Agenda

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Date: 4 October 2021
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An informal meeting of

Scrutiny Committee members

will be held on Tuesday, 12 October 2021 at 6.00 pm
Virtual meeting

The meeting will be broadcasted live here:
https://www.youtube.com/c/southandvalecommitteemeetings

Members of the Committee:

Councillors:

Jerry Avery	Eric De La Harpe	Ben Mabbett
Ron Batstone	Hayleigh Gascoigne	Patrick O'Leary
Nathan Boyd (Chair)	David Grant	Max Thompson

Substitutes Councillors:

Paul Barrow	Andy Foulsham	Sarah Medley
Eric Batts	Alison Jenner	Janet Shelley
Samantha Bowring	Diana Lugova	Elaine Ware

Alternative formats of this publication are available on request. These include large print, Braille, audio, email and easy read. For this or any other special requirements (such as access facilities) please contact the officer named on this agenda. Please give as much notice as possible before the meeting.

Patrick Arran
Head of Legal and Democratic

Agenda

Open to the Public including the Press

1. Apologies for absence

To record apologies for absence and the attendance of substitute members.

2. Declarations of interest

To receive any declarations of disclosable pecuniary interests in respect of items on the agenda for this meeting.

3. Urgent business and chair's announcements

To receive notification of any matters which the chair determines should be considered as urgent business and the special circumstances which have made the matters urgent, and to receive any announcements from the chair.

4. Minutes

(Pages 4 - 5)

To adopt and sign as a correct record the Scrutiny Committee minutes of the meeting held on 23 September 2021.

5. Public participation

To receive any questions or statements from members of the public that have registered to speak.

6. Work schedule and dates for all South and Vale scrutiny meetings

(Pages 6 - 8)

To review the attached scrutiny work schedule. Please note, although the dates are confirmed, the items under consideration are subject to being withdrawn, added to or rearranged without further notice.

REPORTS AND ISSUES FOR THE CONSIDERATION OF THE SCRUTINY COMMITTEE

7. Planning appeals

(Pages 9 - 176)

To note the report of the Head of Planning.

8. 2020/21 Financial outturn

(Pages 177 - 189)

To note the report of the Head of finance.

Minutes

of a meeting of the

Scrutiny Committee

held on Thursday, 23 September 2021 at 6.00 pm
at the 135 Eastern Avenue, Milton Park, OX14 4SB

Open to the public, including the press

The meeting was broadcasted live, and can be watched here:
https://www.youtube.com/watch?v=cPEkL27HQTU

Present:

Members: Councillors Nathan Boyd (Chair), Jerry Avery, Ron Batstone, Hayleigh Gascoigne, David Grant, Max Thompson, Eric de la Harpe, Ben Mabbett and Patrick O'Leary

Officers: Harry Barrington-Mountford, Pat Connell, Simon Hewings, Candida Mckelvey, Adrianna Partridge.

Also present: Cabinet members Councillors Andrew Crawford, Debby Hallett and Emily Smith.

Sc.127 Apologies for absence

None.

Sc.128 Declarations of interest

None.

Sc.129 Urgent business and chair's announcements

There was no urgent business. Chair ran through housekeeping for the meeting.

Sc.130 Minutes

The Scrutiny Committee minutes of the meeting held on 26 July 2021 were agreed as a correct record, and the chair will sign them as such.

Sc.131 Public participation

None.

Sc.132 Work schedule and dates for all Vale scrutiny meetings

The A34 item has been moved to the meeting on 25 November, to ensure that relevant officers from Oxfordshire County Council and Highways England can be present for the discussion.

Chair explained that the Q1 performance report related to the period ending 30 June, but this was the first opportunity after the summer democratic holiday to be able to consider this report.

Sc.133 2021/22 Q1 performance management report

Chair explained that the Q1 performance report related to the period ending 30 June, but this was the first Scrutiny meeting in the cycle to be able to consider this report.

Cabinet member, Councillor Debby Hallett introduced the item. The strategic performance report measured the council's performance and progress against the corporate plan aims. This will be considered for approval at Cabinet on 1 October 2021.

The 60-page report covered the period of quarter 1 (1 April – 30 June 2021) and showed the hard work officers had put in. Meetings of Scrutiny and Cabinet in May requested that the report would be an accurate reflection of progress made, so 'no progress' was stated where applicable.

Councillor Hallett did explain that as this was the first report, any changes would be considered and implemented to improve it for the next quarter, starting 1 July 2021.

Comments were welcomed, and Harry Barrington-Mountford, Head of Policy and Programmes, was present to answer any technical questions.

In response to a query raised, Councillor Hallett confirmed that the timing of reports would be raised with the senior management team to ensure scrutiny had enough time to review them. She asked the committee to focus on the progress for this quarter, not just report presentation improvements.

Comments and questions were raised and were noted by the Head of Policy and Programmes.

Resolved:
For committee to email Chair and Councillor Hallett regarding how scrutiny wish to review these reports in future, as per the discussion had today, and to identify what scrutiny committee want to add to the process.

Sc.134 Exclusion of the public

Committee voted in favour of excluding the public, in order to review a confidential item on Inter Authority Agreement.

Sc.135 Inter authority agreement

The committee considered a report of the Deputy Chief Executive – Transformation and Operations on inter authority agreement. The committee provided their comments.

The meeting closed at 8.01 pm

Scrutiny work programme

1 October 2021

MEETING	AGENDA ITEM	PURPOSE	CABINET MEMBER	CONTACT OFFICER
Scrutiny Committee 12 Oct 2021	**Planning appeals**	To consider the annual report	Councillor Bethia Thomas	Adrian Duffield adrian.duffield@southandvale.gov.uk
Scrutiny Committee 12 Oct 2021	**2020/21 financial out-turn report**		Councillor Andrew Crawford	Simon Hewings simon.hewings@southandvale.gov.uk
Joint Scrutiny Committee 16 Nov 2021	**Joint South and Vale Statement of Community Involvement**		Councillor Bethia Thomas	Adrian Duffield adrian.duffield@southandvale.gov.uk
Joint Scrutiny Committee 16 Nov 2021	**Community Safety Partnership report**		Councillor Helen Pighills	Diane Foster diane.foster@southandvale.gov.uk
Scrutiny Committee 25 Nov 2021	**A34 diversion routing**	Council adopted a motion on 9 October 2019 asking Scrutiny Committee to consider this.	Leader of the Council	Adrian Duffield adrian.duffield@southandvale.gov.uk

MEETING	AGENDA ITEM	PURPOSE	CABINET MEMBER	CONTACT OFFICER
Scrutiny Committee 25 Nov 2021	**Dalton Barracks Supplementary Planning Document (SPD)**		Councillor Bethia Thomas	Andrew Lane andrew.lane@southandvale.gov.uk
Joint Scrutiny Committee 28 Feb 2022	**GLL annual performance review 2019/20 & 2020/21**		Councillor Helen Pighills	Chris Traill chris.traill@southandvale.gov.uk
Items for future meetings (dates to be determined)				
Scrutiny Committee	**District role in Oxfordshire Growth Deal - tbc**		Councillor Neil Fawcett	Andrew Down andrew.down@southandvale.gov.uk
Scrutiny Committee	**Delivery of Affordable Housing**	To receive a progress report	Councillor Judy Roberts	Jayne Bolton jayne.bolton@southandvale.gov.uk
Joint Scrutiny Committee January 2022	**Future waste services**		Councillor Catherine Webber	Ian Matten ian.matten@southandvale.gov.uk

MEETING	AGENDA ITEM	PURPOSE	CABINET MEMBER	CONTACT OFFICER
Scrutiny Committee February 2022	**Covid-19 Leisure Support Package**		Councillor Helen Pighills Councillor Andrew Crawford	Chris Traill chris.traill@southandvale.gov.uk
Scrutiny Committee November 2021	**Public consultations**	To review how consultations are run	Councillor Debby Hallett	Shona Ware shona.ware@southandvale.gov.uk
Scrutiny Committee	**Flooding - partnership roles and responsibilities**		Councillor Neil Fawcett	Andrew Down andrew.down@southandvale.gov.uk
Scrutiny Committee	**Abingdon redevelopment**		Councillor Andrew Crawford	Catrin Mathias catrin.mathias@southandvale.gov.uk
Joint Scrutiny Committee	**Didcot Garden Town - project update**		Cabinet member for partnership and Didcot Garden Town	Marybeth Harasz marybeth.harasz@southandvale.gov.uk
Joint Scrutiny Committee	**Oxfordshire Growth Board - review outcome**		Leader of the Council	Andrew Down andrew.down@southandvale.gov.uk

Scrutiny Report

Report of Head of Planning

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Wards affected: All

Cabinet member responsible: Cllr Bethia Thomas

E-mail: Bethia.thomas@southandvale.gov.uk

To: SCRUTINY

Date: 12 October 2021

Planning Appeals Performance Update

Recommendation

(a) that Councillors consider the content of the report and feedback their observations to the Cabinet Member for Planning

Purpose of Report

1. To inform Members of the latest performance information in relation to planning appeals for the period 1 January 2020 to 30 June 2021 to assist quality of decision making.

2. The report references the latest national published appeals performance criteria and outlines any trends and common themes in the Planning Inspectorate decisions, together with lessons learnt from those decisions.

Corporate Objectives

3. The processing of planning appeals supports the Corporate Plan, 2020 - 2024, themes of 'Providing the Homes People Need" and "Building Healthy Communities".

Background

4. Planning applicants enjoy the right of appeal against the refusal of planning permission[1], the imposition of planning conditions and cases where the council has failed to issue a decision within the relevant statutory time period (referred to as non-determination appeals). Only the person(s) who made the application can

[1] Various time constraints apply following refusal of planning permission of failure to determine an application see https://www.gov.uk/appeal-planning-decision for more details.

appeal but interested parties can comment on the appeal. There is no right of appeal for third parties.

5. The Planning Inspectorate for England and Wales (PINS) is an executive agency of the Department of Levelling Up, Housing and Communities (DLUHC) (was Ministry of Housing, Communities and Local Government - MHCLG) with responsibility to make decisions and provide recommendations and advice on a range of land use planning-related issues. PINs deal with planning appeals, nationally significant infrastructure projects, examinations of Local Plans/Neighbourhood Plans and other planning-related and specialist casework.

6. For the purposes of this report, planning appeals are conducted under three methods in accordance with S78 of the Town and Country Planning Act 1990 (as amended):

   A) Local Inquiry (Public Inquiry) – a formal meeting with legal representation and the cross-examination of witnesses

   B) Hearings – a more informal round table discussion with questions from the Inspector

   C) Written Representations – the exchange of written statements.

7. The onset of the Covid-19 pandemic saw PINS introduce virtual public inquiries and hearings in the late summer/autumn of 2020. PINS ran these events and all those involved were invited to attend through a specific MS Teams invite. Two public inquiries[2] and four hearings have taken place via this new process to date for our council. Generally, the council's barristers have remained in their chambers whilst officers involved have given evidence remotely. Any consultants appointed by the Council have also given evidence remotely.

8. However, with effect from 13 September 2021 PINS have confirmed that all inquiries and hearings will revert to in-person events. We have to provide suitable venues at our cost.

9. The virtual process has been beneficial to the council in terms of the saving of venue and printing costs and also travel time which is particularly helpful when evidence is being given. Similarly, we have not been incurring barristers and consultants travel and subsistence costs.

10. All appeals are determined by an appointed Inspector working for the Planning Inspectorate on behalf of the Secretary of State. There is no fee to make an appeal and parties are expected to meet their own costs. However, an Inspector can award cost for unreasonable behaviour by parties. Examples can include delays in the process and the inability to provide robust evidence. Currently appeals can take between 3 months to over a year to determine by the Inspectorate.

11. Where a planning officer recommends the refusal of planning permission under delegated powers that officer will usually deal with the appeal if made.

12. Our joint Principal Appeals Officer (PAO) usually deals with appeals relating to cases where the Planning Committee has refused permission contrary to the officers'

[2] P15/V2933/O Sutton Courtenay and P18/V0259/O The Steeds

recommendation. In addition, the role includes preparing and presenting expert evidence at public inquiries and hearings.

13. The PAO provides general planning evidence and when required more specific evidence such as a housing land supply case. The latter is usually undertaken with the support of officers from the policy team, but on occasions other officers are key witnesses. The PAO will, where appropriate, appoint consultants to act as expert witnesses for the council where technical refusal reasons are being defended such as the impact of noise, landscape harm and financial viability issues. In addition, the PAO will prepare S106/CIL statements and defend planning conditions at public inquiries and hearings. We also, with legal support, make cost claims for unreasonable behaviour where justified.

14. Since January 2020, a total of 52 appeal decisions have been issued. These have largely been dealt with by the PAO case officer. The PAO has dealt with 10 of these appeals mostly through the written representations process[3]. Two cases have been determined by hearings[4], and two have been dealt with by public inquiries[5], the most recent being The Steeds, Faringdon (April 2021).

15. Generally, the Planning Enforcement team manage their appeal cases.

Planning Performance

16. In 2013 Government published *"Improving Planning Performance – Criteria for Designation"*[6] the document has regularly been updated since then with the most recent update in December 2020. This document sets out the Government's criteria for assessing local planning authority performance in determining planning applications for major and non-major development (i.e. Minor and Other planning applications). The explanatory memorandum explains the changes to the criteria for assessing planning performance by councils.

17. The document has its background in the Government's objectives of boosting the supply of housing and economic growth and the important role councils play in delivering these objectives. The performance of councils in determining planning applications for planning permission in a timely fashion is also crucial to these objectives.

18. Measuring the performance of councils, as introduced by the Growth and Infrastructure Act 2013, is based on assessing councils' performance on the speed and quality of their decisions in respect of applications for major and non-major development.

19. Where a council is designated by the Secretary of State as underperforming, applicants have the option of submitting their planning applications and associated

[3] For SODC – 25 appeals 17 via written representations, 3 hearings and 6 via public inquiries(4 in 2019, 1 in 2020 and 1 in 2021)
[4] P19/V1332/FUL Northcourt, Abingdon (29 January 2020 and 8 March 2021); P20/V0857FUL Chilton (8 April 2021); and P19/V2459/FUL The Causeway, Steventon (15 April 2021)
[5] P18/V3052/FUL Chilton A34, P15/V2933/O Sutton Courtenay and P18/V0259/O The Steeds
[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/947446/CM_Improving_planning_performance_2020.pdf

fee for major and non-major development (and connected applications) directly to the Planning Inspectorate for determination. The council has to provide the administration of the planning application for the Inspectorate at its own cost and does not receive the usual planning application fee.

20. The Secretary of State can designate councils if they are not adequately performing their function in determining applications[7]. The performance of councils in determining major and non-major development is assessed separately, meaning that a council could be designated based on its performance in determining applications for major development, applications for non-major development, or both. The assessment for each of these two categories of development is against two separate measures of performance: the speed with which applications are dealt with (e.g. 8 weeks) measured against the proportion of applications that are dealt with within the statutory period or agreed extension of time; and the quality of decisions made by councils is measured against the proportion of decisions on applications that are subsequently overturned at appeal.

Speed of decisions

21. In terms of speed Table 1 below sets out the relevant threshold and assessment period in relation to the speed of decision making.

Table 1 Threshold and assessment period for the speed of major development and non-major development

Measure and type of Application	Threshold and assessment period October 2018 to September 2020	Threshold and assessment period October 2019 to September 2021	Live Table
Speed of major Development (District and County)	**60%**	**60%**	District - P151a County – P151b
Speed of non-major Development	**70%**	**70%**	P153

22. **Appendix 1** to this report provides an extract of tables 151a and 153 in relation to Oxfordshire councils. It confirms that the council is determining major development proposals at 78%[8] and non-majors at 76.8%[9] for the period July 2019 to June 2021. This period has been largely affected by the Covid pandemic which has affected our ways of working, however despite the increase householder applications (Others) during this period both performance figures are reasonably above the thresholds. Our performance is lower than our pre-Covid figures (see footnotes 8&9).

[7] Section 62b 1(b) of the 1990 Act
[8] 82.3% for the period Jan 2018 to December 2020 – i.e. pre-Covid
[9] 85% for the period Jan 2018 to December 2020 – i.e. pre-Covid

Quality of decisions

23. Table 2 below sets out the threshold and assessment period for quality of major development and non-major development for the period April 2018 to September 2020. The assessment period rolls forward every 6 months.

Table 2 Threshold and assessment period for quality of major development and non-major development

	Threshold and Assessment Period **April 2018 to March 2020**	**Threshold and Assessment Period** **October 2018 to September 2020**
Quality of major development[10]	10%	10%
Quality of non-major development[11]	10%	10%

Vale District Council's performance 1 April 2018 to 31 March 2020 [12]quality of decisions

24. On 23 September 2021, DLUCH published their latest statistics in respect of the quality of performance for the period 1 April 2018 to end of March 2020 which is summarised in Table 3 below and the table contained in **Appendix 2**[13] to this report:

Table 3 1 April 2018 to end March 2020 - Major decisions overturned

Total number of major applications (determined and non-determined)	127
Total major appeal decisions	2
Total number of major decisions overturned at appeal[14]	2 (Committee decision contrary to officer recommendation)
% of overturned major decisions	1.6%

[10] See live table P152A
[11] See live table P154

[12] https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics
[13] Appendix 1 provides an Oxfordshire wide analysis for this period
[14] Total 2 major appeal decisions issued in 2020

25. Table 3 above and Appendix 2 confirms that the Council had 1.6% of its major application decisions overturned, which is no change from the previous period January 2018 to December 2019 (see **Appendix 3**).

26. In respect of non-majors, 0.7% appeals were overturned, a minor increase (0.1%) from the period January 2018 to December 2020.

27. Obviously, this period is older than the period being reviewed in this report such that there is very limited overlap. Key major appeal decisions (Bellingers Abingdon & Blue cedar Drayton) overturned from 1 April 2018 to end December 2019 (since from January 2020 is covered in the remainder of this report) are set out in **Appendix 4** together with the respective appeal decisions.

The Council's Performance January 2020 to 30 June 2021 – quality of decisions

28. For the purposes of this report our performance in respect of quality of decisions for both major and non-major development is reviewed for the period January 2020 to 30 June 2021, in the context of the 10% thresholds identified above.

29. This section of the report identifies the number of applications determined (including non-determinations) as this forms the basis for then considering the % of overturned decisions. The number of overturned decisions is set out together with a breakdown of whether the appeal resulted from an officer delegated decision or a committee decision.

Major applications

30. Applications falling within this category include developments above 10 dwellings / site over 0.5ha or 1000sqm/1ha.

1 January to 31 December 2020

Table 4 2020 Major decisions overturned

Total number of major applications (determined and non-determined)	57
Total major appeal decisions	3
Total number of major decisions overturned at appeal[15]	1 (Committee decision contrary to officer recommendation)
% of overturned major decisions	1.7%

31. Table 4 above shows that in 2020 the council determined a total of 57 major applications, 3 decisions were appealed, 1 of which was overturned at appeal (a

[15] Total 2 major appeal decisions issued in 2020

committee decision contrary to officer recommendation). The resulting figure for 2020 is 1.7% of major decisions were overturned.

32. The overturned decision related to application at Cumnor Hill, Oxford, **Appendix 5** contains the details of the appeal, a summary, and the appeal decision.

1 January to 30 June 2021

Table 5 2021 Major decisions overturned

Total number of major applications (determined and non-determined)	34
Total major appeal decisions	2
Total number of major decisions overturned at appeal[16]	2 (1 officer delegated and 1 Committee. The committee decision was contrary to officer recommendation)
% of overturned major decisions	5.9%

33. Table 5 above shows that between 1 January 2021 to the end of June 2021, 34 major applications were determined. 2 decisions were appealed both of which were overturned at appeal (1 was a delegated refusal and the other a committee decision against officer recommendation). The resulting figure for 2020 is 5.97% of major decisions were overturned.

34. One (Botley Centre) of the two appeal decisions that were overturned (i.e. allowed) was made by the Planning Committee and the other (Greensands, East Hendred) by officers under delegated powers. Details are provided in **Appendix 6** together with copies of the appeal decisions.

Non-major applications (i.e. Minors/Others)

35. Applications falling within this category comprise minor developments (including residential, offices, retail, Gypsy and Traveller, changes of use and householder applications.

1 January to 31 December 2020

Table 6 2020 Non-major decisions overturned

Total number of non-major applications (determined and non-determined)	972

[16] Total 2 appeal decisions from 1 Jan 2021 to end June 2021

Total number of non-major decisions overturned at appeal	6 (5 delegated officer decisions and 1 Planning Committee. The committee decision was contrary to officer recommendation)
% of overturned major decisions	1.7%

36. As the table above shows, over the period 1 January to 31 December 2020, 972 non-major applications were determined. 35 non-major appeal decisions were issued of which 6 were overturned decisions. As a result, the quality performance figure of 1.7% is well below the 10% threshold.

37. The decisions are listed and provided in **Appendix 7**. All the decisions involved the matter of planning judgement and no particular trends or remarks are suggested.

1 January to 30 June 2021

Table 7 2021 Non-major decisions overturned

Total number of non-major applications (determined and non-determined)	590
Total number of non-major decisions overturned at appeal	4 (3 delegated officer decisions and 1 Planning Committee. The committee decision was contrary to officer recommendation)
% of overturned non-major decisions	0.7%

38. To the end of June 2021, 590 non-major applications had been determined. 12 non-major appeals were decided, of which 4 were overturned decisions, 3 contrary to officer recommendation and one related to a Planning Committee overturn. This represents 0.7% of all non-major decisions, again well below the 10% threshold.

39. The decisions are listed and provided in **Appendix 8** and all involved the matter of planning judgement and no particular trends or remarks are suggested.

