU is made by the owner and developer to Oxfordshire County Council and in which they covenant to enter into the Highways agreement and carry out highway works to provide for a footway along the eastern side of Reading Road. The obligations also require provision of a traffic calming scheme. The works should all include necessary preparatory and ancillary works and amenity and accommodation works.
71. In so far as the footway requirements these are necessary to ensure the site is reasonably connected to Reading Road and Lower Shiplake and to ensure the development is adequately served by means of transport other than the private car.
72. The traffic calming measures have been offered by the appellant as an additional method of improving road safety and controlling vehicle speeds. Both parties accept that the scheme is acceptable without the traffic calming providing adequate visibility and a safe means of access and egress to the site, as I have found above. Whilst the UU includes provisions to secure these traffic calming measures, given that they are not necessary to make the development acceptable, I cannot have regard to them as a reason for granting permission.

### **Planning Balance**

73. Planning law requires that applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration.
74. Paragraph 11(d) of the Framework advises that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably out weigh the benefits when assessed against the policies in the Framework taken as a whole, the tilted balance as it has become known. It is not part of any parties' case that there are no relevant development plan policies in this case. There are not policies in the Framework that protect areas or assets of particular importance. The operation of the tilted balance is therefore down to whether policies are out-of-date. Footnote 7 identifies that

policies would be out of date where the Council could not demonstrate a five year housing land supply, or where the Housing Delivery Test fell below a certain threshold. The five year housing land supply test in this appeal is adjusted to three years in this area, given the WMS. Neither of these circumstances persist here. However these are not the only circumstances that could lead to a conclusion policies were out of date. The appellant's contention is that the development plan's housing requirement is out of date and therefore the housing policies that flow from that are out of date, as are other policies which constrain housing in the district, and indeed the plan is out-of-date as the provision of an adequate and up-to-date housing requirement is a necessary element of the development plan and without it the plan is not consistent with the Framework and is therefore out-of-date. It is also contended that specific policies are not consistent with the Framework.

75. Policy CSH1 sets the housing requirement for the district and distributes it to Didcot and the rest of the district. The requirement although adopted following the publication of the 2012 Framework was based on a requirement derived from the revoked South East Regional Strategy and was not based on an objectively assessed need. On this basis it is not consistent with the Framework and is out-of-date. The overall strategy set in CSS1, that for housing in villages set in CSR1 and for housing mix (including for the elderly) in CSH4 are set in the context of CSH1 and therefore must logically have had regard to that overall requirement in seeking to set the strategy. In that regard I reduce the weight that I afford to them because they will constrain housing development in the context of the overall requirement. However, the strategies do identify locations where development should and should not take place by directing development within an overall settlement hierarchy and this is not inconsistent with the Framework. The Council is able to demonstrate a 3 year housing supply, as required by the WMS, albeit this may be through permitting development in spite of the policies rather than in accordance with them. Overall, I therefore attach significant weight to these policies.
76. I have concluded above that the development would conflict with the spatial strategy including policies CSS1, CSR1 and CSH4. The general thrust of the spatial strategy is to protect the character of the district and ensure development is directed towards the most accessible locations in the settlement hierarchy. It is appropriate to ensure that development is directed towards the most suitable locations in the hierarchy for the type of development and that higher order settlements are self-evidently more accessible and sustainable. However, I have concluded that the effect on the character and appearance of the area would be localised and limited and that the development, given its nature, would be reasonably accessible. The weight I therefore attach to the conflict with the spatial strategy, the weight of which I have judged as moderate, is therefore also moderate.
77. The site is not a valued landscape but there are a number of policies in the development plan that seek to protect the countryside, landscape and require that the development should be of a high quality in keeping with the character of the area. These include policies G2, G4 and C4 from the LP and policy CSEN1 in the CS. These policies engage with the Framework's advice to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. However, they were formulated at a time where the advice provided the greater degree of 'protection' rather than 'recognition' as now. In that regard whilst they seek to address a matter

identified in the Framework there is a more onerous burden placed on the development. Whilst there is still a requirement that these matters are material and should weigh in the balance they seek to protect the countryside and landscape setting of settlements in the district. In this regard because of this inconsistency I reduce the weight afforded to these policies, a point emphasised by the fact that if applied in a strict reading they would further constrain housing and given the overall requirement on which the plan is predicated is out of date would potentially frustrate much needed housing development. I therefore give these policies moderate weight. I have concluded that the harm occasioned would be localised and limited and I therefore conclude that the overall weight afforded to the conflict with these policies would be moderate.