Performance comparison

1 April 2018 to 31 March 2020

40. Using the up-to-date information from DLUHC comparisons can be made for the period April 2018 to March 2020. This information is provided in Appendix 2 which shows the performance of the council in comparison with other Oxfordshire councils and England in respect of major applications and appeals, Generally, in the context of the 10% threshold, our performance reflects the national position (England), is good and healthy, and indicates the democratic process is active.

41. Appendix 2 also shows the performance of the council in comparison with other Oxfordshire councils and England in respect of non-major (i.e. minor/other) applications and appeals between April 2019 and end of March 2020. Similarly, the council's performance is good (better than the national position).

1 January 2020 to 30 June 2021

42. In relation to this period in respect of major decisions overturned at appeal we compare favourably with South Oxfordshire District Council as shown in Table 8 below:

Table 8 Vale of White Horse/South Oxfordshire District Council's major decisions overturned 1 January 2020 to 30 June 2021

	Total major application decisions inc. non-determined	Major decisions overturned at appeal	Quality of major decisions (% overturned at appeal)
Vale of White Horse DC	**91**	**3**	**3.3%**
South Oxfordshire DC	86	5	5.8%

43. In relation to the same period January 2020 to June 2021 the Vale compares closely with South Oxfordshire in respect of non-major (i.e. minor/other) decisions overturned at appeal as shown in Table 9:

Table 9 Vale of White Horse/South Oxfordshire District Council's non-major decisions overturned 1 January 2020 to 30 June 2021

	Total non-major application decisions inc. non-determined	Non-major decisions overturned at appeal	Quality of non-major decisions (% overturned at appeal)
Vale of White Horse DC	**1,562**	**3**	**0.7%**
South Oxfordshire DC	2,475	16	0.6%

44. The council is performing well and significantly below the thresholds for both major and non-major decisions.

45. The major application appeal decision in respect of The Steeds (P18/V0259/O) is worthy of mention. Following the Planning Committee's decision to refuse the proposal as it did not accept the submitted viability evidence, the council appointed consultants who were able to demonstrate that the full policy compliant 35% affordable housing could be provided. As the failure of the development to provide 35% affordable housing was one of the key refusal reasons, the council were to all intents and purposes successful at this appeal as although it was allowed, we

secured full policy compliant affordable housing and the leisure infrastructure contribution.

Costs Awards

46. Planning Practice Guidance[17] provides advice in respect of applications for the award of costs against the local planning authority or the appellant (and on rare occasions third parties). Parties in planning appeals are expected to meet their own expenses when appealing a decision, regardless of the process chosen. Costs can be awarded where one of the parties has behaved unreasonably and the unreasonable behaviour has resulted in unnecessary expense. Where an application is made for costs, the party applying is called the applicant, as they might not necessarily be the appellant.

47. Table 10 sets out cost applications submitted in 2020 and 2021 by both the council and appellants together with the decision:

Table 10: 2020/2021 Costs applications and decisions – majors and non-majors

Application No.	Type	Location / Appeal Decision Date	Costs Allowed/ Refused	Comments
2020				
P18/V3135/FUL	Minor	70 Cumnor Hill, Oxford - Allowed (Committee overturn) 14.02.20	Refused	Application made by the appellant
P19/V0753/FUL	Minor	East Paddocks, Milton Road, Drayton Dismissed 8.02.20	Allowed	Application made by appellant on the grounds that the highways refusal was unjustifiable. OCC withdrew their objection between the application being lodged and the appeal being determined. Costs paid by OCC
P20/V1083/FUL	Minor	19 Mill Road, Marcham - Dismissed 11.12.20	Refused	Application made by the appellant on the grounds of non-determination. The Inspector did not consider the council behaved unreasonably given discussions were on going with the appellant in respect of highways concerns.
2021				
P19/V1322/FUL	Minor	Former Cricket Pitch, Abingdon Dismissed 6 April 2021	Refused	The council made the application on the grounds that the appellant had altered its position in respect of affordable housing provision in relation to application P18/V2499/FUL and then subsequently withdrew the application. As both appeals were the subject of cojoined hearings had P18/V2499 been withdrawn earlier, an additional day to hear the case would not have been necessary.

[17] https://www.gov.uk/guidance/appeals#the-award-of-costs--general

P20/V0404/FUL	Minor	2 Tennyson Drive, Abingdon Allowed 9 April 2021	Refused	See Appendix 8
P20/V0921/FUL	Major	Botley Centre, Botley (Committee overturn) Allowed 12 May 2021	Refused	See Appendix 6

The Cost of Defending Appeals

48. The costs the council incurs in defending appeals varies depending on the process involved (i.e. written representation, hearing, or public inquiry) and the main issues involve and whether these can be dealt with in-house by officers or whether external consultants, including legal advice, are need to be appointed.

Written representations

49. Where the officer has refused planning permission under delegated powers, their delegated report will largely form the basis for the submission to PINS which could be a formal statement or simply a letter which states that they will largely rely on their delegated report and cover off any issues the appellant raises which need rebutting. This process can take between half a day and a full day.

50. Having regard to current average officer charge rates, including administrative aspects of the appeal such as sending out consultation letters and assisting members of the public with any questions about the process and recharges, the cost for defending a written representations appeal would be approximately between £300 to £600.

51. For written representations appeals which follow a planning committee decision (i.e. an decision contrary to officer recommendation), the level of work needed is increased given the need to review the application merits as well as examining and rebutting the appellant's statement. In this case it would cost approximately £500 to £850 depending on the issues involved. If a consultant is required to deal with a specific technical matter i.e. noise or drainage, then our costs would increase. A recent example of a noise report needed to defend a written representations appeal was £3,000.

Hearings

52. The officer costs for a hearing are greater as more work is involved, such as seeking to agree common ground before the hearing as well as drafting and agreeing conditions. In some cases, a S106 agreement may be needed. Officer costs preparing for a 1 day hearing could be between £3,000 - £4,000.

53. In the event consultants are needed to cover technical matters the costs can vary. For the appeal at Chilton (P20/V0857/O) the council needed to appoint a landscape consultant. The cost of preparing that witness statement and attending the hearing was approx. £6,000.

54. For the appeal by Lidl at Grove (P18/V2300/FUL) the council needed to appoint a planning consultant as well as a retail consultant, whilst landscaping was dealt with in

house by one of our landscape officers. The planning consultants' costs were £8,000 whilst the retail consultant costs were £14,000. The appeal was dismissed.

55. Now that hearings have become in person again, the council needs to secure a suitable venue for a hearing (or public inquiry). The availability of a suitable venue can be restricted as village halls which are usually reasonably priced often have classes booked months in advance. Venue costs vary a village hall could cost in the region of £250 per day.

56. It is possible that appellants will seek legal representation at hearings. In such cases the Council is likely to match with a barrister in attendance, as we recently did for the appeals at Chilton (P20/V0857/O) and Steventon (P19/V2459/O) appeals. The legal fees for these two 1-day hearings were £21,000 and £9,000 respectively. The council's legal team who appoints our legal representation always ensure that barristers fees are competitive.

Public Inquiries

57. These are time intensive where officers need to submit the questionnaire, Statement of Case and a proof of evidence. The latter will often need other supporting proofs by consultants/officers. The officer will also be responsible for agreeing common ground with the appellant, working with the council's team. In addition, the officer will project manage the appeal arranging meetings with the barrister and the team when necessary.

58. Consultants will often need to be employed. Viability consultants assisting with the recent appeal at The Steeds (P18/V0259/O) cost approximately £21,000 which ensured the council was successful in securing 35% affordable housing.

59. Barristers' fees for public inquiries can vary depending on the experience of a barrister and usually average between £40,000 to £48,000 for a 4-day public inquiry.

60. It is worth noting that the appellant's will be incurring such costs too and in the event an Inspector finds the council has behaved unreasonably, the council will have to pay these in addition to the costs we have ourselves incurred in defending the appeal.

Trends in decisions

Major application appeals

61. There are no clearly identifiable trends in respect of major appeal decisions. Those that were allowed involved judgement and cannot be considered to form a precedent for other appeals.

62. The appeal decision at The Steeds involved reviewing viability evidence submitted in support of the planning applications. The viability consultants appointed by the council for this appeal work predominantly work with councils and housing associations and were integral in the council's success in securing a policy compliant affordable housing (35%) from the development.

63. The appeal at The Steeds also raises the importance of up-to-date sports and leisure evidence as well as clearly identified schemes that developments should contribute towards. There was insufficient evidence on this aspect for the Inquiry and the

Inspector did not consider the contributions sought by us in respect of such matters to be reasonable. We are assessing with colleagues how this can be addressed for future applications/appeals and plan making.

64. The Sutton Courtenay appeal demonstrated that our housing land supply position is under significant scrutiny by developers.

65. Councillors will be aware following the Oxfordshire Housing and Growth Deal that between September 2018 and March 2021, the council needed to demonstrate a three-year supply of housing land for the purposes of decision making. This position helped our case on the Sutton Courtenay appeal; however, we now need to defend the normal 5-year hosing land supply position.

Non-major application appeals

66. The appeals at Chilton (P20/V0857FUL) and Steventon (P19/V2459/FUL) set out the council's position regarding self and custom housebuilding needs from our self-build register. We will be reviewing this register to ensure needs are current, there is a local connection and that the necessary finances are available to those who are on the register.

67. The requirement to provide self and custom build housing is a statutory requirement. The Local Plan Part 2 is supportive of self/custom build if the development is appropriately located and we are monitoring the provision of plots to meet the needs with our housing team.

68. The council has been able to successfully defend proposals for residential development in the smaller villages where it does not comprise infill or is of a scale that is inappropriate to the location.

69. However, applications for new dwellings in the countryside need to carefully consider their relationship with nearby dwellings and settlements to determine whether they are truly isolated for the purposes of paragraph 80 of the NPPF. Recent High Court decisions[18] have considered the issue of isolated housing in the countryside. For example, Lang J confirmed at Braintree: "*..a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand*"; and "*Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker.*"

70. Many of the appeal decisions relate to matters of planning judgement which is for the decision maker to exercise. Inspectors have closely considered the existing character and appearance of areas and the form of development within them in reaching a contrary decision to the council. On some occasions there has been limited consideration of this in our decision-making and a lack of clarification as to why the development in question is particularly harmful when other directly comparable developments have been permitted. Whilst each case must be determined on its merits, there are circumstances where sites and developments are very similar and

[18] Dartford Borough Council v SSCLG & ors [2017] EWCA Civ 141 and Braintree DC v SSCLG & ors [2018] EWCA Civ 610).

warrant the same approach regardless of who determined the applications and whether or not those decisions are agreed with.

Measures to improve performance

71. We regularly monitor and review our appeal decisions and costs decisions, particularly where there is a danger of performance figures being breached and where an award of costs could have potentially been avoided. Our monitoring assists us in developing new planning training for councillors, in particular the planning committee, and officers.

Climate and ecological impacts implications

72. Although there are no direct climate or ecological impacts from this report, as part of the appeal process, if an Inspector is minded to allow an appeal, we need to provide draft conditions or a s106 agreement.

73. In these circumstances and subject to the nature of the appeal, we will seek appropriate planning conditions, such as electric vehicle charging points, Green Travel Plans, Construction Environmental Management Plans and biodiversity net gains. S106 agreements can also be used to secure biodiversity gains in addition to securing contributions towards public transport and highways improvements such as cycle lanes, where schemes are identified and considered necessary as a result of the development.

Financial Implications

74. Other than as part of the development management staff time, planning appeals and any costs awarded are not budgeted for.

75. The approximate costs of appeals set out above and implications of being awarded costs against the council is important to recognise. Although our performance on appeals is good, it clearly has cost implications for the council in defending our decisions.

76. Any council decision that has financial implications must be made with the knowledge of the council's overarching financial position. Our position is reflected in the council's medium-term financial plan (MTFP) as reported to Full Council in February 2021 which showed that the council is due to receive £2.6 million less in revenue funding than it plans to spend in 2021/22 (with the balance coming from reserves including unallocated New Homes Bonus).

77. This funding gap is predicted to increase to over £5 million by 2025/26. As there remains no certainty on future local government funding, following the announcement of a one-year spending review by government, and as the long-term financial consequences of the Coronavirus pandemic remain unknown, this gap could increase further. Every financial decision made needs to be cognisance of the need to eliminate this funding gap in future years.

Legal Implications

78. There are legal procedures that we must follow in connection with appeals and deadlines must be met otherwise the council is at risk of incurring additional costs.

Risks

79. As set out earlier in this report, the Government sets out its national performance targets, which we should at least meet or exceed. The potential consequences of poor decision making are both financial and reputational.

Conclusion

80. Overall, although the council's appeals performance has been reasonably strong over the reported period, it comes at a cost. We need to carefully manage our decision making, learn from the themes emerging from planning Inspectors' decisions and undertake/participate in regular officer and councillor training.

Background Papers

The National Planning Policy Framework
National Planning Guidance

Table P153: Oxfordshire Districts planning authorities' performance - speed of major development decisions [1]

England, July 2019 to June 2021 [P]

Number/*per cent*

Local planning authority	ONS Code	Major decisions	Major decisions within 13 weeks [1]	PPA, EoT or EIA decisions [2]	PPA, EoT or EIA Decision within agreed time	***% within 13 weeks or within agreed time without penalty for missing data***	***% within 13 weeks or within agreed time with penalty for missing data***
England	**E92000001**	**25,061**	**6,057**	**17,538**	**16,074**	***88.3***	
Oxford	E07000178	54	13	41	38	***94.4***	***94.4***
Cherwell	E07000177	136	35	94	88	***90.4***	***90.4***
South Oxfordshire	E07000179	114	25	79	71	***84.2***	***84.2***
Vale of White Horse	E07000180	118	21	91	71	***78.0***	***78.0***
West Oxfordshire	E07000181	93	26	58	43	***74.2***	***74.2***

Notes:

2. Also included in the total 'Major decisions' column.
~ Local planning authority did not exist during this quarter
– No major decisions in the reporting period

P151a: Oxfordshire District planning authorities' performance - speed major development decisions July 19 to June 21

England, July 2019 to June 2021 [P]

Number / *Percentage*

Local planning authority	ONS Code	Total non-major development decisions[1]	Total non-major development decisions within 8 weeks	Planning Performance Agreement, agreed Extension of Time or Environmental Impact Assessment decisions [3,4]	Planning Performance Agreement, agreed Extension of Time or Environmental Impact Assessment decisions within agreed time [3]	***% within 8 weeks or within agreed time without penalty for missing data***	***% within 8 weeks or within agreed time with penalty for missing data***
England	**E92000001**	**666,492**	**380,556**	**229,694**	**205,945**	***88.0***	***-***
Oxford	E07000178	2,065	1,265	671	624	***91.5***	***91.5***
Cherwell	E07000177	2,378	1,333	700	610	***81.7***	***81.7***
South Oxfordshire	E07000179	3,316	1,806	955	807	***78.8***	***78.8***
Vale of White Horse	E07000180	2,060	933	823	650	***76.8***	***76.8***
West Oxfordshire	E07000181	2,248	852	1,011	846	***75.5***	***75.5***

Notes:

~ Local planning authority did not exist during this quarter

P Provisional

Last updated:	Jun-21
Next update:	Sep-21

Source: District matters (PS1/PS2) returns
e-mail: planning.statistics@communities.gov.uk

Appendix 2

Oxfordshire Councils performance major decisions overturned April 2018 to end March 2020 (live table 152)[1]

	Total major application decisions	Major applications not determined	Total major application decisions and non-determined cases	Total major appeal decisions	Major decisions overturned at appeal	Quality of major decisions (% overturned at appeal)[2]
England	**27,947**	**170**	**28,117**	**1,360**	**447**	**1.6% (previously[3] 1.8%**
South Oxfordshire DC	144	2	146	10	1	2.8% (previously 3.3%)
Vale of White Horse DC	127	0	127	2	2	1.6% (no change)
Cherwell	156	0	156	8	4	2.6% (previously 3.4%
Oxford City Council	56	0	56	0	0	0% (no change)
West Oxfordshire	103	1	104	5	0	0% (no change)

[1] https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics#planning-performance-tables

[2] Includes appeals relating to planning conditions

[3] January 2018 to December 2019

Oxfordshire Councils performance non-major decisions overturned April 2018 to end March 2020 (live table 154)

	Total major application decisions	Major applications not determined	Total major application decisions and non-determined cases	Total major appeal decisions	Major decisions overturned at appeal	Quality of major decisions (% overturned at appeal)[4]
England	**679,905**	**840**	**680,745**	**24,494**	**6,701**	**1.0% (previously 1.1%**
South Oxfordshire DC	3,370	2	3,372	90	29	0.9% (no change)
Vale of White Horse DC	2,080	1	2,081	60	15	0.7% (previously 0.6%)
Cherwell	2,406	3	2,409	56	11	0.5% (previously 0.6%
Oxford City Council	2,094	1	2,095	58	16	0.8% (previously 0.6%)
West Oxfordshire	2,139	1	2,140	51	12	0.6% (previously 0.8%)

[4] Includes appeals relating to planning conditions

APPENDIX 3

Table P152a: District Matters Planning Performance Table for Quality of decisions: January 2018 to December 2019

ONS name	ONS code	24 months to end of December 2019 [P]					
		Total major application decisions	Major applications not determined [1]	Total major decisions and non-determined cases [1]	Total major appeal decisions	Major decisions overturned at appeal [2]	***Quality of decisions (% overturned at appeal)***
England	**E92000001**	**28,612**	**173**	**28,785**	**1,518**	**511**	***1.8***
Oxford	E07000178	64	0	64	0	0	***0.0***
West Oxfordshire	E07000181	112	1	113	7	0	***0.0***
Vale of White Horse	E07000180	124	0	124	2	2	***1.6***
South Oxfordshire	E07000179	151	2	153	12	5	***3.3***
Cherwell	E07000177	148	0	148	10	5	***3.4***

P Provisional

- No major applications received on which to make decisions

~ Local planning authority did not exist during this quarter. Christchurch, East Dorset, Forest Heath, North Dorset, Purbeck, St Edmundsbury, Suffolk Coastal,Taunton Deane, Waveney, West

[1] Includes only non-determined applications that were appealed against.

[2] For appeals against decisions, figures reflect the actual appeal decisions made, rather than the fact that appeals against conditions are not treated as having gone against the local planning a

[3] The two appeal types that have been excluded are listed in the Explanatory notes sheet.

[4] Ebbsfleet Development Corporation, London Legacy Development Corporation and Old Oak and Park Royal Development Corporation are exempt from designation under 62B (5) of the

[5] Was called Shepway before 1 April 2018.

Sources: District matters (PS1/PS2) returns and Planning Inspectorate appeals data

e-mail: planning.statistics@communities.gov.uk

APPENDIX 4 Vale District Council's performance 1 April 2018 to end December 2019 2020 [1]quality of decisions – major appeals allowed (overturned)

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
P17/V0321/FUL	Bellingers, 111 Ock Street, Abingdon	Redevelopment to form 39 retirement apartments	Committee overturn	Hearing 3 October 2018	Appeal allowed	N/A
P18/V2931/FUL	Blue Cedar Homes Ltd, land to the rear of 10 Halls Close, Draycot	Removal of condition 14 (age) – applicable to 11 of the 28 units.	Committee overturn	Written Representations	Appeal allowed	Costs awarded to the appellant. £7514.75 paid.

[1] https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

The Planning Inspectorate

Appeal Decision

Site visit made on 29 August 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2019

Appeal Ref: APP/V3120/W/19/3228667
Land to the rear of 10 Halls Close, Drayton, Abingdon OX14 4LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Blue Cedar Homes Limited against the decision of the Vale of White Horse District Council.
- The application Ref P18/V2931/FUL, dated 28 November 2018, was refused by notice dated 2 May 2019.
- The application sought planning permission for up to 28 no. dwellings with all matters reserved except access, without complying with a condition attached to planning permission granted under appeal Ref APP/V3120/W/16/3144811, dated 2 November 2016.
- The condition in dispute is No 14 which states that: the 11 dwellings hereby permitted that form part of the retirement element of the scheme shall only be occupied by persons:
  a) Aged 60 or over;
  b) Living as part of a single household with such a person or persons;
  c) Who were living as part of a single household with such a person or persons at the property who have since died.
- The reason given for the condition is: as the proposal has been assessed and considered on that basis.

Decision

1. The appeal is allowed and planning permission is granted for up to 28 no. dwellings with all matters reserved except access at land to the rear of 10 Halls Close, Drayton, Abingdon OX14 4LU in accordance with the application Ref P18/V2931/FUL, dated 28 November 2018, without compliance with condition number 14 previously imposed on allowed appeal Ref APP/V3120/W/16/3144811, dated 2 November 2016, and subject to the conditions in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Blue Cedar Homes Limited against the Vale of White Horse District Council. This application is the subject of a separate decision.

Background and main issue

3. An appeal against an application for outline planning permission for 28 dwellings was allowed in 2016. The Inspector applied a qualified, occupancy

condition restricting the occupation of 11 of the dwellings to people aged over 60, which the appellant now seeks, in order to have flexibility, to remove. There is no dispute, as the appellant indicates, that the development provides a range and mix of house types that would be appropriate for older people, including affordable housing. The issue between the parties is whether the condition is necessary and reasonable having regard to the development plan.

Reasons

4. The Council considered the proposal the subject of this appeal against Core Policy 26 of the Local Plan 2031 Part 1 (LPP1). This requires, subject to a viability assessment, that i) houses designed for older people should be provided in the strategic site locations and other suitable locations; ii) where possible, they be located within close proximity to public transport routes, retail and other local facilities including health care; iii) that they be provided wherever possible on a mixed tenure basis; and iv) where standards that would apply to general housing have been relaxed in response to the special needs of the occupiers of the scheme, the occupancy will be limited to accord with the nature of the scheme.

5. The development provides houses for older people, in accordance with criterion i). The preamble to the policy acknowledges the need for suitable accommodation for older people, but nowhere in the policy is it suggested that a planning condition restricting the occupancy of development to older people should be applied generally. Indeed, criterion iv) indicates the very specific circumstances where an occupancy restriction will be applied, which does not apply to this development.

6. I understand that the development already includes provision for affordable housing, and there is no evidence to suggest that housing standards need to be relaxed. The site is around 300m from the centre of the village, which is well served with local facilities including convenience shops, pubs and a post office, churches and a primary school as well as a bus service to Didcot, Abingdon and Oxford. There is no evidence that the site is not in a suitable location, indeed, it is well located in terms of facilities and services. Against all four of its criteria, I can find no conflict from the development with LPP1 Core Policy 26, and no justification for condition No 14.

7. I also note that while the appellant has referred to recently permitted housing development without any occupancy restriction condition, and despite the LPP1 having been adopted for almost 3 years, the Council is unable to give any examples of housing schemes where a similar condition has been considered necessary. I conclude that there is no evidence of the necessity of condition No 14, and that to continue to apply it would be unreasonable.

Other matters

8. At the time of the last appeal, the Council was unable to demonstrate a five year supply of deliverable housing sites. In applying the tilted balance as required in the Framework, the Inspector concluded that the adverse impacts of the proposal did not significantly and demonstrably outweigh its benefits, in particular the delivery of housing, the older people's component of which clearly factored in his conclusion, and to the degree that it was necessary to be secured by condition.

9. At that time the LPP1 had not been adopted, and the Inspector gave its policies only limited weight. I appreciate that the Council can now demonstrate a five year supply of deliverable housing sites, and that the tilted balance no longer applies. However, taking into account the extant permission with its range and mix of house types, and the current development plan the most relevant policy of which the Council cited in its decision notice, there is nothing which now justifies the condition in planning policy terms.

10. I have taken into account the representations from interested parties, but there is no substantive evidence that the removal of the condition would make the site access or local roads unsafe. I have had regard to policies CP4a and DP2 of the Council's emerging Local Plan 2031 Part 2, however, the removal of the condition would not change the range and mix of house types, or their layout, which the Council acknowledges is in accordance with the Oxfordshire Strategic Housing Market Assessment 2014, and it would not prevent older people from occupying the houses.

Conditions

11. The Planning Practice Guidance makes 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 substantive information before me about the status of the other conditions imposed on the original planning permission, I have imposed 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.

12. It should be noted that in accordance with Section 73(5) the time limit for the commencement of the development specified in the original planning permission still applies. Therefore, the development permitted by my decision on this appeal must be commenced within 6 months of the date of the approval of the reserved matters or the last reserved matter to be approved, and the applications for the approval of all reserved matters shall be made to the local planning authority within a period of two years from the date when appeal Ref APP/V3120/W/16/3144811 was allowed, on 2 November 2016.

Conclusion

13. For the reasons set out above, the appeal should be allowed and condition No 14 be removed, with all other conditions imposed.

Patrick Whelan

INSPECTOR

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 begins and the development shall be carried out as approved.

2) The development to which this permission relates shall be begun within a period of 6 months from the date of the approval of the reserved matters or, in the case of different dates, the date of the approval of the last reserved matter to be approved. The application(s) for the approval of all reserved matters shall be made to the local planning authority within a period of two years from 2 November 2016.

3) The development hereby permitted shall be carried out in accordance with the following approved plans in so far as those plans relate to matters not reserved for future determination: Location Plan - Dwg No 14.070.SI.01; Proposed Site Access Arrangement drawing - Figure 3.1 from within the Transport Statement (TPA, Aug 2015).

4) All works and development on site, including demolition, shall be carried out in accordance the Arboricultural Impact Assessment and the Tree Protection Plan and Arboricultural Method Statement (both Bosky Trees, 27 August 2015) and the identified tree protected areas shall not be used at any time to park or manoeuvre vehicles, for site temporary offices or other structures, store building materials or soil, mix cement/concrete or light bonfires.

5) Prior to the commencement of development, a fully detailed scheme for the sustainable surface water drainage of the development shall be submitted to and approved in writing by the local planning authority. The sustainable surface water drainage strategy shall include the following:

   a) The undertaking of permeability tests to determine the soakage potential of the site, to inform the design;

   b) Design calculations relating to the proposed SuDS drainage system for pervious pavements and soakaways;

   c) Design to be based on a 1:100 +climate change event with discharge restricted to Greenfield run off rate;

   d) Information on overland flood flow paths and their maintenance;

   e) Detailed arrangements for the future maintenance and management of the SuDS; and

   f) Monitoring results of seasonal groundwater levels.

   The surface water drainage scheme shall be developed and implemented in accordance with the Flood Risk Assessment and Drainage Strategy (Ref: 1507-45/FRA/01, TPA, August 2015). The approved scheme shall be implemented prior to any occupation of the development to which the scheme relates and be retained and maintained thereafter in accordance with the approved details.

6) Development shall not commence above slab level until a foul water drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by the local planning authority. No discharge of foul water from the site shall be made into the public system until the drainage works referred to in the strategy have been completed.

7) Prior to the commencement of any development a Construction Traffic 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.

8) Prior to the commencement of development, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include a programme of implementation and proposals to promote alternative forms of transport to and from the site, other than by the private car and provide for periodic review. The approved Travel Plan shall be fully implemented, maintained and reviewed.

9) The applicant, or their agents or successors in title, shall be responsible for organising and implementing an archaeological investigation to be undertaken prior to development commencing. The investigation shall be carried out by a professional archaeological organisation in accordance with a Written Scheme of Investigation that has first been approved in writing by the local planning authority.

10) Prior to the commencement of the development and following the approval of the Written Scheme of Investigation, a staged programme of archaeological investigation 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.

11) Elements of public art shall be incorporated into the development in accordance with a scheme that shall be submitted in support of the reserved matters application. Thereafter, the public art elements shall be provided and maintained in accordance with the approved reserved matters.

12) Prior to the commencement of development, details of vehicular access to the site and visibility splays at that access shall be implemented in full accordance with the approved plans and supporting information accompanying the planning application. The access and visibility splays shall be provided prior to the occupation or use of the new development and, thereafter, the visibility splays shall be permanently maintained free from obstruction to vision.

13) The development hereby permitted shall be implemented in full accordance with the scheme of mitigation, compensation and enhancement contained in Section 6 of the Ecological Appraisal (Malford Environmental Consulting, 3 July 2015). Any variation shall be agreed in writing by the local planning authority before such change is made. This condition will be discharged on receipt of a letter from the project ecologist providing evidence to demonstrate that the mitigation, compensation and enhancement measures have been implemented in accordance with the approved report.

END OF SCHEDULE OF CONDITIONS

The Planning Inspectorate

Costs Decision

Site visit made on 29 August 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2019

Costs application in relation to Appeal Ref: APP/V3120/W/19/3228667
Land to the rear of 10 Halls Close, Drayton, Abingdon OX14 4LU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Blue Cedar Homes Limited for a full award of costs against the Vale of White Horse District Council.
- The appeal was against the refusal of outline planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.

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, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The examples it gives of unreasonable behaviour which may lead to a substantive award of costs against a local planning authority include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and, failing to produce evidence to substantiate each reason for refusal on appeal.

4. The applicant claims that the Council ignored the advice of its professional officers who had recommended the application be permitted, and that a proper consideration of the proposals against the development plan should have indicated to the Council that the condition should be removed.

5. The Council amplified its reasoning for refusing the application, and did not behave unreasonably in regard to substantiating its case. However, there was, in my conclusion, no conflict from the proposal with the planning policy cited by the Council in its decision notice, and no necessity to retain the condition it refused to remove.

6. The Council is not bound to follow the professional advice of its officers, who in this case recommended approval. However, the application to remove the condition should clearly have been permitted, because having regard to the development plan, it was unnecessary and unreasonable.

Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 the Vale of White Horse District Council shall pay to Blue Cedar Homes Limited 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.

9. The applicant is now invited to submit to the Vale of White Horse 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.

Patrick Whelan

INSPECTOR

The Planning Inspectorate

Appeal Decision

Hearing held on 3 October 2018

Site visits made on 2 and 3 October 2018

by J Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2018

Appeal Ref: APP/V3120/W/17/3178348
Bellingers, 111 Ock Street, Abingdon OX14 5DQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Churchill Retirement Living against the decision of Vale of White Horse District Council.
- The application Ref P17/V0321/FUL, dated 8 February 2017, was refused by notice dated 13 June 2017.
- The development proposed is redevelopment to form 39 apartments for the elderly (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for redevelopment to form 39 apartments for the elderly (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking and landscaping at Bellingers, 111 Ock Street, Abingdon OX14 5DQ in accordance with the terms of the application, Ref P17/V0321/FUL, dated 8 February 2017, subject to the attached schedule of 18 conditions.

Procedural Matters

2. In reaching my decision, I have had regard to the revised National Planning Policy Framework (the revised Framework) published on 24 July 2018.

3. With agreement, subsequent to the hearing, the appellant submitted a planning obligation by unilateral undertaking made under Section 106 of the Town and Country Planning Act 1990 (as amended). The unilateral undertaking was signed and executed as a deed in counterpart form, dated 3 October 2018. I have considered the unilateral undertaking as part of the appeal.

4. A signed and dated Statement of Common Ground (SOCG) was also submitted during the hearing. I have had regard to it in reaching my decision.

5. At the hearing, the appellant submitted a letter dated 27 September 2018 from Right of Light Consulting which sought to address concerns raised by occupiers of 2 and 4 Mayott's Road[1] in response to the appeal notification. As the occupiers of Nos 2 and 4 were present at the hearing and had received the letter in advance of the hearing, I consider that no other parties' interests would be prejudiced by taking the letter into account in my decision.

[1] Hereafter referred to as Nos 2 and 4.

6. At the hearing, the appellant provided an appeal decision[2] for another Churchill Retirement Living (CRL) development in Thame, South Oxfordshire. As the appeal decision had been issued only a few days prior to the hearing, I accepted it as late evidence in this instance.

7. During the hearing, the appellant provided a number of amended plans[3]. Plans 10089AD/PA03 Rev B, 10089/PA04 Rev B and 10089AD/PA08 Rev C were amended to remove a window from the proposed first floor unit 15's flank elevation and to provide obscure glazing to the first and second floor hallway windows. The street parking plan 10089AD/PA101 Rev B was amended to provide 5 parking spaces and a drop off bay along the Ock Street frontage.

8. Further plans were provided to indicate distances between Mayott's Road properties' windows and the proposed development, to show the design of proposed first and second floor windows adjacent to No 2, and to provide indicative computer generated imagery (CGI) renderings of the proposed development from Ock Street and Mullard Way for information. The proposed amendments involved relatively minor adjustments to the proposed development. The closest neighbouring occupiers at Nos 2 and 4 had been provided with plans 10089AD/PA03 Rev B, 10089/PA04 Rev B and 10089AD/PA08 Rev C in advance of the hearing and those neighbouring occupiers were present at the hearing along with other interested parties. Consequently, I consider that no other parties' interests would be prejudiced by taking them into account in my decision.

9. During the hearing, the appellant tabled plans of Nos 2 and 4 obtained from a house sales website. Given doubts expressed by the occupiers of Nos 2 and 4 about the plans' accuracy, I did not accept these plans as late evidence.

10. At the hearing, my attention was drawn to the Vale of White Horse Local Plan Part 2 examination. However, the Inspector's report has not yet been published, and I have not given weight to policies in the emerging Local Plan.

11. I held an accompanied site visit on the day of the hearing. I also conducted an unaccompanied site visit the day prior to the hearing.

Main Issues

12. The main issues in this appeal are:

    a) the effect of the proposed development on the character and appearance of the area; and

    b) the effect of the proposed development on the living conditions of neighbouring occupiers.

Reasons

a) Character and appearance

13. Located on the northern side of Ock Street, one of the main roads and historic approaches into the centre of Abingdon, the appeal site has a wide frontage onto Ock Street. It is a deep, roughly Z-shaped site which stretches north to

[2] APP/Q3115/W/17/3173982, decision issued 28 September 2018.
[3] 10089AD/PA03 Rev B; 10089/PA04 Rev B; 10089AD/PA08 Rev C; 10089AD/PA101 Rev B; 10089AD/PA21; 10089 AD/PA22; D6/18; D6/19; D6/20.

Mullard Way and the grounds of Carswell Community Primary School. Beyond, there are predominantly two-storey houses along Bostock Road, and neighbouring streets, with some three-storey properties along Victoria Road.

14. The appeal site's eastern boundary adjoins the high brick wall surrounding the rear gardens of small two-storey terraced houses at 2 - 12 Mayott's Road. The appeal site's western boundary adjoins rear gardens of Ock Street properties and the flank elevation of the Grade II listed building at 121 Ock Street. South of the appeal site, Abingdon Fire Station is a predominantly two-storey building with a higher tower, while adjacent L-shaped Mayott House and the former Cross Keys public house at 148 – 156 Ock Street are large two and a half-storey and three-storey buildings.

15. Ock Street contains a mixture of historic buildings, and more modern development such as the flatted blocks at 184 – 240 and 242 - 262 Ock Street, Crown Mews and Mayott House. Ock Street's grain is relatively diverse, with large blocks on large plots interspersed with smaller buildings on narrow plots, which vary in depth. Buildings are generally 2 to 3 storeys in height.

16. Materials along Ock Street are mixed, with red brick, render, and stone, while properties on Bostock Road and neighbouring streets appear more uniform in both appearance and materials, with red brick, tile hanging, and some instances of painted brickwork. Rooflines are varied, with a mixture of front gables and gable end roofs, different roof pitches and eaves heights, and types and colours of roof tiles, although red clay tile dominates. Dormer windows and windows within the eaves of roofs commonly have pitched roofs. Given the varied age and architectural styles of development, there is fenestration of different designs and proportions locally. Buildings also vary in their relationship to Ock Street, with many buildings hard up against the footway and some set back from the street behind front gardens or small fenced areas.

17. The appeal site holds a disused car dealership garage and showroom, and consists of a two-storey main building adjoining the listed building at 121 Ock Street[4]. It also contains single-storey and one and half-storey buildings, garage forecourt, and parking. The existing buildings are of no particular architectural merit, and are not subject to any heritage or townscape designations.

18. Core Policy 37 of the Vale of White Horse Local Plan 2031 Part 1 Strategic Sites and Policies (adopted 2016) (LP Part 1) requires all proposals for new development to be of high quality design and sets out criteria which should be met. During the hearing, the Council confirmed that only criterion viii of the policy is relevant in this instance. This refers to development being visually attractive and the scale, height, density, grain, massing, type, details and materials being appropriate for the site and surrounding area. I have focussed on Core Policy 37, criterion viii, and have had regard to the Vale of White Horse District Council Design Guide Supplementary Planning Document (March 2015)(DGSPD), which was produced to support Core Policy 37.

19. The SOCG confirmed that density, architectural detailing and materials would be acceptable in relation to the area's built form. Despite concerns raised by neighbouring occupiers with regard to orientation, siting and layout, the main parties agreed in the SOCG that the proposed development would be acceptable in these respects as this has been directly informed by the access

[4] Hereafter referred to as No 121.

arrangements required by the Highway Authority. There remains disagreement with regard to the proposed development's height, scale and massing.

20. The proposed development would undoubtedly form a large building, which would be taller than its immediate neighbours and would occupy much of the site's Ock Street frontage. However, it would be of a similar height, scale and massing to nearby Mayott House. It would be similarly articulated along both sides of the proposed L-shape by roofs which would step up and down slightly in height, different forms of fenestration, recessed elements at intervals to give visual interest, and a mixed palette of materials. This would take account of features present within the site's context and local vernacular, and would give the impression of a number of separate buildings along Ock Street with a similar rhythm and spacing to Mayott House.

21. While the rear part of the proposed building would be deep in footprint, it would be broken up satisfactorily. Furthermore, the proposed development would be separated from the two-storey properties on Bostock Road by the road and rear gardens, which would ensure that the proposed development would not appear overly prominent. Although the Council contends that there is an over composition of elements, I consider that the proposed development would not appear visually dominant, contrived or overly bulky, particularly when viewed in light of nearby Mayott House and other Ock Street properties.

22. The DGSPD confirms that corner buildings should be designed so that they 'turn the corner', providing frontage to both streets. While there may be other design approaches which could have been employed to address the corner and I acknowledge the concerns of neighbouring occupiers with regard to the relationship of the proposed and existing buildings, the proposed corner element at Ock Street and Mayott's Road would step down and provide an appropriate transition to the terraced houses on Mayott's Road. Additionally, the proposed development's roofscape on the corner would not obscure the primary school's south-facing gable, which would remain visible at the end of Mayott's Road. I consider that this would not be harmful or overly dominant.

23. There is no dispute between the parties that the appeal site's current appearance does not enhance the public realm. In terms of the Ock Street and Mayott's Road frontages, the proposed landscaping would be set behind railings, separating the proposed ground floor units from the road and setting the proposed development back behind the building line of neighbouring buildings. This would not be unusual within the streetscene, as there is a rather uneven building line. Landscaping details would be addressed by means of condition. I consider that this would physically and visually integrate the proposed development with the surrounding public realm.

24. The appeal site and the junction of Ock Street with Mayott's Road are not highly visible in long views along Ock Street from both directions. While the DGSPD at Principle DG20 deals with strategic views, I consider that there are no strategic views which it would be necessary to preserve or create. Furthermore, while the proposed development would not provide public connectivity, this would not represent a worsening of the existing situation, and appropriate connectivity to the street network would be provided.

25. While the appeal site does not lie within a conservation area, it is located close to listed buildings, chiefly No 121 and 123 – 129 Ock Street. The three-storey painted and rendered listed buildings date from between the 17th and early 19th

centuries. Their significance is informed by their architectural and historic interest as buildings dating back several centuries with the survival of key features. The setting of listed buildings also contributes to their significance.

26. There is no dispute between the parties that the appeal site's existing buildings detract from the area's character and appearance and the setting of nearby listed buildings. The demolition of the existing two-storey building would allow for structural works and repairs to the listed building at No 121. Furthermore, the proposed development would re-define the traditional street frontage on Ock Street and would leave a gap between it and No 121, which would allow for the preservation of the special interest of the listed building. The proposed development would have a more suitable character and so would enhance the setting of listed buildings at No 121 and 123 – 129 Ock Street.

27. Concluding on this main issue, I consider that the proposed development would not harm the character and appearance of the area, and would offer a suitably high quality design to create a distinctive sense of place. Consequently, it would be compliant with Core Policy 37 of the LP Part 1, policy DC6 of Vale of White Horse Local Plan 2011 (adopted 2006)(LP), the DGSPD, and the revised Framework. Core Policy 37 of the LP Part 1 is outlined above. LP policy DC6 requires, amongst other things, development proposals to include hard and soft landscaping measures to protect and enhance visual amenity. The DGSPD provides design principles to guide future development. The proposed development would also meet paragraph 124 of revised Framework, which confirms that high quality buildings and places are fundamental to what the planning and development process should achieve, and section 16 with regard to conserving and enhancing the historic environment.

b) Living conditions

28. The Council and occupiers of Nos 2 and 4 expressed concern that the proposed development would have detrimental effects on daylight, sunlight and the overshadowing of gardens to Nos 2 and 4. The appellant submitted a daylight and sunlight study dated 21 July 2017 as part of the appeal documentation. Immediately prior to the hearing, the appellant produced a letter dated 27 September 2018 and updated survey data to correct a deficiency with regard to the height of the existing sales room's roof.

29. The SOCG confirms that the correct guidance on daylight and sunlight is the Building Research Establishment's Site layout planning for daylight and sunlight: A guide to good practice (Second Edition) 2011, (the BRE Guide). The BRE Guide offers advice on generally acceptable standards of daylight and sunlight, but warns that numerical guidelines should be interpreted flexibly since natural light is only one of many factors in site layout design.

30. In measuring daylight, the appellant has undertaken the Vertical Sky Component test (VSC) and the No Sky Line (Daylight Distribution) test in relation to Nos 2 and 4. The BRE Guide confirms that if the VSC with the new development in place would be both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.

31. The windows to the rear of Nos 2 and 4 serve ground floor kitchens with dining areas, a staircase at No 2, first floor bedrooms, and a bathroom at No 4. The appellant has analysed VSC for bathroom windows and a staircase, although

the BRE Guide does not require bathrooms or circulation areas to be analysed for VSC. Notwithstanding the residual VSC levels for the kitchen and staircase windows at No 2 and the 2 kitchen windows at No 4 falling below the 27% level, 3 of these windows, excluding the staircase window, would meet or surpass the 0.8 measurement in relation to its former value. As such, I consider that 6 out of 7 of the analysed rear windows at Nos 2 and 4 would continue to receive reasonably good daylight. While the VSC for the staircase window at No 2 would fall below 27% and less than 0.8 times its former value, it does not serve a habitable room and would not normally fall within the BRE Guide's parameters for analysis.

32. The VSC calculations are supplemented by the Daylight Distribution test, which was not initially carried out as the appellant was not aware of room layouts. The BRE Guide confirms that if daylight distribution is reduced to less than 0.8 times its former value this will be noticeable to the occupants and more of the relevant room will appear poorly lit. The appellant's findings indicate that the rooms served by the windows to the rear of Nos 2 and 4 would retain between 0.86 and 1 before/after ratios in accordance with the BRE Guide's advice. On balance, I accept the appellant's conclusion that the proposed development's overall effect on daylight would not be adverse.

33. Concern was raised that the Average Daylight Factor (ADF) test was not undertaken by the appellant, and that there were errors in the topographical data. With regard to ADF, the BRE Guide advises that the ADF test is more appropriate to new buildings, rather than existing buildings. The appellant confirmed that they have updated their survey data. While access was not obtained to Nos 2 and 4 to check window positions, dimensions used by the appellant were checked against dimensions provided by the occupier of No 4 in their consultation response. Furthermore, the BRE Guide does not require access to properties to assess daylight or sunlight effects on them.