78. The proposals do not conflict with the affordable housing policies, the highway/ transport policies, policies specifically in respect of design or policies with regard to the provision of infrastructure in the development plan given my conclusions above. There is therefore no conflict with CS policies CSM1, CSM2, CSQ3, CSH3, or CSI1 or LP policies T1, G3 or D1.
79. On the basis of the above conclusions I am of the view that taken as a whole and given the conflict with the spatial strategy and landscape policies the development would not be in accordance with the development plan. However, on the basis of the information before this Inquiry, and taking the policies together those that are most important for the determination of this appeal are out of date and therefore the tilted balance at paragraph 11 (d) of the Framework is engaged.
80. The benefits associated with the scheme are substantial, including addressing the need for extra care accommodation, in part, with the consequent benefits of freeing up under occupied properties, benefits to health care providers and the social, cultural, recreational and educational benefits for future occupiers. Added to which there would be the moderate positive economic benefits associated with the development. These benefits would not be substantially and demonstrably outweighed by the limited and localised adverse impacts to the landscape, to which I have given moderate weight, or the harm to the overall spatial strategy, to which I have also given moderate weight. This harm to the spatial strategy is also somewhat tempered by the specialist nature of the development, for elderly residents, such that it is not for a standard housing development. The proposal would therefore benefit from the presumption in favour of sustainable development in the Framework, a significant material consideration that would justify granting planning permission not in accordance with the development.
81. Even if the tilted balance were not engaged I am satisfied that the benefits associated with the development would outweigh the harm and would still provide for the material considerations that would be required to grant permission for the development not in accordance with the development plan.

### **Overall conclusions**

82. For the reasons given above I conclude that the appeal should be allowed.

*Kenneth Stone*

INSPECTOR



**APPEARANCES****FOR THE LOCAL PLANNING AUTHORITY:**

Robin Green, Barrister

Instructed by Solicitor to South Oxfordshire District Council

He called

Peter Radmall MA,  
B.Phil, CMLI

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Tracey Smith, BA (Hons)  
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**FOR THE APPELLANT:**Christopher Young QC  
Assisted by  
Howard Leithead

Instructed by Iain Warner Director Tetlow King Planning

He called

James Donagh BA  
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Director and Head of Development Consultancy at GL Hearn at time of submission of Proof. At the Inquiry he confirmed he had left that company and set up a new firm.

Guy Flintoff BA (Hons),  
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Planning Director Retirement Villages Ltd

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Director, Tetlow King Planning

**INTERESTED PERSONS:**

Tina Dalzell	Local Resident
Fred Maroudas	Chair Shiplake Parish Council
Leigh Rawlins	District Councillor South Oxfordshire District Council
David Bartholomew	County Councillor Oxfordshire County Council
D Smith	Local Resident Lower Shiplake

**DOCUMENTS submitted by Appellant**

- APP1 Appellant's opening statement
- APP2 Paper on five year housing land supply by Tetlow King Planning on behalf of the Appellant
- APP3 Addendum to Statement of Common Ground on Highways Matters
- APP4 Draft Unilateral Deed of Planning Obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended)
- APP5 Draft updated Deed of Agreement under section 106 of the Town and Country Planning Act 1990 (as amended)
- APP6 Draft list of suggested conditions
- APP7 Statutory Instrument 2013 No. 427 – The Regional Strategy for the South East (Partial Revocation) Order 2013
- APP8 Extract of Inspectors report on the examination of the South Oxfordshire Core Strategy
- APP9 Amendments to Tables 19, 20 and 21 in Mr Appleton's Proof of Evidence
- APP10 Technical Note 7 – Supplementary Proof of Evidence of James Darrall
- APP11 Draft proposed route for accompanied site visit
- APP12 Appeal decision APP/G1630/W/14/3001706
- APP13 Certified copy of completed Deed of Agreement under section 106 of the Town and Country Planning Act 1990 (as amended)
- APP14 Closing submissions on behalf of the appellant
- APP15 Written response to the Council's closing submissions on behalf of the appellant
- APP16 Certified copy of completed Unilateral Deed of Planning Obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended)

**DOCUMENTS submitted by South Oxfordshire District Council**

- SODC1 Appeal Statement on behalf of the local highway authority – Oxfordshire County Council
- SODC2 Opening statement on behalf of the South Oxfordshire District Council
- SODC3
  - a) Oxfordshire Market Position Statement 2019-2022
  - b) Email correspondence between District Council and County Council providing SODC with its district Council position
  - c) Housing LIN Fact Sheet 1 – Extra Care Housing – What is it in 2015?
- SODC4 Letter from Solicitor to the Council regarding its position on the

- section 106 Agreement undated but signed and sealed documents.
- SODC5 South Oxfordshire District Council statement on Compliance with Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019
- SODC6 Closing submissions on behalf of the Council

**DOCUMENTS submitted by Third Parties**

- TP1 Statement made to the Inquiry by Leigh Rawlins
- TP2 Statement made to the Inquiry by Fred Maroudas
- TP3 Speaking note of statement made to Inquiry by David Bartholomew
- TP4 Statement made to the Inquiry by Tina Dalzell