34. With regard to sunlight to windows, the BRE Guide advises that the main requirement for sunlight is to living rooms and conservatories, and that effects on kitchens and bedrooms are less important than effects on living rooms. However, care should be taken not to block too much sun. Home offices are not addressed by the BRE Guide. As for daylight, the BRE Guide on annual and winter sunlight is not to be rigidly applied. In raising concern about percentages being used to express levels of sunlight, the occupier of No 4 noted at the hearing that any loss of sunlight would not be evenly distributed throughout the year.

35. Nos 2 and 4's kitchens both contain dining areas and could be used more extensively than simply for cooking. Furthermore, No 2's rear bedroom is currently used as a home office. Nos 2 and 4's living rooms would not be affected by the proposed development and would exceed recommended sunlight targets both annually and during the winter months. However, the appellant's evidence indicates that, if measured against the BRE Guide's living room targets, the windows serving the kitchen and rear bedroom at No 2 and the kitchen at No 4 would experience less than 5% sunlight in the winter months and that the kitchen window at No 2 would fall under the 25% annual probable sunlight hours.

36. Stepping away from the BRE Guide's targets, the houses at Nos 2 and 4 are small terraced houses with only 4 main rooms. I consider it likely that rooms

may be used for more than one purpose and that all rooms are important to the occupiers. Furthermore, the orientation of Nos 2 and 4's living rooms means that occupiers seeking sunlight later in the day would be likely to use the rooms to the rear of Nos 2 and 4 throughout the year. I find that there would be harm caused by reductions in sunlight received to the kitchens of Nos 2 and 4 and the rear bedroom of No 2.

37. The occupiers of Nos 2 and 4 and the Council have expressed concerns about the proposed development's effect on the gardens at Nos 2 and 4, with the occupiers of Nos 2 and 4 raising further doubts about the survey methods and the BRE Guide. I saw during my site visit that both gardens are very small, and the garden at No 2 is significantly smaller than its neighbour due to a single-storey rear extension. The gardens have limited vegetation, either hard-landscaping or artificial turf, and are bounded by high brick walls and fencing.

38. The appellant's assessment of the effect of the proposed development on overshadowing of the gardens of Nos 2 and 4 indicates that no part of the garden of No 2 presently achieves 2 or more hours of sunlight on 21 March and that the proposed development would not alter it. In respect of the garden of No 4, the proposed development would reduce the area of the garden benefitting from 2 or more hours of sunlight on 21 March from 59% to 11%. This would fall significantly under the BRE Guide recommendation of 50%.

39. Both gardens' size and enclosure reduces the light received within the gardens. I recognise that the test from the BRE Guide is applied on 21 March with regard to light reaching the ground within the garden, represents an average throughout the year with the potential for less overshadowing in the summer, and does not differentiate based on garden size. The gardens are important to the occupiers of Nos 2 and 4. Although there would be overshadowing to both gardens, No 2's garden is already overshadowed due to its size, orientation, and relationship with buildings and boundary treatments. No 4's garden would see an increase in overshadowing. However, that overshadowing would be of a lesser order in the summer months, when the garden at No 4 would be more likely to be used. Furthermore, light would still reach the garden, although it would not necessarily reach ground level. Given its site-specific circumstances and its urban location, I consider that the overshadowing would be acceptable.

40. Legal right to light is a civil matter and the Planning Practice Guidance (PPG)[5] makes it clear that the protection of purely private interests such as the loss of private rights to light could not be material considerations.

41. With regard to outlook and privacy, the differences between the main parties relate to the separation distances between the proposed development and residential properties on Mayott's Road and the number of proposed windows on the proposed elevation facing the Mayott's Road properties at second floor level. Neighbouring occupiers are also concerned about the relationship of ground and first floor windows within the proposed development with Mayott's Road properties. Particular reference has been made to the effect of the proposed development on Nos 2 and 4, but I have considered the effect of the proposed development on Nos 2 – 12 as they form a single terrace of houses.

42. The proposed development would close off an existing open area of land adjacent to No 2, and would run parallel with the Mayott's Road properties.

[5] Paragraph Reference: 21b-008-20140306: What is a material planning consideration?

This would undoubtedly lead to a change in outlook as the appeal site is presently occupied by a number of relatively low buildings and hardstanding beyond which buildings and trees can be seen. Although the proposed development would be taller and bulkier than the existing buildings on site, it would introduce a landscaped garden adjacent to the Mayott's Road properties' rear gardens and would move built form further west than is currently the case. I consider that the proposed development would be sited sufficiently far from the Mayott's Road properties to ensure that it would not dominate or have an unacceptably oppressive effect on the outlook from those properties.

43. Regarding privacy, the DGSPD confirms that the relationship of buildings to each other, their height and the positioning of windows can all impact on neighbours' privacy. Furthermore, Figure 5.59 of the DGSPD indicates a distance of 21 metres between 2 storey buildings' habitable room windows as being adequate. No specific separation distances are provided for buildings taller than 2 storeys. The DGSPD also confirm that other solutions can maintain privacy, such as placement of buildings, positioning of windows, arrangement of habitable rooms to reduce direct views, and set back upper floors.

44. In an urban location such as this, it is likely that there will often be a degree of overlooking. This should not be direct in proximity, and as building heights increase, separation distances should also increase as it becomes possible to look over intervening boundaries. I find that the proposed development's ground and first floor windows would be a sufficient distance from the Mayott's Road properties' rear elevations to allow privacy to be maintained for existing and future occupiers. While the proposed development would be in active use for a greater part of the day than the appeal site's previous use, the separation distances between existing and proposed windows would not be unusual in an urban context and would adhere to the DGSPD's requirements, as acknowledged in the Council's statement.

45. At second floor level, there would be 10 windows facing the Mayott's Road properties. Although the proposed windows would serve kitchens, living rooms and bedrooms, 7 proposed windows would be relatively modest dormer windows set back from the eaves of the proposed roof and the remaining 3 windows would serve part of the proposed development which would be set further away from the Mayott's Road properties than the main rear element of the proposed development. Despite their height and number, I consider that the proposed second floor windows would not have meaningful views into the interiors of the Mayott's Road properties. As such, this would not give rise to undue effects on privacy for occupiers of those properties.

46. With regard to the removal of the second bedroom window to proposed unit 15, this would reduce risk of overlooking to No 2's rear garden. In case of fire, the proposed development would have 2 hallway windows close to proposed units 15 and 29 and a staircase, which the occupiers of No 2 consider would be opened manually, allowing for overlooking. However, not only would the proposed hallway windows be obscure-glazed as confirmed on the plans, but they would also be sited at the ends of their respective corridors where I consider the number of future occupiers passing would be low. While the Council raised the issue of perception of overlooking from these proposed windows at the hearing, I have limited evidence that this would be the case, given the location of the proposed hallway windows at the ends of corridors and the limited likelihood that anyone would stand next to the proposed

windows for an extended period of time. I therefore consider that the proposed hallway windows would not cause harm to the privacy of occupiers of No 2.

47. With regard to the proposed passageways between the proposed development and No 121 and No 2, and the risk to privacy and security, the proposed passageway adjacent to Ock Street would be subject to passive observation from passerbys on Ock Street and from proposed units 3, 20 and 33. However, the proposed position of the passageway adjacent to No 2 would have more limited passive observation from quieter Mayott's Road and the proposed ground floor unit 12a. Notwithstanding this, the appellant confirmed at the hearing that both the proposed passageways would be gated and locked, and that the proposed passageway adjacent to No 2 would not be a regular access. Furthermore, the proposed development's main pedestrian access would be from Ock Street, adjacent to the CRL site manager's office. I consider that this matter would not cause harm in terms of privacy or security.

48. In terms of noise and disturbance, the proposed residential use would be likely to have somewhat different patterns of activity to the appeal site's former sui generis use. The proposed development would provide vehicular access to its 15 space car park via the vehicular access off Mullard Way, which was not used by the appeal site's previous occupier. However, the land adjacent to the access to Mullard Way is covered in hardstanding and was previously used for parking. No evidence has been provided which indicates that it could not be reused for a similar use, which would result in cars being parked on the hardstanding adjacent to Mullard Way and noise from garage and showroom uses, or that Mullard Way could not be used. Moreover, Mullard Way is currently used for vehicular access to the rear of Bostock Road properties and residential development in Mullard Way itself.

49. The main parties agreed in the SOCG that the proposed development's trip generation would be lower than for the appeal site's previous use. The Council also confirmed at the hearing that the Mullard Way vehicular access would represent the optimal location in highway terms. During the hearing, the appellant verified that delivery, emergency and refuse collection vehicles would service the proposed development from Ock Street. In the absence of an objection from the Council's Environmental Health officers, and having taken into account the reduction in vehicle movements from the appeal site's previous use, I consider that the vehicle movements and associated opening and closing of car doors arising from the proposed development's car park and vehicular access would not be likely to cause harm to the living conditions of neighbouring occupiers through additional noise and disturbance.

50. Concluding on this main issue, I consider that the proposed development would cause harm with regard to its effect on the living conditions of neighbouring occupiers of Nos 2 and 4, with particular reference to sunlight. However, I consider that harm would not be caused to the living conditions of neighbouring occupiers in terms of daylight, overshadowing to rear gardens, outlook and privacy, and noise and disturbance. Consequently, the proposed development would be contrary to LP policy DC9, which confirms that development will not be permitted if it would unacceptably harm the amenities of neighbouring properties in terms of loss of sunlight. The DGSPD notes that buildings close to the boundary of neighbouring properties can increase overshadowing or loss of daylight to neighbouring properties, but does not specifically refer to sunlight.

51. The Council's decision notice refers to the National Planning Policy Framework, but does not provide a specific paragraph. Paragraph 123(c) of the revised Framework requires applications to be refused where they fail to make efficient use of land, taking into account the policies in the revised Framework. In this context, the paragraph confirms that when considering applications for housing, a flexible approach should be taken in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

Other Matters

52. Local residents and Abingdon Town Council have raised concerns regarding highway safety, including the vehicular access, parking provision and restrictions, conflict with pedestrians, access by emergency vehicles and other large vehicles.

53. The appellant's transport statement (March 2018), additional transport evidence (May 2017) and the SOCG confirm that parking provision of 15 parking spaces within the appeal site at a ratio of 0.38 per apartment would reflect the level of parking provision on similar CRL schemes elsewhere. Additionally, there would be a reduction in likely trip generation between the site's former use and the proposed development, and larger vehicles would pull up on Ock Street only. The Highway Authority has raised no objection to the proposed development on the basis of vehicular access, wider highway safety issues on the surrounding road network, or the proposed on and off-site car parking provision. In the absence of specific parking standards for this form of development, there is no substantive evidence for me to take a contrary view. I am satisfied that the proposed development would not result in significant impacts on the transport network in terms of capacity and congestion, or on highway safety in line with paragraph 108 of the revised Framework.

54. Reference was also made to the possibility of neighbouring residents on Ock Street being able to purchase part of the site for parking and access, and to surface the land with permeable surfacing. This does not form part of the appeal before me and does not alter my findings on this appeal. Additionally, the effect on the value of nearby properties is not a planning matter.

Planning Obligations

55. After the hearing, a signed and executed planning obligation by unilateral undertaking was submitted to provide for affordable housing and monitoring. The unilateral undertaking provides a contribution of £442,443.08 in lieu of on-site affordable housing. There is an identified need for affordable housing in Vale of White Horse, and the parties agree that the proposed development's nature, site constraints, and financial viability indicate that on-site provision of affordable housing would not be appropriate. Furthermore, independently reviewed viability appraisal work has been undertaken and updated since the planning application was determined. The monies towards provision of off-site affordable housing were confirmed by the Council at the hearing as being the maximum reasonable amount of affordable housing consistent with Core Policy 24 of the LP Part 1. This policy requires 35% affordable housing, which would comprise 9 units within the proposed development, accounting for Vacant Building Credit. While the financial contribution would be for less than 9 units, the policy allows for the requirement to be relaxed when viability issues show

that policy-compliant provision would leave the scheme commercially unviable, and for affordable housing contributions to be provided for off-site provision where it is not feasible to provide affordable housing on site.

56. I conclude that the provision of £442,443.08 for the provision of off-site affordable housing is necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development. While it would result in additional affordable housing provision, that benefit is slightly reduced by reason of the proposed development not being fully policy-compliant and not making on-site provision for affordable housing. However, the Council raises no objection to this and the commuted sum represents a benefit that would weigh in favour of the proposed development. I therefore consider that the obligation for affordable housing meets Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the revised Framework.

57. The provision of a monitoring fee of £265 is included as part of the unilateral undertaking. There is disagreement between the parties with regard to the monitoring fee's necessity. The unilateral undertaking requires me to expressly and explicitly state that the obligation complies with the CIL Regulations.

58. While I note the Inspector's findings in the Thame appeal decision with regard to monitoring fees, I have no details of the trigger mechanisms or phasing of contributions in that instance. The appeal before me is for a relatively modest proposal. The obligation for affordable housing would be a one-off payment to be provided on or before the occupation of 50% of the proposed units. Monitoring of the obligation would be straightforward and would fall within the scope of the reasonable everyday functions of the local planning authority. In this instance, I consider therefore that the monitoring fee would not be justified or necessary to make the development acceptable and that it would not meet the tests in Regulation 122 of the CIL Regulations and the revised Framework.

59. In summary, I have taken into account the affordable housing provision in the submitted unilateral undertaking as it meets the required tests in the CIL Regulations and the revised Framework. I have not taken into account the monitoring fee and have not afforded this provision any weight. The monitoring fee would not constitute a reason for granting planning permission.

Planning Balance

60. The proposed development would comply with Core Policy 37 of the LP Part 1, policy DC6 of Vale of White Horse Local Plan 2011 (adopted 2006)(LP), and the DGSPD, with regard to its effect on the character and appearance of the area.

61. Additionally, with regard to other material considerations, the main parties agree in the SOCG that the proposed development would make an important contribution to the provision of specialist housing. Despite recent provision having been made locally, there remains an acknowledged need for such housing as noted in a previous appeal decision[6] in neighbouring South Oxfordshire and identified in the Oxfordshire Strategic Housing Market Assessment (April 2014). The proposed development would go some way to meeting this need and represents a significant benefit. Furthermore, the proposed development would be likely to release under-occupied open market homes for use by future occupiers either within or outside the district.

[6] APP/Q3115/A/14/2221828, decision issued 20 January 2016.

Alongside the provision of affordable housing contributions to the maximum viable level, these are significant material considerations supporting the proposed development, particularly given the aims expressed within the revised Framework at paragraph 59 with regard to significantly boosting the supply of housing and addressing the needs of groups with specific housing requirements.

62. The removal of the existing showroom building would also allow for works to take place to the listed building at No 121, supporting the long-term maintenance of a designated heritage asset. The proposed development would remediate and reuse a vacant brownfield site, replacing the existing buildings on the appeal site and the poorly presented public realm with a new building that would re-create the street edge adjacent to the listed building. These represent important material considerations.

63. The proposed development would have good access to services and facilities by public transport or other sustainable modes of transport, supporting the local economy. Furthermore, construction jobs would be created and there would be a benefit in terms of local spending. Given that any development on this site would be likely to bring about these benefits, I consider that these are very modest material considerations. While it may be possible that another scheme could deliver these benefits, yet no such proposal is before me.

64. On the other hand, the proposal would negatively affect one aspect of living conditions of neighbouring occupiers with regard to sunlight, but I have found that all other living conditions would be reasonably maintained, including daylight. Therefore, although there is conflict with LP policy DC9, in this particular instance, there are significant and important material considerations which indicate that development should be allowed; and thereby justify making a decision not in accordance with the development plan.

Conditions

65. The main parties provided conditions in the SOCG. I have considered these in light of the PPG and the revised Framework. I have reworded and amalgamated some conditions in the interests of clarity and consistency. The appellant agreed to the pre-commencement conditions in writing after the hearing was closed. The numbers in brackets refer to the condition numbers.

66. It is necessary to specify conditions confirming the time limit for development (1), approved plans (2) to ensure certainty and require approval of the slab levels (3), materials (13), hard and soft landscaping and boundary treatments (14) for the proposed development in the interests of visual amenity. No identification of existing trees and shrubs is required in the soft landscaping details as there are none within the site's boundary.

67. In the interests of highway safety, visual amenity and preventing noise and disturbance, conditions are necessary to require improvements to the Mullard Way access (4), provision of Ock Street parking and drop-off bays (5), parking and manoeuvring areas (6), cycle parking (7), and a construction traffic management plan (8). I have corrected a typographic error in the condition on the improvements to the Mullard Way access (4) to ensure that visibility splays are delivered and removed reference to the Section 278 agreement as this falls outside planning legislation.

68. I have attached conditions on surface water (9) and foul water drainage (10) in the interest of flood alleviation and pollution control. I have reordered the wording of the surface water drainage condition (9) for clarity. Given the location of the appeal site adjacent to one of the main historic routes through Abingdon, I have provided a condition on archaeology (11). Due to the previous land use on the site and in order to ensure the safety of future occupiers, it is necessary to have a condition addressing contamination (12). In supporting access by sustainable modes of transport, I have imposed conditions requiring the production of a travel plan statement (15) and the production and provision of travel information packs (16) to future occupiers. Given the importance of protecting the living conditions of neighbouring occupiers, I have also required a condition on acoustic insulation (17).

69. Condition 18 restricts the occupiers of the proposed development to people of no less than 55 or 60 years of age. As it is not possible to rely on the description of development to control or limit a development to a particular age group, this condition is necessary in order to meet the specific needs of the scheme and in the interests of highway safety with regard to parking.

70. Materials (13) and landscaping details (14) do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works occurring. Conditions 3 – 12 are pre-commencement conditions as they should be addressed before construction works begin.

71. I have not attached a condition relating to works to remove the building at 111 Ock Street and structural treatment and render of No 121, as this has been addressed by the submission and approval of a separate application for listed building consent P17/V1442/LB determined on 19 July 2017. No condition on joinery details is necessary as this would be addressed by the materials condition (13). I have not required a condition on refuse storage as a refuse storage room is indicated on the site and ground floor plans.

Conclusion

72. For the reasons set out above, the appeal is allowed.

J Gilbert

INSPECTOR

SCHEDULE OF 18 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: 10089AD/PA00 Location Plan; 10089AD/PA01 Site Plan Rev A; 10089AD/PA02 Ground Floor Plan Rev A; 10089AD/PA03 First Floor Plan Rev B; 10089AD/PA04 Second Floor Plan Rev B; 10089AD/PA05 Roof Plan Rev A; 10089AD/PA06 Elevations – Sheet 1 Rev A; 10089AD/PA07 Elevations – Sheet 2 Rev A; 10089AD/PA08 Elevations – Sheet 3 Rev C; 10089AD/PA10 Cross Section Rev A; 10089AD/PA101 Street Parking Plan Rev B; 198 LS 0001_C.

3) No development shall take place until details of the existing ground levels of the site and the proposed slab levels of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved slab levels.

4) No development shall take place until full details of the means of access between the land and the highway on Mullard Way including position, layout, visibility splays and provision for pedestrians have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the means of access shall be constructed and retained in accordance with the approved details.

5) No development shall take place until a scheme for the parking and drop off bays on Ock Street has been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the approved scheme shall be constructed and retained in accordance with the approved details.

6) No development shall take place until details of the parking and manoeuvring areas, including pedestrian routes, surfacing, lighting and tracking drawings for vehicle movements, have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the parking and manoeuvring areas shall be provided in accordance with approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

7) No development shall take place until a plan showing the number, location and design of cycle parking for staff, residents and visitors has been submitted to and approved in writing by the local planning authority. The cycle parking shown on the agreed plan shall be provided prior to the first occupation of the development. The cycle parking will be permanently retained and maintained for the parking of cycles in connection with the development.

8) No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP will include a commitment to deliveries only arriving at or leaving the site between 0930 and 1430. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.

9) No development shall take place until a surface water drainage scheme for the development, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall include site specific soakage tests to determine the feasibility of infiltration techniques for the development; discharge rates and volumes; maintenance and management plan of SuDS features; sizing of features – attenuation volume; infiltration in accordance with BRE365; detailed drainage layout with pipe numbers; network drainage calculations; and flood routes. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development.

10) No development shall take place until a detailed scheme for foul water drainage of the development has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the development.

11) No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:

    i) the programme and methodology of site investigation and recording;

    ii) the programme for post investigation assessment;

    iii) the provision to be made for analysis of the site investigation and recording;

    iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;

    v) the provision to be made for archive deposition of the analysis and records of the site investigation;

    vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

    The approved Written Scheme of Investigation shall be implemented prior to the commencement of any development hereby permitted. No development shall take place other than in accordance with the Written Scheme of Investigation.

12) No development shall take place until a phased risk assessment has been undertaken 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 incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified, a Phase 2 investigation shall be undertaken.

    Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature, and extent of contamination present and the risks to receptors. If significant contamination is identified, the investigation shall inform the Phase 3 remediation strategy.

Phase 3 requires that a remediation strategy be submitted to and approved in writing by the local planning authority to ensure that the site will rendered suitable for its proposed use.

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.

13) Prior to development above slab level, details of all materials to be used externally in construction shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials details.

14) Prior to development above slab level, details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:

i) earthworks showing existing and proposed finished levels or contours;

ii) hard surfacing materials;

iii) schedules of trees and shrubs to be planted (noting species, plant sizes and numbers/densities)

iv) means of enclosure and retaining structures;

v) boundary treatments, including the retention of any existing boundary treatments;

vi) an implementation programme, including phasing of work where relevant.

All hard and soft landscaping works and boundary treatments shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. Thereafter, the landscaped areas shall be maintained for a period of 5 years. Any trees or shrubs which die or become seriously damaged or diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally planted.

15) Prior to the first occupation of the development hereby permitted, a Travel Plan Statement meeting the requirements set out in the Oxfordshire County Council guidance document "Transport for New Development: Transport Assessments and Travel Plans" shall be submitted to and approved in writing by the local planning authority.

16) Prior to the first occupation of the development hereby permitted, details of Travel Information Packs shall be submitted to and approved in writing by the local planning authority. A Travel Information Pack will be provided to every resident on first occupation and a copy of the Travel Information Pack shall be maintained on the premises for inspection by residents and visitors at all times.

17) Prior to the first occupation of the development hereby permitted, the development shall be acoustically insulated in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority. This may include treatment of the site boundaries, the provision of acoustic barriers/bunds, and/or the treatment of the development to include

insulating walls and roofs and providing double glazed windows and mechanical ventilation. The acoustic insulation works shall be maintained in accordance with the approved scheme.

18) At no time shall the development hereby permitted be occupied by persons under the age of 60 years, unless in the case of a couple where one person is over the age of 60 years, the second person shall not be under the age of 55 years.

APPEARANCES

FOR THE APPELLANT:

Mary Cook	Town Legal LLP
Dermot McCarthy	Planning Issues Ltd
Simon Cater	Planning Issues Ltd
Paul Fawell	Right of Light Consulting Ltd
Daniel Friel	Mott MacDonald
Andrew Burgess	Churchill Retirement Living

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green	Cornerstone Barristers
Tracy Smith	Vale of White Horse District Council
Jake Bassett	Vale of White Horse District Council

INTERESTED PERSONS:

Charlotte George	Local Resident
George Pope	Local Resident
Dr David Burn	Local Resident
Margaret Horton	Local Resident
Dr Arthur Dawkins	Local Resident
Peter Smith	Local Resident
C Malins	Local Resident
David Wood	Local Resident
G Allison	Landowner

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter dated 27 September 2018 from Right of Light Consulting;
2. Appeal decision APP/Q3115/W/17/3173982, decision issued 28 September 2018;
3. First Floor Plan 10089AD/PA03 Rev B;
4. Second Floor Plan 10089/PA04 Rev B;
5. Elevations 3 10089AD/PA08 Rev C;
6. Street Parking Plan 10089AD/PA101 Rev B;
7. Site Plan with Dimensions 10089AD/PA21;
8. Smoke Vent Photos 10089AD/PA22;
9. CGI images D6/18; D6/19; D6/20;
10. Statement of Common Ground signed 3 October 2018.

DOCUMENT SUBMITTED AFTER THE HEARING

11. Original unilateral undertaking in counterpart form (3 parts) signed and dated 3 October 2018.

APPENDIX 5 Vale District Council's performance 1 January 2020 to 31 December 2020 1- quality of decisions – major appeals allowed (overturned)

To accompany Table 4

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
P18/V3135/FUL	70 Cumnor Hill, Oxford	Demolition of existing dwelling and erection of a 2 storey block of six flats; and two 1.5 storey dwellings	Planning committee (overturn)	Written representations	Appeal Allowed 14 February 2020	See below.
Costs: The appellant submitted the application on the basis that the Council had submitted evidence in the form of letters. The Inspector consider the letters represented the council's evidence to substantiate refusal therefore it did not fail to provide such evidence. Further the refusal reason was complete, specific and relevant to the proposal. Accordingly the Inspector refuse the application for costs.						

The Planning Inspectorate

Appeal Decision

Site visit made on 20 January 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2020

Appeal Ref: APP/V3120/W/19/3239078
70 Cumnor Hill, Oxford OX2 9HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Lucy Developments Ltd against the decision of Vale of White Horse District Council.
- The application Ref P18/V3135/FUL, dated 18 December 2018, was refused by notice dated 29 May 2019.
- The development proposed is the demolition of the existing dwelling. Erection of a 2 storey building with 6 flats (6 x 2 Bed) with 12 off-street parking spaces and associated amenity, refuse and cycle stores. Erection of 2 x 1.5 storey 4 Bedroom houses with double car ports and off-street parking (min. 3 spaces per house).

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling. Erection of a 2 storey building with 6 flats (6 x 2 Bed) with 12 off-street parking spaces and associated amenity, refuse and cycle stores. Erection of 2 x 1.5 storey 4 Bedroom houses with double car ports and off-street parking (min. 3 spaces per house) at 70 Cumnor Hill, Oxford OX2 9HU in accordance with the terms of the application, Ref P18/V3135/FUL, dated 18 December 2018, subject to the conditions set out in the Schedule at the end of this decision.

Application for costs

2. An application for costs was made by Lucy Developments Ltd against Vale of White Horse District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

4. As part of the appeal, the appellants have included plans that were not submitted to the Council as part of the planning application. These plans show the omission of a carport to one of the proposed dwellings and changes to its position and associated parking. The amendments would materially change the relationship of the proposed dwelling and parking facilities to the boundaries of

the site. Consequently, the amended plans show a significant revision to the scheme determined by the local planning authority and made subject to public consultation. Parties may be prejudiced or caused injustice by my consideration of these revised plans and therefore I have not taken them into account in the determination of this appeal.

5. Reference is made to an emerging Cumnor Neighbourhood Plan. As it is still being prepared, I attach this plan limited weight in my assessment.

Main Issue

6. The main issue is the effect on the character and appearance of the area.

Reasons

7. The appeal site lies in an area characterised by detached houses set off the road behind trees and hedges. Where they are seen from the highway, it is apparent that properties vary in size and style. The existing house is set below road level and partially screened by boundary vegetation, although it is seen through the site access. The prominence of trees and hedges gives the general area a semi-rural character.

8. Being towards the front of the site, the apartment building would be the most obvious element of the proposal. However, it would be set back from the road, on a lower level and partially screened by roadside vegetation and so it would not be prominent in the street scene. Whilst it would be larger in overall size, the apartment building would be similar in height to the properties on either side and design features would break up its mass. Consequently, it would not be incongruous amongst the dwellings of various styles in the area. The Vale of White Horse Design Guide 2015 (DG) resists inappropriately located apartment buildings. However, in this case, the apartment building would be of a height, scale and design that responds sympathetically to its context and therefore it would not be inappropriate to its location.

9. The apartment building would be wider than the 2 properties on either side but it would be narrower than the existing house on the site. The proposal would create a new space between the flank of the apartment building and side boundary with 1 Dean Court that would allow views from the front towards the rear of the site. As such, the proposal would maintain the site's openness as seen from the road, despite any erosion of space caused by the proposed wall, parking area and driveway.

10. The proposed houses would be behind the apartment building and so would not be visible from the road, although they would be seen from adjoining properties. Dwellings on Woodfield and properties behind 72 Cumnor Hill adjoin and can be clearly seen from the rear of the site. As such, the positioning of the proposed houses to the rear of development facing the road would not be incongruous to the site's context. Furthermore, the proposed houses would be detached and would be set away from the proposed apartment building and boundaries of the site, thereby maintaining a degree of openness and level of vegetation cover that would be appropriate to the character of the area. Therefore, the proposal would reflect the surrounding area despite resulting in an increase in the number of residential units on the site.

11. In support of its case, the Council has referred to 2 appeal decisions relating to 15 and 108 Cumnor Hill. Full details of these proposals have not been provided

and so it is difficult for me to draw any comparisons to the current appeal development. However, it is unlikely that the characteristics of these other sites and their surroundings would be the same as this appeal site and, in any case, I am required to assess this appeal on its own merits. From the information before me, it would not be inconsistent with these previous decisions to find the appeal proposal acceptable in terms of this main issue.

12. For the reasons outlined above, I conclude that the development would not be harmful to the character and appearance of the area. Consequently, and in this regard, it would accord with Core Policies 37 and 44 of the Vale of White Horse Local Plan 2031 Part 1 Strategic Sites and Policies 2016, principles DG69, DG79 and DG80 of the DG and the National Planning Policy Framework (the Framework). All of these aim, amongst other things, for new development to respond positively to its surroundings and to reinforce local identity.

Other Matters

13. A number of other concerns have been raised in respect of the proposal. Whilst it would be seen from adjoining properties, the proposed development would avoid unacceptable overlooking, overshadowing and overbearing effects onto neighbouring properties by virtue of its design, separation distances, relative levels and intervening boundary features. I have no reason to find that the proposal would harm the living conditions of occupiers of adjoining properties through noise disturbance or obtrusive lighting. Construction activity would be noticeable at nearby houses but would be likely to last only for a short, temporary period with no unacceptable harm caused to living conditions.

14. Traffic generated by the development would not prejudice highway safety, subject to the provision of the proposed visibility splays, parking and turning areas as shown on the approved plans. Whilst noting concerns in respect of ground water and surface water run-off, there is no substantive evidence that demonstrates the proposal would exacerbate flood risk provided appropriate surface water drainage is incorporated within the scheme. This can be secured through the imposition of a planning condition.

15. I am advised that some trees have already been removed from the site, however existing vegetation would be retained and would be supplemented with additional planting. As such, the proposal would maintain a contribution to the verdant character of the area. No evidence has been provided to me that demonstrates the development would cause harm in respect of air pollution. The Council state that an adequate housing land supply can be demonstrated. Even so, the proposal would be in line with the aim of the Framework to boost the supply of housing and no information is with me to substantiate the claim that there is no need for apartments in the area.

16. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds or complaints, the concerns raised do not override or affect my conclusions on the main issue.

Conditions

17. I have considered the planning conditions forwarded by the Council having regard to the tests set out in the Framework. Where appropriate, I have amended the wording of the suggested conditions for reasons of precision and to avoid unnecessary pre-commencement conditions.

18. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and for the avoidance of doubt. As the plans specify external materials, finished floor levels and roof heights, separate conditions relating to these issues are unnecessary. Also, the proposed planting details have been provided. As such, a condition is only necessary relating to earthworks and a landscape implementation programme to ensure the proposal would be in keeping with the character of the area.

19. To preserve vegetation shown to be retained, a condition is necessary to ensure the implementation of tree protection measures as set out in the submitted tree survey report. A separate condition requiring the submission and approval of an aboricultural method statement is unnecessary given the comprehensive report that has already been provided.

20. In the interests of highway safety, a condition is necessary to require provision of visibility splays and parking areas. Conditions are also needed that require the provision of cycle parking facilities as shown on the approved plans as well as electric vehicle charging points in order to promote the use of alternative, more environmentally friendly modes of transport. A condition is imposed to ensure an appropriate surface water drainage system is incorporated as part of the development. The submitted plans show the details of foul water drainage and so a condition requiring further information is unnecessary.

21. The Council suggest a condition that removes permitted development rights from the proposed development. However, no clear reason has been provided as to why such a condition is necessary and so its imposition would be contrary to paragraph 53 of the Framework. Consequently, such a condition has not been imposed.

Conclusion

22. For these reasons, I allow the appeal as set out in the formal decision above.

Jonathan Edwards

INSPECTOR

Schedule of 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: PA01A, PA03A, PA05A, PA06A, PA07A, PA08, PA10, PA11, PA12, PA13, PA14, PA15, PA16A, PA17A, PA18A, 01/005 and FEDS-218054-002D

3) No construction work above floor slab level shall be commenced on the development hereby approved until details of earth moving operations, finished external levels and contours as well as an implementation programme for any proposed earthworks and planting as shown on the approved plans have been submitted to and approved in writing by, the local planning authority. The approved earthworks and planting shall be carried out fully and in accordance with the approved details and implementation programme.

4) No development shall commence until the tree protection details shown on the tree survey report and appendices submitted by Venners Arboriculture updated February 2019 have been put in place. Thereafter the tree protection shall be retained in situ for the duration of the construction of the development hereby approved. At all times during construction, the tree protected areas shall not be used to park or manoeuvre vehicles, site temporary offices or other structures, store building materials or soil, mix cement/concrete or light bonfires.

5) No part of the development hereby approved shall be occupied until the vehicular access, associated parking areas and turning spaces have been constructed and visibility splays provided in accordance with the details shown on the approved plans numbered PA03A, PA05A, PA06A, PA08 and PA17A. Thereafter, the parking and turning areas shall be kept permanently free of any obstruction to such use and the visibility splays shall be permanently maintained free of obstruction to vision.

6) No individual dwelling in the apartment building hereby approved shall be occupied until the covered bike stands as shown on the approved plans have been fully installed.

7) Prior to the first occupation of the development hereby approved details of electric vehicle charging facilities to be incorporated as part of the development shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be installed prior to the first occupation of any unit(s) they are intended to serve.

8) No construction work above floor slab level shall be commenced on the development hereby approved until a detailed sustainable drainage scheme based on Forge Engineering Design Flood Risk Assessment (reference FEDS-218054D) has been submitted to and approved by the local planning authority. The drainage scheme shall include:

   a) full details of a sustainable surface water drainage system based on ground permeability tests to BRE 365 and full consideration for the hydro geological context of the site;

   b) design calculations with appropriate climate change allowance and storage areas sizing;

   c) full construction details;

   d) an assessment of groundwater and overland flow routes through the development to ensure that flood risk is not increased either to the development or elsewhere;

   e) details of proposed site and floor levels; and

   f) a full future management and maintenance plan for the drainage features.

   The approved drainage system shall be fully implemented prior to the first occupation of the development hereby approved and managed and maintained in accordance with the approved details.

The Planning Inspectorate

Costs Decision

Site visit made on 20 January 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2020

Costs application in relation to Appeal Ref: APP/V3120/W/19/3239078
70 Cumnor Hill, Oxford OX2 9HU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Lucy Developments Ltd for a full award of costs against Vale of White Horse District Council.
- The appeal was against the refusal of planning permission for the demolition of the existing dwelling. Erection of a 2 storey building with 6 flats (6 x 2 Bed) with 12 off-street parking spaces and associated amenity, refuse and cycle stores. Erection of 2 x 1.5 storey 4 Bedroom houses with double car ports and off-street parking (min. 3 spaces per house).

Decision

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

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. This application claims unreasonable behaviour by the Council in terms of failing to provide evidence to substantiate the refusal reason and making vague assertions about the impact of the proposal.

3. The Council's officers recommended that planning permission be granted for the proposed development. While the Council is not duty bound to follow the advice of its officers, it has to demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

4. In support of its case, the Council initially submitted a letter that describes the character of the area, sets out relevant policies and guidance and explains why it considered the proposal would harm the character and therefore fail to comply with the policies. A further letter has been submitted that provides a response to the appellant's appeal statement. The fact that the evidence has been provided in the form of letters rather than an appeal statement has no effect on its validity or purpose. The contents of the letters represent the Council's evidence to substantiate the refusal reason and therefore it has not failed to provide such evidence.

5. The refusal reason is complete, specific and relevant to the proposal. It clearly states the development plan policies on which it would rely and the reasons why the Council found the proposal would be contrary to the policies. The comments submitted in response to the appeal include comparisons between

the proposed development and the characteristics of the area to help justify the Council's case. As such, the Council's concerns with the proposal are not vague or imprecise and its case is supported by objective assessment. The effect of the proposal on the character of the area is a matter of judgement and whilst I have arrived at a different conclusion on the issue, the evidence demonstrates the Council has not been unreasonable in refusing permission.

6. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is therefore not justified.

Jonathan Edwards

INSPECTOR

APPENDIX 6 Vale District Council's performance 1 January 2021 to 31 June 2021 [1]- quality of decisions – major appeals allowed (overturned)

To accompany Table 5

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
P19/V0301/RM	Greensands, Reading Road, East Hendred	Erection of 75 dwellings	Delegated refusal	Written representations	Appeal allowed 6 January 2021.	N/A
SUMMARY: Refused by officers on 19 December 2019 for the following reasons: 1. concentration of affordable housing; 2. density out of keeping; 3. harm to the AONB; 4. Inappropriate housing mix; and 5. harm to mature Poplar tree due to drainage proposals. The Inspector considered that as the clusters of affordable housing were in groups no greater than 8 they would be dispersed through the site. He noted the support for the arrangement from the council's Housing Officer and a Registered Provider. The Inspector considered that whilst the mix of housing did not fully align with the target sought in the SHMA, it would nevertheless make a meaningful contribution to the supply and mix of housing in the area. The Inspector found no harm to the character and appearance of the area or the AONB. Finally, he was satisfied that alternative drainage solutions were available which would protect the tree. The appeal was allowed on 6 January 2021.						
P20/V0921/FUL	Botley Centre, Botley	Demolition and redevelopment of existing buildings for new commercial floorspace (Use	Committee overturn	Written representations	Appeal allowed 12 May 2021	Application for costs made by the appellant against the

[1] https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

		Classes A1-A5 and B1a) at ground floor level, with development above comprising 150 residential dwellings (C3). Associated car parking and landscaping are also proposed. The development proposal would create 30 more dwellings than the extant permission (P16/V0246/FUL).				Council. Refused.
SUMMARY - The development was refused by the Planning Committee on 2 December 2020 for the following reasons: 1. out of keeping with the character and appearance of the area; 2. harm to highway safety due to lack of on-site parking; 3. failure to provide 35% affordable housing; and 4. lack of S106 agreement securing affordable housing and infrastructure contributions. The Inspector considered the character and appearance of the area and the building heights. He did find that the height would lead to an adverse impact, but this would be limited due to the nature of some of the context and views being localised. The Inspector noted the height difference of 1.5m between the extant permission and the proposal and noted other similarities. As such he concluded the proposal would result in limited and localised harm and noted the conflict with the Botley Supplementary Planning Document (SPD) and the emerging North Hinksey Neighbourhood Plan (NP). In relation to parking and highway safety the Inspector noted the concerns of the council in the context of existing public transport connections with Oxford as well as car club access and cycling. The Inspector considered that parking could be managed by suitable measures to restrict the use of on-street parking as well as address concerns about the lack of allocated spaces for uses within the development. The Inspector therefore concluded on this issue that future residents of the						

development would not be car dependant and highway safety problems arising from indiscriminate car parking would be unlikely.

However, the merits of the proposal including the highly accessible location of the development, economic benefits associated with an additional 30 dwellings, the provision of affordable housing (noting the one million pound contribution paid already and the one million pound additional payment due on occupation of the units) were sufficient to outweigh the conflict with both the SPD and the NP.

Costs: The appellant made an application for costs after the council submitted its statement on numerous grounds relating to unreasonable behaviour including the decision taken by the Planning Committee against the officer recommendation; no objections from the Local Highways Authority and the failure of the council to substantiate its refusal reasons. However, the Inspector did not agree with any of the grounds and the costs application was refused.

The Planning Inspectorate

Appeal Decision

Site visit made on 23 November 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2021

Appeal Ref: APP/V3120/W/20/3246347
Greensands, Reading Road, East Hendred, Wantage OX12 8JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mears New Homes and Sovereign Housing Association against the decision of Vale of White Horse District Council.
- The application Ref P19/V0301/RM, dated 31 January 2019, was refused by notice dated 19 December 2019.
- The development proposed is details of access, appearance, landscaping, layout and scale following approval of outline permission, reference P15/V2328/O.

Decision

1. The appeal is allowed, and planning permission is granted for the details of access, appearance, landscaping, layout and scale following approval of outline permission, reference P15/V2328/O at Greensands, Reading Road, East Hendred, Wantage OX12 8JE, in accordance with the terms of application Ref P19/V0301/RM dated 31 January 2019, and subject to the conditions within the attached schedule.

Procedural matter

2. The description of development was changed by the Council to add the details of the outline application. The appellant explains, in Section E of the appeal form, that the description has not changed but has nevertheless used the Council's revised description. I do not have confirmation that agreement was sought for this change and I am satisfied that the original description clearly describes the proposal. Accordingly, I have retained the original description.

3. Amended plans have been submitted in support of the appeal. These show broadly minor layout and design improvements to parts of the refused layout (version 'P8') and a redistribution of some of the affordable housing units. Given these changes are minor in nature and do not materially change the substance of the proposal my consideration of the amended plans would not prejudice any party. I have therefore dealt with the appeal on the basis of the amended layout (version 'P10') and its accompanying plans.

4. The site, and an adjacent site at Mather House, was subject to outline planning approval for up to 75 dwellings[1] granted at appeal in 2017[2]. The approval included conditions that limited the total number of dwellings to 75, to two-stories on Greensands and single-storey on Mather House and limited the

[1] Planning Application Reference P15/V2328/O
[2] Planning Appeal Reference APP/V3120/W/16/3145234

occupation type of the approved dwellings at Mather House. I have taken this into account in my decision.

Main Issues

5. The main issues are:

   - The mix and type of housing proposed, with particular regard to the distribution of affordable housing and the mix of open market dwellings and whether this would accord with local and national policy, and
   - The effect of the proposed dwellings on the character and appearance of the area and the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and on-site trees.

Reasons

Mix and type of housing

6. The proposal relates to the provision of 26 affordable housing (AH) units and 39 open market housing (OMH) units. The proposed layout shows five residential blocks, separated by roadways, with a central area of public open space. Each block would be arranged in a perimeter block formation. This would place rear gardens adjacent to other rear gardens and frontages facing onto public space and the roadways.

7. The S106 Legal Agreement requires the mix of affordable housing to consist of 18 rented units and 8 shared ownership and be in clusters of no more than 15 units. The Tenure Layout Plan (ref: 0233-D5-P8) shows the distribution of affordable housing (AH). In broad terms this shows the AH units to be dispersed throughout the development area, albeit generally along the edges of the site facing Reading Road and Featherbed Lane. They would however be in groups no greater than 8 and would be interspersed with the OMH units.

8. This arrangement is supported by the Council's Housing officer[3] and the Registered Provider. Therefore, although the site is relatively small, it is nevertheless acknowledged that a wide distribution of AH units would present some management and maintenance difficulties to the provider. As a result, the proposed distribution includes clustering. However, these clusters would not exceed the relatively prescriptive parameters set by the Legal Agreement. Consequently, the proposed distribution would not result in the AH units being segregated from the OMH units. They would be reasonably well spread throughout the development whilst still meeting the management needs of the operator.