**Schedule of conditions for Appeal reference APP/Q3115/W/19/3220425**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) No more than 65 units of extra care accommodation shall be erected on the site.
- 5) The development hereby permitted shall be carried out within the site defined by the red line on the Site Location Plan ref: 4602 LP01 A and in accordance with the following parameter plans 4602-PL 110G, 4602-PL 111J, and 4602-PL 113, the Proposed Footway Link to the North from the Site and Cellweb Construction Drawing 1606-30 SK19A and the Agreed Site Access Visibility Splays Drawing 1606-30 SK24.
- 6) Details of the site access to the development hereby approved shall be submitted to and approved in writing by the local planning authority before development commences, designed in accordance with the outline design (including location and geometry) shown on drawing 1606-30 SK24, and shall be provided in accordance with the approved design before first occupation of the development hereby approved.
- 7) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, details relating to the following shall be submitted for approval in writing by the Local Planning Authority:
  - a) Provision of a pedestrian link between the site and Reading Road;
  - b) Internal swept path analyses demonstrating refuse collection, servicing and emergency access;
  - c) The location of underground services/service strips suitable for maintenance to avoid disruption to the access; and
  - d) Provision of surface water drainage from the access road to avoid discharge onto the Reading Road.
- 8) Prior to first occupation of the development a Travel Plan, that shall include the provision of Travel Information Packs, shall be submitted to and approved by the Local Planning Authority. Thereafter the approved plan shall be implemented and maintained as approved.

- 9) Concurrent with the submission of a reserved matters application, a Biodiversity Enhancement Strategy based on the recommendations contained in chapter 6.76 of the Ecological Impact Assessment (ACD Environmental September 2018 Ref: RVD 20604) shall be submitted and approved in writing by the Local Planning Authority. The BES should include details of all species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate. All enhancements should be delivered prior to occupation of the last unit and retained thereafter in accordance with the approved details.
- 10) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, a revised ecological impact assessment report shall be submitted for the written approval of the Local Planning Authority. The report shall include updated dormice, reptile and badger surveys and a detailed mitigation strategy, including measures to protect badgers from being trapped in open excavations and /or pipe culverts, to safeguard protected species, their habitats and local biodiversity. The development shall be undertaken in strict accordance with the recommendations, mitigation and enhancement features detailed in the approved updated ecological report, which should include details of implementation.
- 11) The landscaping details of the reserved matters submission shall include an Arboricultural Method Statement and accompanying Tree Protection Plan to be submitted for the written approval of the Local Planning Authority that:
  - a) identifies the trees and shrubs to be retained;
  - b) provides a comprehensive assessment of the impact of the development on the existing trees on the site and on adjoining land; and
  - c) includes measures to protect the retained trees and shrubs during the construction of the development in accordance with BS5837:2012.The existing trees and shrubs shown to be retained, shall not be lopped, topped, felled, uprooted or wilfully destroyed other than where indicated in the approved arboricultural report, without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of 5 years.
- 12) No development hereby permitted shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority, to include details of:
  - a) parking for vehicles of site personnel, operatives and visitors
  - b) loading and unloading of plant and materials
  - c) storage of plant and materials
  - d) programme of works (including measures for traffic management)
  - e) measures to prevent the deposit of materials on the highway
  - f) on-site turning for construction vehicles
  - g) measures to ensure protection of protected species and habitats during construction access
  - h) hours of construction
  - i) details of the implementation of the various measures

The development hereby approved shall be undertaken in accordance with the details approved in accordance with this condition.

- 13) Details of foul drainage provision shall be submitted to and approved in writing by the local planning authority prior to development commencing and no unit shall be occupied until the drainage provision as approved has been implemented.
- 14) Details of a Sustainable Drainage Scheme based on Quad Consult Flood Risk Assessment and Drainage Strategy reference 18253 dated 5th September 2018, shall be submitted to and approved in writing by the local planning authority prior to development commencing. These should include:
  - a) Further information on the groundwater regime at the site;
  - b) Detailed proposals for the interception, suitable conveyance and storage of surface water that is at higher risk of flowing through the site; c) Full details of a sustainable surface water drainage system based on ground permeability tests to BRE 365 and groundwater monitoring;
  - d) Design calculations with appropriate climate change allowance and storage areas sizing;
  - e) Full Suds construction details and proposals based on the above;
  - f) Detailed proposed site and floor levels;
  - g) Exceedance flood flow routing;
  - h) Timescale for the works including phasing;
  - i) A full future management and maintenance plan for the Suds features to ensure the efficient functioning of the on-site Suds.
- 15) Development shall not begin until details of the implementation, maintenance and management of the Sustainable Drainage Scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
  - a) a timetable for its implementation, and
  - b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
- 16) No development above the ground shall take place until details of a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved lighting scheme.
- 17) Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to and approved in writing by the Local Planning Authority. Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and if significant contamination is identified to inform the remediation strategy. A

remediation strategy shall be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use and the development shall not be occupied until the approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.

- 18) a) Prior to the commencement of the development hereby approved an Archaeological Written Scheme of Investigation, relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.  
b) Following the approval of the Written Scheme of Investigation and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

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