9. Policy CP22 of the Vale of the White Horse Local Plan 2031- Part 1 (LP) requires that a variety of dwelling types and sizes be provided to meet the district wide requirements. This is consistent with the National Planning Policy Framework (The Framework) in seeking the provision of a suitable size, type and tenure of housing for different groups within a community. The policy also requires that the mix is to be in accordance with the Council's Strategic Housing Market Assessment (SHMA). The 2014 SHMA seeks the provision of a range of house types that establishes a limited need for one bed units and the greatest need

[3] Correspondence from Senior Affordable Housing Officer 13 August 2019

for three bed dwellings. The companion text for policy CP22 also states that it adopts a flexible approach to the implementation of the housing mix.

10. The OMH units, on the Greensands site, would include 5 two-bed, 13 three-bed and 21 four bed or greater units. The objective of the SHMA implies that the proportion should have more one and two bed properties and fewer larger dwellings. It is not disputed between parties that there is some variance between the proposal and the requirement sought by the SHMA. However, in my view the housing mix stated in policy CP22 is a strategic target over the whole district rather than a specification for individual developments.

11. Furthermore, the Greensands and Mather House sites were subject to a conjoined outline planning approval. This included the approval of 10 two bed dwellings, on the Mather House site, for specialist accommodation for older people. This site is subject to an approved reserved matters application for 10 two-bed units. These units are subject to condition 8 of the outline approval, that would provide small units for a specialist group. The Mather House site is therefore not a separate planning unit, it forms part of the application site that gained outline consent. This subsidiary site makes an important contribution towards the overall provision of dwellings across the outline site.

12. Therefore, although the proposal would not fully align with the target sought by the SHMA it would nevertheless make a meaningful contribution to the supply and mix of housing in the area. Accordingly, the range of sizes across both sites aligns sufficiently with the SHMA to address its requirements. As such, the proposed dwellings, across the combined sites, would deliver a range of house types that would provide a suitable and required mix of housing units to create a balanced community.

13. Accordingly, the proposal would comply with Policies CP22 and CP24 of the LP. These seek, amongst other things, for affordable housing to be evenly distributed across the site. The proposed development would also comply with principle DG65 of the Council's design guide which seeks new residential development to be inclusive with affordable housing pepper-potted throughout the site.

Character and appearance

14. The site is adjacent to the village of East Hendred. The village is a combination of traditional dwellings and several new estates mostly built along Reading Road. Therefore, various designs and density of dwellings are evident locally. The new estate, to the west of the site, is a relatively large housing development. This broadly consists of two-storey terraced and semi-detached dwellings. This medium density development has a limited number of detached properties and has a clear intension to make efficient use of the land. Existing recent development, whilst set back from the highway, are therefore more suburban than rural in character. The site itself was partially previously developed. It is bound by tree and hedge field boundaries. The boundaries and adjacent highways of Reading Road and Featherbed Lane provide a sense of containment to the site. This aligns with the previous Inspector's comments who found that the site has a domesticated appearance and was not part of the open countryside. The site makes a neutral contribution to the character and appearance of the area.

15. Highway improvements are proposed at the junction of Reading Road and Featherbed Lane. The proposal would deliver development that would reinforce the containment of the site. This coupled with the proposed highway changes would continue to evolve the appearance of the site. The southeast corner of the proposed development would present an important corner at the entrance to the settlement. The southeast blocks within the proposal would have a slightly greater concentration of built form, than those blocks set away from the highways.

16. The dwellings would consist of brick and render with tile roofs. These would include detailing such as splayed brick headers, stone windowsills and porch canopies. The more intensive part of the scheme, around the southeast crescent, would include projecting gables and several designs of porch to add interest and variety to this row. The southeast corner would therefore make a positive contribution to the proposal with robust detailing and strong articulation of form. Furthermore, by being set back from the highway it would create a clear sense of spaciousness and separation from the surrounding open countryside. As such, the crescent of development, with particular regard to its streetscene formed by the two southeast blocks, would create a high-quality character of design. Furthermore, the proposed development would have a unified design philosophy and material palette.

17. The design of the open market dwellings and affordable dwellings use a similar material palette. Several OMH units would be identical to AH units, such as in comparison between plots 37/38 and 39/40. These examples are indistinguishable. Nevertheless, some AH units would be of a style and grouping not seen within the OMH units. This is evident when considering the grouping and arrangement of plots 58-60 and especially 61-63. These are a terraced group and a maisonette above a car port with semi-detached dwellings either side. However, the majority of AH units are semi-detached and there some OMH units of this type. Furthermore, the AH units within the revised layout 'P10', are in groups of no more than 8 and in frontages no more than 8. Accordingly, this would not appear to visually segregate the AH units.

18. The southern and eastern facing blocks include a slighter higher density of built form including terraced and semi-detached blocks of housing with detached housing more prevalent in the blocks set away from Reading Road and Featherbed Lane. This enables the development to address with main roads with regimented and structured development whilst reserving more spacious plots to the centre and rear of the site. The south and east blocks would therefore be higher density than other blocks, although they would include designs that are evident within the OMH units. Accordingly, the higher density would be an appropriate design response to the site and would complement the character of the wider area. Furthermore, the design of the AH units would satisfy the Legal Agreement[4] in providing affordable housing that would be 'tenure blind' being materially indistinguishable from the OMH.

19. Reading Road forms a boundary to the AONB to the south of the site. The southeast corner of development marks the edge of the settlement and provides a vantage towards the AONB. The development would be set back from the highway and the field boundaries would be retained and enhanced through new planting. The development would therefore integrate well into the

[4] Extract in appendix 8 of Appellant's Statement of Case

existing landscape and would preserve the setting of the AONB. As such the impact of the development on the AONB would be negligible.

20. The perimeter block layout would place parking spaces either to the side or in front of dwellings. For the larger detached dwellings, parking would be arranged in front of garages. Therefore, parking spaces located in front of dwellings is a characteristic found throughout the layout. Consequently, this arrangement is not exclusive to the southeast corner of the scheme or to the AH units. Furthermore, the majority of parking spaces for the AH units are to the side of dwellings. As such, the placement of parking throughout the development does not clearly signify which would serve AH units and does not therefore clearly distinguish the AH from OMH units.

21. Furthermore, the parking areas in the southeast corner of the site would be arranged in groups of no more than two spaces and would have landscaped gaps between them. This would disaggregate the car parking and provide visual interest. Accordingly, the proposed parking configuration, including around the south eastern corner, would not dominate the adjacent frontages. Moreover, having found that the AH units would be indistinguishable from the OMH units and the car parking largely subdued, the AH units would be visually blended into the development as a whole.

22. The preliminary drainage strategy includes the provision of an attenuation basin in the north east corner of the site. The attenuation scheme shows proposed drainage running close to a mature poplar tree within the grass verge of Featherbed Lane. This tree makes an important contribution to the character and appearance of the area. The appellant has offered a number of design solutions that would prevent root damage to the tree. I am satisfied that a revised drainage solution, or specification of works in connection with the existing drainage solution, would adequately address this issue. This can therefore be satisfied by the discharge of condition 12 of the outline approval.

23. Accordingly, the proposal would comply with policies CP37 and CP44 of the LP. These seek development that creates a distinctive sense of place through high quality design and to protect the landscape from harmful development. The proposal would also satisfy principles DG20, DG29, DG76 and DG82 of the Council's design guide. These seek development to integrate buildings into the local topography, provide a positive edge adjacent to the countryside, take into account landscape character and setting and for front driveways to not dominate the streetscape through mitigating landscaping. The proposal would also accord with the Framework that seeks development to be sympathetic to local character and to recognise the intrinsic character and beauty of the countryside.

Other matters

24. Around a quarter of the gardens are below the size requirement within the Council's design guide. However, these shortfalls are relatively marginal. They result from the perimeter block arrangement of the layout that assist in the achievement of a high quality streetscene. Furthermore, the development provides a significant provision of public open space and informal areas for future occupiers to enjoy. Consequently, the on-site provision of open space, both formal and less formal, would off-set the minor shortfall found. In this context, the proposed garden sizes would be sufficient to meet future occupier's day to day needs.

25. The appellant's Design and Access Statement explains that residents of dwellings, accessed from private drives without turning heads, would leave refuse within identified collection points on the public footway. Therefore, although recommended by the Council's waste management team, it is not necessary for the tracking plan to show suitable access to plots around the front crescent. Sufficient and adequate refuse collection points are indicated on the refuse management plan (version 0234 D5-P7).

26. The Council's drainage officers have raised no objection to the proposed sustainable drainage strategy. Therefore, although there is an outstanding concern from the Council in regard to the impact of the drainage proposal on the poplar tree, the strategy as a whole is acceptable and the outstanding concern can be adequately addressed by planning condition.

27. The proposal would provide access onto Featherbed Lane. This would enter where the highway is relatively straight and flat affording good visibility in both directions. Furthermore, the scheme shows a pedestrian link to the existing footway to the west of the site. The proposal raised no objection from the County Highway Engineer. As such, despite the concerns raised by interested parties, I am satisfied that the proposal would be well connected to the village and would not have an unacceptable impact on highway safety.

28. An appeal decision in evidence explains that large clusters of affordable housing resulted in a clear and noticeable concentration of units with a limited connection to the rest of the site. Although it is necessary to consider each case on its own merits, there are nevertheless significant differences between the proposal and the proposal in regard to the size of the clusters.

29. The noise of any increased traffic using the adjacent highways in the future would be unlikely to be significant. In any event, suitable noise attenuation would be provided through the discharge of condition 11 of the outline approval.

30. Furthermore, any variance in design from the illustrative masterplan of the outline application has been adequately addressed through the appellant's design and access statement. These illustrate that the proposal would accord with the character and appearance of the area.

31. Finally, payments towards infrastructure improvements and mitigation are matters that were fully addressed during consideration of the outline scheme.

Conditions

32. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (The Guidance). The Council has suggested the imposition of 19 conditions. The appellant has commented on several of these and I have taken all comments into account. I have applied those conditions that are directly related to the reserved matters details provided. I have adjusted the trigger points for suggested conditions 5 and 7 to prior to first occupation and prior to above ground works respectively as these would not be required prior to the commencement of development.

33. Furthermore, suggested condition 2, with respect to levels is not necessary as the site is relatively flat and set away from neighbouring boundaries. Suggested condition 3 is unnecessary as it would repeat condition 14 of the outline approval. Similarly, suggested condition 6 is also unnecessary,

regarding drainage, as this would repeat condition 12 of the outline approval. Suggested conditions 10 and 11 would duplicate the requirements of condition 15 of the outline approval. External finishes are defined by plan 0231-D5-P9, these are acceptable and listed within the 'approved plans' condition. Therefore, suggested condition 14, that relates to compliance with external materials, is unnecessary.

34. A condition requiring details of the Local Equipped Area of Play (LEAP) is necessary to ensure that a satisfactory design can be agreed prior to its installation. Although the Council have requested these details prior to determination, I see no reason why these cannot be required by planning condition.

35. Furthermore, the appellant has requested that the Council's suggested condition 12, in regard to vision splays, be reworded to require access details to be in accordance with plan '10691C - 204(E) - S278 Works - Extent of Works & Visibility'. However, although the access and its design has been agreed by the County's Highway Engineer, further details were requested in regard to the northward vision splay along Featherbed Lane. I have no further detail to suggest this matter has been further resolved. As such, I shall impose the Council's version of the condition as being necessary in the interests of highway safety.

36. Suggested condition 16, with respect to vehicle charging points, has been questioned by the appellant. However, this condition is necessary to satisfy policies CP33 and CP35 of the LP. The Council's suggested conditions 17, 18 and 19 are advisory notes that would not therefore be necessary to make the proposal acceptable in planning terms.

37. Condition 2 requires the submission of an arboricultural method statement prior to the commencement of development. A tree protection plan was submitted within the suite of plans. However, there is insufficient detail or method statement to ensure that these trees would be suitably protected during construction. I consider this pre-commencement condition to be so fundamental to the development that it would have been otherwise necessary to refuse permission. The appellant has agreed to the imposition of this, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

38. I have applied a condition that lists the approved plans to accord with the Guidance. The further conditions are necessary in the interests of the character and appearance of the area [2, 4, 5, 8 and 9], in the interests of highway safety [3 and 7] and to promote sustainable travel and connectivity [6 and 10].

Conclusion

39. For the above reasons the appeal is allowed, and planning permission is granted subject to the attached conditions.

Ben Plenty

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plans:

RREH-MCB-ZZ-ZZ-DR-A-0200-D5-P1 Site location plan
200D S278 works
204E S278 works – Extent of works and visibility plan
8473-T-01. Tree survey drawing
8473-T-02. Tree retention plan
RREH-MCB-ZZ-ZZ-DR-A-0105-D5-P4 Type A, Plans and Elevations
RREH-MCB-ZZ-ZZ-DR-A-0107-D5-P1 Type E.
RREH-MCB-ZZ-ZZ-DR-A-0108-D5-P2 Type E, Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0111-D5-P2 Type F, Plan.
RREH-MCB-ZZ-ZZ-DR-A-0112-D5-P3 Type F Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0113-D5-P2 Type H. Plan.
RREH-MCB-ZZ-ZZ-DR-A-0114-D5-P3 Type H Elevations
RREH-MCB-ZZ-ZZ-DR-A-0115-D5-P2 Type J Plans.
RREH-MCB-ZZ-ZZ-DR-A-0116-D5-P2 Type J Elevations
RREH-MCB-ZZ-ZZ-DR-A-0117-D5-P4 Type C2 (rear) Plans and Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0118-D5-P4 Type C2 (side) Plans and Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0137-D5-P2 Type A+AF1 MAIS+A Plans.
RREH-MCB-ZZ-ZZ-DR-A-0138-D5-P3 Type A+AF1 MAIS+A Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0141-D5-P2 Type A terraced. Plan.
RREH-MCB-ZZ-ZZ-DR-A-0142-D5-P2 Type A terraced. Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0143-D5-P1 Type AF3+A. Plan.
RREH-MCB-ZZ-ZZ-DR-A-0144-D5-P1 Type AF3+A. Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0160-D5-P1 Garages. Plan and Elevation
100 K Preliminary drainage Strategy
101(1F) refuse vehicle tracking plan
REH-MCB-ZZ-ZZ-DR-A-0106-D5-P5 Type C, Plans and Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0109-D5-P3 Type E+ Plan.
RREH-MCB-ZZ-ZZ-DR-A-0110-D5-P4 Type E+ Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0130-D5-P5 Type A Plans and Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0131-D5-P6 Type A (front gable) Plans and Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0132-D5-P5 Type B Plans.
RREH-MCB-ZZ-ZZ-DR-A-0133-D5-P3 Type B Elevations.
RREH-MCB-ZZ-ZZ-DR-A-0134-D5-P5 Type B (gable end) Elevations.
RREH MCB ZZ ZZ DR A 0230-D5-P10 site layout plan.
RREH MCB ZZ ZZ DR A 0231-D5-P9 materials and boundaries plan.
RREH MCB ZZ ZZ DR A 0232-D5-P11 surface finishes plan.
RREH MCB ZZ ZZ DR A 0233-D5-P8 affordable tenure plan.
RREH MCB ZZ ZZ DR A 0234-D5-P7 refuse management plan.
RREH-MCB-ZZ-ZZ-DR-A-0260-D5-P7 illustrative street-scenes.
Landscape & Sculpture Design Partnership 1207.01 Rev H Landscape Proposal 1 of 2.
Landscape & Sculpture Design Partnership 1207.02 Rev H Landscape Proposal 2 of 2.

2) No development shall commence until an arboricultural method statement has been submitted to and approved by the Local Planning Authority. The arboricultural method statement shall ensure the protection of trees on the site during construction. All works shall be carried out in accordance with the approved tree report. No works shall be carried out on site before the arboricultural protection and safeguarding methodology has been implemented. At all times during

construction, the tree protected areas shall not be used to park or manoeuvre vehicles, site temporary offices or other structures, store building materials or soil, mix cement/concrete or light bonfires.

3) Prior to first occupation the existing vehicular site accesses on A417 Reading Road shall be permanently closed up. The specifications for the closure of the existing access roads shall be submitted to and approved by the Local Planning Authority prior to occupation.

4) Prior to commencement of any above ground development details of the play area equipment, surfacing and boundary fencing, and other open space features such as bins and benches, and root barriers to highway boundaries shall be submitted to and approved by the local planning authority. Thereafter, prior to the occupation of the first dwelling the play area shall be laid out and constructed in accordance with the approved plans.

5) Prior to commencement of any above ground development hard and soft landscape details shall be submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted, noting species, plant sizes and numbers/densities, the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), details of hard surfacing, tree pit details and an implementation programme. Any trees or shrubs which die or become seriously damaged or diseased within 5 years of completion of the soft landscape works shall be replaced by trees and shrubs of similar size and species to those originally planted.

6) No dwelling shall be occupied until a route for pedestrians and cyclists within the site extending fully to the western boundary of the site has been completed and the physical site boundary removed to enable a connection through to the adjacent residential development to the west.

7) No residential unit shall be occupied until details of the vehicular access to the site and visibility splays to show access on Featherbed Lane have been submitted to and approved by the Local Planning Authority. Thereafter the site shall be formed, laid out and constructed in accordance with the approved plans and, the visibility splays shall be permanently maintained free from obstruction to vision.

8) Prior to occupation of the final residential unit a plan showing land transferred to Oxford County Council, the registered provider, the management company or any other interested parties shall be submitted to and approved by the Local Planning Authority.

9) External lighting will only be permitted in accordance with a lighting scheme to be submitted to and approved in writing by the local planning authority. Any such lighting shall be directed downwards to prevent nuisance to adjoining residential occupiers from light spillage.

10) All garages serving open market housing shall include a dedicated charging point for the recharging of electric vehicles.

End of schedule

The Planning Inspectorate

Appeal Decision

Site visit made on 6 April 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2021

Appeal Ref: APP/V3120/W/20/3265269
Botley Centre, West Way, Botley, Oxford OX2 9LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Botley Development Company Phase 2 Limited against the decision of Vale of White Horse District Council.
- The application Ref P20/V0921/FUL, dated 31 March 2020, was refused by notice dated 4 December 2020.
- The development proposed is the demolition and redevelopment of existing buildings for new commercial floorspace (Use Classes A1-A5 and B1a) at ground floor level, with development above comprising 150 residential dwellings (C3). Associated car parking and landscaping are also proposed.

Decision

1. The appeal is allowed and planning permission is granted for the demolition and redevelopment of existing buildings for new commercial floorspace (Use Classes A1-A5 and B1a) at ground floor level, with development above comprising 150 residential dwellings (C3). Associated car parking and landscaping are also proposed at the Botley Centre, West Way, Botley, Oxford OX2 9LP in accordance with the terms of the application, Ref P20/V0921/FUL dated 31 March 2020, subject to the following conditions in the conditions schedule at the end of this Decision.

Application for costs

2. An application for costs was made by Botley Development Company Phase 2 Limited against Vale of White Horse District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:

   - the effects of the proposal in terms of its height, mass and scale on the character and appearance of the area including heritage assets;
   - whether the proposal would lead to parking problems to the detriment of highway safety and;
   - the extent of the affordable housing provision, contributions to public art and education.

Reasons

Character and appearance

4. Botley is a neighbourhood adjacent to the main A34 dual carriageway and is an outlying suburb of Oxford. It has an extensive range of facilities including various shops, a library, community hall, schools, churches, food/drink outlets, post office and good public transport.

5. The appeal site is on West Way, which is a main thoroughfare across Botley, and Westminster Way which runs alongside the A34. It is prominent along both these roads as well as various points on the A34, particularly up to and on its elevated interchange with the nearby A420. From Westminster Way and the A34, the site is seen against the adjacent Premier Inn and a couple of other tall buildings, which form a prominent skyline.

6. Another feature of the skyline is the Seacourt Tower, which is a tall vertical building with shallow roofs and projecting metal work akin to a spire, which is to the east of the A34. It also features prominently over West Way where it is seen with the appeal site and Elms Parade, a two-storey row of shops fronting a parking area and the brick built St Peter and Paul church, as well as, on the north side, largely residential dwellings including a four storey contemporary development near the A34.

7. The appeal site is dominated by two vacant and dilapidated buildings up to 5 storeys. These have a drab and forlorn appearance.

8. The appeal site is on low lying land, and the submitted LVIA shows the site is not prominent in the views from high points of the renown skyline in Oxford city centre. This skyline includes listed buildings and their distinctive towers and spires. The Seacourt Tower is also a feature.

9. The proposed building would be visible from various viewpoints, including the A34, West Way and Westminster Way and a pedestrian thoroughfare to the south within a neighbourhood centre. The Council's concern about the impact of the building does not refer to a particular viewpoint but rather implies the general character of the area.

10. The proposal involves the demolition of the two existing buildings and replacement with a building which would follow around the sites confines.

11. The proposed building would be lowest on the north west, by West Way. This would respect the context of Elms Parade (which the Council considers as a non-designated heritage asset), the church and the residential area on the north side of West Way.

12. The building would be highest on the east/south side at 8 storeys, with the top floor being particularly high, akin to a double (ninth) storey. The building would dominate the human scale particularly at the street level on Westminster Way. The close proximity of this viewpoint means the scale would be overly apparent, creating a sense of overbearing enclosure. However, the building would be experienced in conjunction with the adjacent tall buildings and also the Seacourt Tower, which would give some rationale for its scale. The tallest part of the building also would only occupy part of the floor area; a quarter is estimated in the committee report.

13. Additionally, the A34 is an assertive feature of the area due to its elevated offshoots and form, which demeans the attractiveness of Westminster Way and the views of the appeal site. Moreover, the height, size and hard surfaces of the A34 give an urban context, which provides some justification for a tall building.

14. The LVIA shows the site in relation to the Oxford skyline. An earlier (and lower) scheme is incorporated into the imagery, which could not be updated for this scheme due to access limitations during the pandemic. Nonetheless due to the distances involved, the proposal would not appear significant on this skyline, even allowing for the accumulative effect of the adjacent buildings. The individual towers and spires of the Oxford skyline as well as the background of tree cover would not be undermined. I note the comments from Oxford Preservation Trust and the photograph taken from St George's Tower. I have not been advised about the focal length of the lens, but in any event find that it does not lead me to a different conclusion.

15. I therefore find that the height would lead to an adverse impact, but this would be limited due to the nature of some of the context and views being localised.

16. The Council's decision notice also refers to the mass and scale of the proposal. However, the roof would be broken into various heights and forms as one element would be pitched in contrast to other flat roof elements. The building would also be broken into various segments, changing along the four sides of the site and a fifth formed by a chamfered cut away section. This fifth side would allow the building to orientate and address the facing view from West Way.

17. The elevations show variations in the arrangement of glazing and pattern of walling which would again break up the massing and the perception of the scale. Balconies too are proposed on some elevations which would also break up the walling.

18. The appeal site is part of a wider scheme for redevelopment, permitted in June 2016. This is an extant permission having been partly implemented. The Council do not suggest any impediment and the scheme has a real prospect of being implemented. Accordingly, I give this extant permission significant weight.

19. The main difference between the proposal and the extant scheme is that the building would be 1.5m metres higher, thereby adding another storey. The increased height would have limited impact for the reasons above. The elevations and form of the appeal proposal would reflect the concept of the extant scheme. The massing of the now proposed building would be similar.

20. I therefore conclude that the proposal would result in limited and localised harm to the character and appearance of the area due to the increased height.

21. The site was included in the Botley Supplementary Planning Document (SPD) adopted 2016. This provides an analysis of the context of the site and acknowledges it is a landmark location and notes the influence of the Seacourt Tower. It envisages re-development up to 8 storeys on the site but also states the need to break up massing and consideration of the surroundings.

22. North Hinksey Neighbourhood Plan (NP) is pending referendum. Policy GS3 highlights the importance and analysis of impacts on local views which includes

the appeal site. It also acknowledges the above SPD. Policy HS1 requires new development to respect and enhance the character and area, whilst H3 seeks to avoid adverse effects.

23. Policies CP37 and CP44 of the Vale of White Horse Local Plan 2031 (LP) require high quality townscape and positive response to a site and its surroundings, in terms of height, scale and massing as well as protection of the important views and the skyline.

24. Paragraph 127 of the National Planning Policy Framework (the Framework) requires that proposals are sympathetic to local character and history. Paragraph 130 highlights that design quality should not be eroded in a revised scheme and makes reference to the importance of SPDs. The National Design Guide similarly lists respect for context as one of the components of good design. It also stresses height needs to be considered in relation to the surroundings and can create enclosure.

25. The proposal would be in conflict with the above which is considered further in the planning balance below.

26. Historic England's Conservation Principles, Policies and Guidance advises on the components of significance: evidential, historical, aesthetic and communal. Paragraph 197 of the Framework requires that the significance of the non-designated heritage asset is taken into account and a balanced judgement is required. Historic England Advice Note 4: Tall Buildings emphasises the need to consider the wider surroundings and accumulative impact. Paragraph 193 of the Framework affirms that great weight should be given to the significance of the assets and 194 emphasises the importance of the asset's setting. The proposal would not be contrary to the above.

Parking and highway safety

27. The decision notice refers to the potential highway safety problems arising from the suggested shortfall of car parking and cycle storage: the proposal would create 30 more dwellings than the extant permission, but these would not have any parking spaces.

28. The site has frequent and quick bus connections to Oxford, which together with extensive facilities within easy and pleasant walking, mean it would not be essential for the residents to have a car. Furthermore, provision could also be made for car club access. Cycling would also be feasible to Oxford city centre bearing in mind the distance and flat terrain.

29. A car park management strategy is suggested as a condition whereby the 30 additional occupiers would be forewarned that they cannot park a car on the site. Some of the adjacent streets have demarcated restrictions to prevent unsafe parking. There are also some payable parking spaces in the area, which would meet the needs of visitors. The appellants confirm that £87,000 has been paid to the highway authority for part of the earlier (adjacent) development to implement a Controlled Parking Zone here if parking became an issue.

30. I acknowledge the concerns about the existing problems arising from commuters described in the Council's statement, and the concerns expressed by local residents, but this situation could be managed by suitable measures to restrict the use of on street parking. Similarly, such management would

address concerns about the lack of allocated spaces for the particular land uses of the earlier wider redevelopment.

31. Appeal decisions[1] are provided by the Council which supported car parking provision. However, the appropriate level of parking will be dependent upon the nature of the area, its accessibility and the range of neighbourhood facilities. I have not been given evidence these parameters are comparable to this situation.

32. Within the new building, provision would be made for storage of 150 cycles, which would equate to one cycle space per dwelling. Cycle access would be provided on Westminster Way.

33. I therefore conclude that the residents would not be car dependent and highway safety problems arising from indiscriminate car parking are unlikely. Similarly, adequate cycle parking would be provided.

34. Policies CP33 and CP35 of the LP seek to minimise impacts on roads, promote sustainable travel and provision of adequate parking. Similarly, policies TR1 and TR2 of the NP require cycle parking and off-road car parking. The Oxfordshire County Council Parking Standards for New Residential Development document does allow for car free development where facilities and accessibility exist. Whilst the appeal site is outside the City jurisdiction, it is nonetheless close by and shows the validity of the approach. Paragraph 110 of the Framework promotes non private vehicle use and the minimisation of conflicts between pedestrians, cyclists and vehicles. Paragraph 108 of the Framework seeks suitable access for all users and the promotion of sustainable transport. The proposal would not be in conflict.

Affordable housing and other requirements

35. The extant scheme has already made a payment of £1million for off-site affordable housing. The appellant has submitted a viability assessment, which concludes that the viability is below accepted norms. The committee report acknowledges that various options for affordable housing were explored but the finalised position is for an additional £1million for affordable housing provision off site.

36. The Council accepts the viability but does not consider the scheme should go ahead without making the 35% contribution requirements of the policy, whilst acknowledging the obligations of the extant scheme. Whilst this is a matter for the planning balance, an allowance must be made for the viability of the current scheme in the current circumstances.

37. Indeed, Policy CP24 of the LP states the Council will seek 35% affordable housing, with 75:25 split for rental and intermediate, but this can be waivered if the viability proves otherwise. Similarly, paragraph 62 of the Framework raises viability issues. Paragraph 63 emphasises the difficulties of provision on brownfield sites. Given the viability, the proposal would not be in conflict and I therefore find that the proposed additional £1million for affordable housing would be an appropriate contribution.

[1] APP/G5180/W/18/3202245, APP/G5180/W/18/3202258

38. A signed additional unilateral undertaking has been submitted which provides contributions to secondary and sixth form education as well as public art. This also is satisfactory provision.

39. These provisions are 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.

Planning Balance

40. The proposed building would be in part at a height which is out of keeping with some viewpoints of the area, and the proposal is contrary to those particular policies. However, as I have found above that harm would be limited. The extant scheme is also a consideration.

41. The site is also in a highly accessible location whereby the occupants would be able to meet their needs without car dependency. It is therefore appropriate to maximise the use of such a site. The site is also previously developed land being occupied by two existing buildings. Again, such land should be optimised as paragraph 118 in the Framework advocates substantial weight should be given to the reuse of brownfield land within settlements for housing.

42. Whilst the affordable housing payment would not meet the target in the policy, some provision would be made, which would be a notable benefit.

43. The proposal would provide 30 additional dwellings and assist in the implementation of the extant scheme of 120. Such housing delivery would have substantial economic benefits.

44. The above material considerations indicate that the decision can be made otherwise than in accordance with the relevant development plan policy.

45. Paragraph 8 of the Framework sets out that achieving sustainable development involves three overarching objectives. The economic objective would be met by the construction benefits of the building, the social objective would be met by the addition of new dwellings and the ability of the occupants to use community facilities and the environmental objective would be satisfied by the location of the new dwellings in an accessible brownfield location.

46. The Council suggests it has a 5+ years housing land supply. However, the appellants argue it is exactly 5 years and is dependent upon the delivery of the extant permission on this site. Whilst I do not have all the evidence before me to quantify the land supply, it would be very desirable to achieve an increase and these 30 additional dwellings and the reassurance of implementation of the extant permission for 120, would be a significant factor for land supply. In any event, paragraph 60 of the Framework states housing land supply policies determine the minimum number of homes needed. Paragraph 59 confirms the Government's objective of significantly boosting the supply of homes without causing harm.

47. Whilst there is conflict with Local Plan Policy in terms of the building height, I have considered the Development Plan as a whole and the Framework. In overall balance the merits of the development outweigh the conflict with the Development Plan policy.

Conditions

48. Paragraph 55 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The Council has suggested conditions and the appellants have confirmed their agreement except for the timing for submissions of details on conditions 6 and 17. The revised timings do not affect implementation and have been adjusted accordingly. Condition 14 is considered unnecessary due to other legislation to control such highway works. An additional condition on the submission of parking management is suggested to address the parking issue and imposed accordingly.

49. Conditions on the commencement and approved plans help certainty. The CEMP, noise insulation, external plant, lighting, ventilation, and highway, deliveries, waste, CCTV and the security plan will promote quality living standards during and after construction. The bicycle parking, Framework Travel Plan, visibility, site access, all ensure highway safety. Submission of samples, architectural details, tree planting and landscaping will all help the final appearance. The archaeological condition reflects the significance of that element on the site. The employment plan offers a benefit from the development process. Details of the wording of unless otherwise agreed is removed in the interests of certainty.

Conclusion

50. I therefore conclude that the appeal should be allowed subject to the conditions in the conditions schedule below.

John Longmuir

INSPECTOR

CONDITONS SCHEDULE

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission

2) The development hereby permitted shall be carried out in accordance with the approved plans listed below: Existing Site Plan / Site Location Plan (drawing no: AP-000 (REV02)); Masterplan - Lower Ground Floor (drawing no: AP-099 (REV02)); . Masterplan - Ground Floor Plan (drawing no: AP-100 (REV02)); Masterplan Sections J-J & K-K (drawing no: AP-135); Block A Plans - Sheet 1 of 3 (drawing no: AP-200 (REV02)); Block A Plans - Sheet 2 of 3 (drawing no: AP-201 (REV04)); Block A Plans - Sheet 3 of 3 (drawing no: AP-202 (REV03)); Block A elevations (drawing no: AP-220 (REV06)); Block A Elevations (drawing no: AP-227 (REV01)); Block A - Detail Elevations (drawing no: AP-230 (REV06)); Illustrative Landscape Masterplan (drawing no: 1085-2-R-000 (REVP2) Block A - Externals - Ground Level GA (drawing no: 1085-2-000 (REVP3)); Block A - Externals - Ground Level GA (drawing no: 1085-2-001 (REVP2)); Block A - Courtyard - First Floor Podium GA (drawing no: 1085-2-002 (REVP2)); Block A - Outdoor Kitchen Dining - Seventh Floor Podium - GA (drawing no: 1085-2-009(REVP2)); Block A - Courtyard - First Floor Podium - Planting Plan (drawing no: 1085-2- 202 (REVP2)); Block A - Outdoor Kitchen Dining - Planting Plans (drawing no: 1085-2-203 (REVP3)); Except as controlled or modified by conditions of this permission and in accordance with

the following documents: Landscape & Visual Impact Assessment Dated 1 July 2020; Addendum daylight and sunlight report for the proposed development at The Botley Centre Redevelopment, Oxford Dated 13 March 2020. Building A, Phase 2 West Way Square, Botley, Oxford Design & Access Statement March 2020; Desktop Wind Assessment Dated March 2020. Drainage Statement - Site-wide including Block A; CIBSE TM59 Dynamic Overheating Assessment Dated March 2020; Energy Statement Dated March 2019; Block A Landscape Assessment Dated 19 March 2020; Planning Statement Phase 2 / Block A. Statement of Community Involvement Dated March 2020 and Transport Statement V2 Dated March 2020.

3) Before development above slab level on block A begins, samples and details of the materials to be used in the construction of all external surfaces of the block shall be submitted to and approved in writing by the local planning authority (including sample reference panels erected on site). Development shall be carried out only in accordance with the approved details.

4) Before development above slab level on block A begins, full details of the design, materials and finish of all windows, window sills and lintels, external doors and rainwater goods and the treatment of all verges and eaves of this building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be built in accordance with the approved details

5) Before development above slab level on block A begins, full details of the design, materials and finish of all shop fronts and fascia details of all retail units within this building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be built in accordance with the approved details.

6) Prior to the installation of the tree pits, their detailed specification shall be submitted to and approved in writing by the Local Planning Authority. The trees must be planted into site specific tree pits with a crated pit design that incorporates technology that will enable trees to successfully grow in the hard surface environments. The pits must provide the significant quantities of growth required to allow long lived large canopied trees to become established and grow on to maturity. The tree pits must sustain the trees in a healthy condition and allow for ease of maintenance. The development shall be built in accordance with the approved details. Thereafter, all trees to be planted within hard surface areas shall be planted in the first planting season after the first use and occupation of block A. If any of the trees planted die or are seriously damaged or destroyed within 5 years of the completion of the development, a new tree of a species first approved by the Local Planning Authority shall be planted and properly maintained.

7) All hard landscaping shall be implemented in accordance with the scheme approved under application P18/V0120/DIS prior to the development being brought into use.

8) The landscaping shall be managed in accordance with the operational management plan approved under application P18/V0120/DIS.

9) No development shall commence on block A until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority in consultation with Highways England and the Highway Authority. The CEMP shall include: a) Proposed earthworks and the raising of land levels (if required); b) Construction vehicles to use the A420 and A34 only, and not Cumnor Hill, Westminster Way (other than the section between West Way and the

site) or Eynsham Road for site access and egress. c) Contractor's access arrangements for vehicles, plant and personnel including the location of construction traffic routes to and from the site, details of their signing, monitoring and enforcement measures; d) Details of haul routes to the site from the national highway network, including details of number of vehicles; e) A plan specifying the area and siting of land to be provided for parking, turning, loading and unloading of all vehicles visiting the relevant parts of the site and siting of the contractors compound during the construction period to be agreed on a phased basis; f) Collection and delivery times for construction purposes; g) Dust management and wheel washing or other suitable mitigation measures such as lorry sheeting, including the consideration of construction / engineering related emissions to air, to include dust and particulate monitoring and review and the use of low emissions vehicles and plant / equipment; h) Noise and vibration (including piling) impact / prediction assessment, monitoring and recording protocols / statements and consideration of mitigation measures in accordance with the provisions of BS5228 (2009): Code of practice for noise and vibration control on construction and open site - Part 1 and 2 (or as superseded); i) Where relevant results of a noise assessment of the potential impact of construction noise on the proposed residential properties on the adjacent site and details of suitable mitigation measures as appropriate (in accordance with relevant standards and best practice); j) Full details of mitigation measures to be employed to protect species from adverse impacts for each phase of the development (where appropriate); k) Details of best practice measures to be applied to prevent contamination of the water environment during construction; l) Measures for soil handling (where appropriate), including appropriate storage and re-use of higher value soil resources displaced during construction within gardens, parks and recreational grounds and disposal of any surplus soils in a sustainable manner in accordance with the Construction Code of Practice for the Sustainable Use of Soils on Constructions Sites (DEFRA 2009) or as superseded. m) Site lighting for the relevant part of the site; n) Screening and hoarding details. o) Access and protection arrangements around the site for pedestrians, cyclists and other road users; p) Procedures for interference with public highways; q) External safety and information signing notices; r) Liaison, consultation and publicity arrangements, including dedicated points of contact; s) Complaints procedures, including complaints response procedures; t) Membership of the considerate contractors' scheme; u) The provision of safe walking and cycling routes through the construction site including routes serving completed phases of the development; v) A Travel Plan setting out measures to encourage site operatives and visitors to travel to and from the site using sustainable means of transport; and w) On-site waste management and off-site disposal. All construction activities shall be carried out in accordance with the approved CEMP to which they relate.

10) No development above slab level shall commence on block A until a detailed scheme of noise insulation measures for this block has been submitted to and been approved in writing by the Local Planning Authority. The scheme of noise insulation measures shall be prepared by a suitably qualified consultant/engineer and shall take into account the provisions of BS 8233:2014 "Guidance on Sound Insulation and Noise Reduction for Buildings". The approved scheme shall be implemented prior to the commencement of the use and be permanently retained thereafter.

11) Deliveries and service areas shall be managed in accordance with the agreed deliveries and servicing scheme approved under application P19/V2088/DIS.

12) Prior to the first occupation of the development hereby approved, the management of waste, refuse and recycling storage shall be implemented in accordance with the approved details under application P18/V0973/DIS and retained thereafter.

13) Prior to the commencement of development above slab level on Block A, full details of all external plant and machinery (to include any enclosure / screening details and ducting runs) for Block A shall be submitted to and approved in writing by the Local Planning Authority. The external plant and machinery for Block A shall be implemented in accordance with the approved details prior to the first occupation of the block and retained thereafter.

14) Prior to the first occupation of development, full details of all external lighting shall be submitted and approved in writing by the Local Planning Authority. The external lighting shall be designed in accordance with the following principles: The main beam angle is not directed towards any potential observers; lighting sources (bulbs and reflectors) shall not be visible from any adjacent properties; Luminaire's front glazing shall be kept as near to parallel to the ground surface as possible (facing downwards), and shall not exceed 20 degrees from the horizontal; Light trespass into the windows of any light sensitive premises shall not have a Vertical Illuminance greater than 10 Lux for pre-curfew periods (before 23:00) and 2 lux post-curfew (between 23:00 - 07:00) in accordance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light. Thereafter, the lighting shall be retained in accordance with the approved scheme.

15) No A1, A3, A4 or A5 unit shall be occupied until a scheme for ventilation of those premises, including extraction and filtration of cooking fumes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the height, position, design, equipment, materials of any chimney or extraction vent and a programme of maintenance, the acoustic characteristics of the extraction system (fan noise characteristics, sound power levels and octave band frequency analysis) and information relating to the proposed odour abatement techniques (filtration types, maintenance schedules). The approved scheme shall be carried out prior to the commencement of the premises to which it relates and shall be maintained at all times thereafter in accordance with the approved maintenance details.

16) Before development above slab level full details of all external lift overshoots, associated plant and machinery shall be submitted to and approved in writing by the Local Planning Authority. The lift overshoots and associated external plant and machinery shall be installed in accordance with the approved details prior to the first occupation of the development and retained thereafter.

17) Prior to the first occupation of block A, details of all CCTV and ANPR camera equipment shall be submitted to and approved in writing by the Local Planning Authority. The details shall include locations, swept areas and their design. The camera equipment shall be installed in accordance with the approved details.

18) The development shall be carried out in accordance with the archaeological watching brief (Ref: 16e225wb dated 2 Nov 2016) approved under application P18/V0398/DIS. Once the watching brief has been completed its findings shall be reported to the Local Planning Authority.

19) Prior to the first occupation of development, the means of site access shall be formed and laid out and constructed in accordance with the Highway Authority's

specifications and all ancillary works specified shall be undertaken to the approval of the Local Planning Authority.

20) The development shall be carried out in accordance with the visibility splays approved under application P19/V1637/DIS. Thereafter the vision splays shall be maintained free from obstruction at all times.

21) Prior to the first use or occupation of block A, provision for parking bicycles on the site shall be made in accordance with the details shown on approved drawing title number: Block A Plans - Sheet 1 of 3 (drawing no: AP-200 (REV02)).

22) The Parking Management Strategy approved under application P19/V2425/DIS shall be amended to ensure that thirty of the units within Block A will not be allowed parking permits. A revised Parking Management Strategy shall be submitted to the local planning authority for approval prior to the occupation of Block A. Thereafter, the car parking within the site shall be provided in accordance with the approved plans prior to first occupation and be managed in accordance with the approved strategy.

23) The development shall be carried out in accordance with the Framework Travel Plan V3 approved under application P20/V1671/DIS. Thereafter and prior to the first occupation or operational use of any individual use element of block A a Supplementary Travel Plan or Travel Plan Statement shall be produced. Each Supplementary Travel Plan shall link back to the targets and objectives in the main Framework Travel Plan.

24) The development shall be carried out in accordance with the West Way service access details approved under application P19/V2241/DIS. Thereafter, the access point shall be formed and constructed in accordance with the approved details and the bollards or physical barrier shall be maintained and kept in place at all times.

24) The development shall be carried out in accordance with the Ground Investigation Report approved under application P18/V0698/DIS. Following implementation of the remedial measures identified in the report, a full validation report detailing the measures carried out to ensure compliance shall be submitted to and approved in writing by the Local Planning Authority. All implemented works shall be maintained in place thereafter.

25) The development shall be carried out in accordance with the Low Emissions Strategy approved under application P18/V0969/DIS.

26) No piling shall take place until a piling method statement detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. The piling shall be undertaken in accordance with the terms of the approved piling method statement.

27) The development shall be carried out in accordance with the Community Employment Plan (CEP) approved under application P18/V0317/DIS.

28) All plant, machinery and equipment to be used by reason of the granting of this permission shall be so installed, maintained and operated so as to ensure that the rating noise level from the equipment shall be at least 5 dB below the pre-existing background noise level (L90) when measured at the nearest noise

sensitive premises with the measurements and assessment made in accordance with BS4142:2014 -'Methods for rating and assessing industrial and commercial sound'.

29) No deliveries shall be received at, or dispatched from, the site between the hours of 22:00 and 07:00 on 7 days a week.

30) The development shall be constructed in accordance with the proposed slab, finished floor and roof levels of the building in relation to existing and proposed levels of the site and the surrounding land and buildings as detailed on the approved drawings.

31) The hours of operation for construction and demolition works shall be restricted to 07:30-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work to take place on Sundays or Public Holidays without the prior written authority of the Local Planning Authority.

32) The site shall be managed in accordance with the site security management plan approved under application P19/V2497/DIS.

END OF CONDITONS SCHEDULE

APPENDIX 7 Vale District Council's performance 1 January 2020 to 31 December 2020 – quality of decisions – non-major appeals allowed (overturned)

To accompany Table 6

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
P19/V2179/HH	7 Berens Road, Shrivenham	Shelter and charging point for electric vehicle	Delegated refusal	Written representations	Appeal allowed 23 March 2020	N/A
P19/V1280/HH	2 Coxs Road Shrivenham	First floor side extension and single storey rear extension and new pitched roof to store	Delegated refusal	Written representations	Appeal allowed 23 June 2020	N/A
P18/V1949/FUL	Land at Plot 5, Reading Road Harwell	Proposed replacement of the 6-bed (347sqm) dwelling known as Holloway House approved on Plot 5 (Approval Ref: P17/V3134/RM) with two smaller 4-bed dwelling	Delegated refusal	Written representations	Appeal allowed 25 June 2020	N/A

		houses of identical cumulative size and referred to as Barrow House - Plot 5A (158sqm) and Chilbrook House - Plot 5B (189sqm)				
P18/V1704/FUL	J Curtis and Sons Ltd Thrupp Lane Radley Abingdon	Variation of condition 1 - to allow permitted use of buildings A, C, D, F and G for a further period of 5 years on application ref P03/V1226/FUL. Variation of condition 1 of Approval P87/V1143/FUL (RAD/57/15) to allow the permitted uses of buildings A, C, D, F & G for a further 8-year period	Delegated refusal	Written representations	Appeal allowed 18 November 2020	N/A

P20/V0490/LDE	Youlbury Cottage White Barn Sandy Lane Boars Hill	Lawful development certificate for the existing use of the land as residential curtilage	Delegated refusal	Written representations	Appeal allowed 29 December 2020	N/A
P19/V1512/FUL	5 Toynbee Close, North Hinksey	Erection of a new building containing 2no. x 2-bedroom flats to the rear of 5 Toynbee Close, demolition of car port and outbuilding to facilitate access from Toynbee Close with provision of parking with bin and cycle stores. Demolition of existing dwellinghouse and erection of a 2-storey building containing 1no. x 3-bedroom flat and 2no. x 1-bedroom flats with provision of	Committee overturn	Written representations	Appeal allowed 15 September 2020	N/A

		parking with bin and cycles stores				

The Planning Inspectorate

Appeal Decision

Site visit made on 25 February 2020

by JP Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/V3120/D/20/3244525
7 Berens Road, Shrivenham, Swindon SN6 8EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Rudge against the decision of Vale of White Horse District Council.
- The application Ref P19/V2179/HH dated 28 August 2019, was refused by notice dated 5 November 2019.
- The development is a shelter and charging point for electric vehicle.

Decision

1. The appeal is allowed, and planning permission is granted for a shelter and charging point for electric vehicle at 7 Berens Road, Shrivenham, Oxon SN6 8EG in accordance with the terms of the application, Ref P19/V2179/HH, dated 28 August 2019, and the plans submitted with it.

Procedural Matters

2. The shelter has been erected for about a year. The submitted plans appear to broadly reflect the development, but in any event any discrepancies are a matter for the Council. I have considered the appeal on the basis of the plans submitted.

Main Issue

3. The main issue is the effect on the character and appearance of the area.

Reasons

Character and appearance

4. The site is part of a housing estate built in the 1970s. There is some consistency, particularly in the use of materials, although this is slightly diluted by several solar panels and rooflights.

5. Berens Road has a curving alignment but straightens out in the vicinity of the appeal site before joining Charlbury Road. There are some slight variations in the consistency of design along this corner as the siting, form and footprint of the dwellings are arranged to follow the curve. Several offshoot cul-de-sacs also have subtle variations in their house design. Whilst there is most consistency in the immediate vicinity of the appeal site, this is short lived and wains towards Charlbury Road which has a variety of styles.

6. Both parties describe the shelter as a cantilever structure. Two posts provide a metal frame which supports a curved transparent roof. Consequently, the structure is small and simple, which does not compete with the surrounding architecture, and therefore the consistency in the character of Berens Road is not jeopardised. The houses adjacent to the appeal site have open frontages but that is not the situation throughout Berens Road.

7. The particular construction allows views through, underneath and around, which maintains the sense of openness to the driveway. It also does not obstruct the main views along Berens Road. This is not a solid construction which could have created enclosure and threatened the sense of openness.

8. The shelter is over part of the front drive of this detached house, just in front of an integral garage. In such a domestic setting a shelter is not out of place, being seen in conjunction with the driveway.

9. The metal work is dark grey which gives a subdued appearance. Similarly, the roof, being transparent, does not compete with the dwelling. The materials are functional and lightweight which reflect the purpose and nature of the structure. There is a lamp post directly outside the curtilage, which is taller and in a more conspicuous shade of light green.

10. The structure covers the space taken up by the electric car. The structure is not unduly large and appears subservient to the host dwelling.

11. Core policy CP37 of the Vale of White Horse Local Plan 2031 Part 1, December 2016, promotes good design and local distinctiveness. The Shrivenham Neighbourhood Plan, Referendum Version 2020, includes policies H1 and D1 which promote good design. They also require development to be in accordance with the Village Character Assessment, and the Surrounding Berens Road (VCA) Character Assessment which highlights the consistency in the townscape. The Council has also forwarded policies HE2 and HE3 of the Neighbourhood Plan which were not part of the reason for refusal. The former, in part (b) promotes soft landscaping, and the latter refers to existing vegetation and the need to consider landscape impact. Paragraph 127 of the National Planning Policy Framework also requires good design.

12. The proposal respects the characteristics of the area, in particular its general consistency and openness, and accordingly does not conflict with the above policies. Similarly, there is no need for new landscaping.

13. I therefore conclude that the development does not harm the character and appearance of the area.

Other Matters

14. The Surrounding Berens Road Character Assessment also states that there are listed buildings in the neighbourhood. However, given their respective distances from the appeal site, I am satisfied that no harm to the setting of these designated heritage assets arises.

Conditions

15. As the development has been carried out, and I have found no harm, there is no need for any conditions.

Conclusion

16. For the above reasons, I conclude the proposal is not harmful and the appeal should be allowed.

John Longmuir

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 23 June 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal Ref: APP/V3120/D/19/3241309
2 Coxs Road, Shrivenham, Swindon SN6 8EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Coffey against the decision of Vale of White Horse District Council.
- The application Ref P19/V1280/HH, dated 17 May 2019, was refused by notice dated 30 August 2019.
- The development proposed is a first floor side extension and single storey rear extension and new pitched roof to store.

Decision

1. The appeal is allowed and planning permission is granted for a first floor side extension and single storey rear extension and new pitched roof to store at 2 Coxs Road, Shrivenham, Swindon SN6 8EL in accordance with the terms of the application, Ref P19/V1280/HH, dated 17 May 2019, subject to the following 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: Site Location Plan – drawing no. A362/P01 Rev 0; As Proposed Plans and Block Plan – drawing no. A362/P02 Rev A and As Proposed Elevations – drawing no. A362/P03.

    3) The external surfaces of the development hereby permitted shall be constructed in materials that match those used on the main dwelling at 2 Coxs Road, Shrivenham.

    4) Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or the equivalent provisions of any order revoking and re-enacting that Order), the garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose, without the prior grant of planning permission.

Procedural Matters

2. Since the Council made its decision the Shrivenham Neighbourhood Plan 2018-2031, Submission Version, June 2019 (NP) has undergone examination and the examiner concluded that the NP meets all the necessary legal requirements.

The Council agreed that the NP should proceed to referendum, but the original date set has had to be postponed due to the Covid-19 pandemic. Recent changes to Planning Practice Guidance (Paragraph: 107 Reference ID: 41-107-20200513) state that in these circumstances, the NP can be given significant weight in decision-making, so far as the plan is material to the application. Both parties have been given the opportunity to comment on the NP as part of the appeal process. Therefore, I am satisfied that neither will be prejudiced by my consideration of it where relevant to my determination.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. Coxs Road and Berens Road predominantly comprise detached dwellings built in the latter half of the 20th century, that are mostly set within regularly spaced rectangular plots. Although there is some variety in the house type and detailing, there is coherence derived from the open frontages, use of materials and arrangement of dwellings which generally front onto the road. Taken together, this results in a pleasant, spacious sub-urban character to the area.

5. The appeal property is a detached dwelling at the corner of Berens Road and Coxs Road. It is similar to other houses in the vicinity in that the widest part of the building forms the principal elevation which has an open aspect, and the use of reconstituted stone. No.2 also has a single storey double garage to the side which projects slightly forward of the main part of the house. When combined with the proportions of the main windows and garage door, this gives a horizontal emphasis to the front elevation. Overall, the appearance of the property conforms with, and positively contributes towards, the spacious ordered character of the area.

6. The proposal includes single storey extensions as well as a side extension over the garage that would provide additional accommodation. There is no dispute between the parties that the single storey additions would be in keeping with the character of the area and I have little basis to disagree. Therefore, the area of dispute principally relates to the first floor side extension.

7. The proposed first floor extension would be level with the existing roof ridge and eaves and would utilise matching materials. Accordingly, as it would respect the existing building lines and simple roof form it would read as a natural continuation and horizontal emphasis of the existing dwelling.

8. Furthermore, some factors are employed to provide a level of articulation in the front elevation. Firstly, the first floor façade would be set back from the front elevation of the garage and would utilise smaller more closely spaced windows. Secondly, the position of the chimney stack would denote where the roof ridge had been extended. Thirdly, the scale of the extension is reasonably modest in comparison to the main dwelling. In combination, these measures would suitably integrate with the characteristics of the dwelling but safeguard against overwhelming its appearance. They would help distinguish the extension from the original main part of the dwelling thereby preserving the proportions of the building overall.

9. This is reinforced by the examples seen at 10 Berens Road and 3 Youghal Close, and the former can be seen from the appeal site. These properties appear to originally have been a similar house type to the appeal dwelling. Both have first floor extensions to the side which, although not identical to the proposal, are similar in form and massing. These examples demonstrate that such first floor extensions respect the main dwelling, integrate well into the street scene and are visually attractive.

10. I have had regard to the principles for household extensions in the Vale of White Horse Design Guide, Supplementary Planning Document, 2015 (SPD). Principle DG109 specifically relates to side extensions. This advises that such extensions should generally be set back from the front of the house and notes that this can be particularly important on symmetrical properties or identical semi-detached properties. It is not shown that either of those specific circumstances apply in this case. Furthermore, the existing single storey garage structure is already forward of the main body of the house. Therefore, setting the façade back at first floor level is a reasonable response in these circumstances. Additionally, the proposal would comply with the advice that two storey extensions should generally be constructed with the same angle of pitch as the existing roof.

11. The SPD further states that extensions that close an important gap within the street scene or lead to a terracing effect will not be accepted. The evidence does not show, given that a reasonable gap would remain between 2 and 4 Coxs Road, that the proposal would have a terracing effect. Moreover, as the extension would be on the eastern side of the building aligning with development further into Coxs Road, the general open and spacious character of the street scene at the corner of Coxs Road and Berens Road would remain. Overall, the proposal would accord with the advice in the SPD in relation to side extensions.

12. The Council highlight that the appeal site is at a prominent corner location and so the development would be visible in the public domain. Be that as it may, given that I find the proposal would respond positively to the site and its surroundings, it follows that this would not result in harm to its character and appearance. My attention is drawn to paragraph 130 of the National Planning Policy Framework which generally stipulates that permission should be refused for development of poor design. However, this also states that where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

13. Accordingly, I find that the proposal would not be harmful to the character and appearance of the area and on that basis, there would be no conflict with Core Policy 37 of the Vale of White Horse District Council, Local Plan 2031, Part 1, Strategic Sites and Policies, December 2016 (LP). This policy requires new development to achieve high quality design and sets out criteria including that it should be visually attractive and respond positively to the site and its surroundings. Furthermore, the proposal would comply with policy D1b of the NP which in view of its stage of preparation attracts significant weight. This, amongst other things, requires new development to achieve high quality design which respects the scale and appearance of the existing built environment.

Conditions

14. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these, as this provides certainty.

15. A condition requiring that the external materials match those on the original house is also necessary given their importance to the overall quality of the design and local distinctiveness.

16. The Council also suggest a condition[1] to ensure that the double garage should be retained for parking motor vehicles in order to retain adequate on-site parking provision in the interests of highway safety and to accord with Core Policy 35 (CP35) of the LP. However, the Highway Authority states that the existing driveway, which provides two parking spaces is the minimum requirement for the property[2]. Moreover, policy CP35 of the LP generally seeks to promote sustainable modes of transport rather than parking for motor vehicles. Nevertheless, I have given significant weight to emerging policy P1b of the NP which recommends 4 parking spaces for a 4 bedroom dwelling in order to ensure that all new development should be self-contained in terms of parking. In the explanatory text, Berens Road is cited as an example of where parking has caused traffic and safety problems. Therefore, given the proximity of the appeal site to Berens Road, I have imposed the suggested condition.

Conclusion

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

Helen O'Connor

Inspector

[1] Appeal questionnaire, question 11d
[2] Local Highway Authority Consultation dated 3.7.19

The Planning Inspectorate

Appeal Decision

Site visit made on 23 June 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Appeal Ref: APP/V3120/W/19/3240852
Land at Plot 5, Reading Road, Harwell, Didcot OX11 0LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Daniel Ede of Ede Homes against the decision of Vale of White Horse District Council.
- The application Ref P18/V1949/FUL, dated 31 July 2018, was refused by notice dated 19 June 2019.
- The development proposed is the replacement of the 6-bed (347sqm) dwelling known as Holloway House approved on plot 5 (Approval Ref P17/V3134/RM) with two smaller 4-bed dwelling houses of identical cumulative size and referred to as Barrow House – Plot 5A (158sqm) and Chilbrook House – Plot 5B (189sqm).

Decision

1. The appeal is allowed and planning permission is granted for the replacement of the 6-bed (347sqm) dwelling known as Holloway House approved on plot 5 (Approval Ref P17/V3134/RM) with two smaller 4-bed dwelling houses of identical cumulative size and referred to as Barrow House – Plot 5A (158sqm) and Chilbrook House – Plot 5B (189sqm) at Land at Plot 5, Reading Road, Harwell, Didcot OX11 0LW in accordance with the terms of the application, Ref P18/V1949/FUL, dated 31 July 2018, subject to the conditions set out in the attached schedule.

Procedural matters and background

2. Since the Council made its decision the Vale of White Horse District Council Local Plan 2031, Part 2, Detailed Policies and Additional Sites (LP2) has been adopted in October 2019. This replaces saved policies in the Vale of White Horse Local Plan 2011, July 2006 and forms part of the development plan together with the Vale of White Horse District Council Local Plan 2031, Part 1, Strategic Sites and Policies, December 2016 (LP1). No development plan policies are cited on the decision notice. Furthermore, both parties have had the opportunity to refer to the LP2 as part of the appeal process. Therefore, I am satisfied that neither party would be prejudiced by this change in policy circumstances.

3. Outline planning permission (reference P15/V1074/O) was granted on land at Reading Road for 16 dwellings, followed by permission for reserved matters (reference P17/V3134/RM). At the time of my visit construction was well underway on this residential development. The appeal proposal concerns the area denoted as plot 5 in that development, which permitted a detached 6-

bedroom house. Notwithstanding the references to the planning history in the description of development and the Council's appeal questionnaire[1], the application before me is not a reserved matters application made under the outline permission. Rather, it is a full planning application for two houses, and I have determined the proposal on this basis.

Main Issue

4. The main issue is whether the proposal is suitable having regard to the planning history, and local and national planning policies.

Reasons

5. Planning Practice Guidance (PPG)[2] recognises that new issues may arise after planning permission has been granted, which require modification of the approved proposals. However, where such modifications are fundamental or substantial, a new planning application will need to be submitted rather than seeking a non-material amendment or an application to vary the conditions on the existing permission. The Council consider that the outline and reserved matters permission set the number of dwellings at the wider development site at Reading Road at 16 and that an amendment to increase that number would be a fundamental change that would require a new planning application.

6. The submitted information indicates that the appeal proposal was made in full, albeit that it only pertained to part of the land consented under the 16 dwelling scheme. Therefore, it accords with the PPG advice that a new planning application should be submitted. Given that it is a standalone application for two dwellings to be determined on its own planning merits, it is not constrained by the parameters of the outline consent. It follows that the case law to which I am referred[3], relating to the variation of conditions under an outline permission is of little weight in these circumstances.

7. There is no dispute between the parties of the existence of a permission for a 6 bedroom house upon the appeal site that arises from the outline and reserved matters consents already referred to. Accordingly, irrespective of the outcome of this decision, such a dwelling may be constructed and, in the event that this appeal fails, given that construction is underway on the wider development site, it is reasonable to suppose the appellant would be likely to do so. As such, this is a fall-back position of considerable weight and relevance to the proposal before me.

8. By substituting the consented dwelling with a standalone proposal for two dwellings, a total of 17 dwellings would result on the wider development site overall. Based on the evidence before me, there would be no procedural obstacle to such an outcome. Moreover, the Council have not explained how any planning harm would result as a consequence of the modest increase in density or change in housing mix by reference to development plan policies. Furthermore, Core Policy 23 of the LP1 requires a minimum density of 30 dwellings per hectare on new housing developments and states that higher densities will be encouraged in locations where it will result in the optimum use of land.

[1] Question 4, Appeal Questionnaire indicates the appeal relates to an application for reserved matters
[2] Paragraph 001, Reference ID 17a-001-20140306
[3] Appendix 6 of Appellant's Statement of Case - R (on the application of Wet Finishing Works Limited) v Taunton Deane Borough Council 2017 EWHC 1837 (Admin)

9. This is consistent with the general approach advocated in the National Planning Policy Framework (the Framework), with paragraph 122 stipulating that planning decisions should support development that makes efficient use of land. In comparison to the fall-back position for plot 5, by providing two smaller units, the proposal would make more effective use of the land in addressing housing supply.

10. The Council does not raise other substantive concerns regarding the planning merits of the proposal, rather their concern appears to be that the two houses proposed might proceed in isolation and in advance of the remaining land consented under the outline and reserved matters permissions[4]. Since the Council took its decision, significant progress on the construction of the dwellings adjacent to the appeal site has taken place. Therefore, even if I were to accept the Council's assertion that two dwellings in isolation would have been an unacceptable form of development, such an outcome is most unlikely and therefore, attracts limited weight.

11. The refusal reason on the decision notice states that the proposal would require a variation to the section 106 contribution calculations. I understand this to be a reference to a section 106 agreement associated with the outline permission reference P15/V1074/O. I have not been provided with a copy of that agreement and so have no information before me as to the planning obligations it required, nor whether its terms would cover subsequent planning applications on the land to which it pertained. Therefore, based on the limited evidence before me, it is not shown that the appeal proposal would be subject to the terms of an existing section 106 agreement.

12. Paragraph 56 of the Framework indicates that planning obligations must only be sought where they meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Accordingly, planning obligations must be 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. No evidence is provided to demonstrate that the proposal for two dwellings requires any planning obligations to mitigate against its impacts in order to make it acceptable in planning terms. Neither is it shown that the proposal would provide a means to circumvent or reduce specific existing planning obligations.

13. Moreover, the Council have a Community Infrastructure Levy (CIL) charging regime in operation[5]. Although the matter of CIL liability lies outside of the scope of my determination, this suggests that there is a mechanism in place to generally address the funding of infrastructure arising from new development in the district.

14. Therefore, based on the evidence before me, I have no basis to find other than that the proposal would be suitable having regard to the planning history, and local and national planning policies.

Other matters

15. The site falls within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Paragraph 172 of the Framework stipulates that great weight should be given to conserving and enhancing the landscape and scenic beauty

[4] Paragraph 6.1 Council Delegated Report
[5] Council Final comments dated 3 March 2020

of AONBs. It further states that planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. I have had regard to the concerns raised by a local resident that increasing the density at the appeal site, when taken together with the already consented residential development would constitute a major development that should be prevented. Nevertheless, the proposal for two dwellings does not of itself constitute a major proposal, and it would substitute an existing approved large detached dwelling with a similar floorspace. Although there would be changes to the form of the buildings, in comparison to the previously approved dwelling, these would be modest. As a result, the context and its relationship to the surrounding scenic qualities of the AONB would not be altered in any meaningful way. Accordingly, the proposal would conserve the scenic beauty of the AONB.

16. I have also taken account of the objection raised by Harwell Parish Council who mention that extra traffic might result as a consequence of the proposal. Nevertheless, given the modest nature of the proposal, and in comparison to the fall-back position, any increase in traffic is not likely to have a significant impact. This is reinforced by the comments of the local highway authority[6] who raised no objection to the proposal. As such this matter attracts limited weight.

Conditions

17. I have had regard to the conditions suggested by the Council and considered them against the six tests set out in paragraph 55 of the Framework. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these, as this provides certainty. However, I have clarified that the composite plan drawing for garages and car ports is approved only in relation to the double garage details for Barrow House.

18. A condition requiring the external materials to be as indicated or as agreed is necessary given the need to integrate with and maintain the design quality of the surrounding residential development.

19. The evidence indicates that some provision for biodiversity enhancements was made for the 6 bedroom house already approved at Plot 5. I accept it is necessary to ensure that at least an equivalent level of provision is secured for the appeal proposal and have had regard to the detailed suggestion of the Countryside Officer in imposing such a condition.

20. Given the context of recent major development, I accept that broad details of a foul and surface water drainage scheme should be established. However, as no specific concerns are raised by the Senior Flood Risk Engineer there is no compelling reason why this must be established prior to the commencement of any development. I have therefore amalgamated and revised the wording as the PPG states that it is good practice to keep the number of conditions to a minimum and that pre-commencement conditions should only be used where there is a clear justification.

[6] Local Highway Authority Consultation response dated 30.8.18

21. Details of the parking arrangements are shown on the submitted plans and therefore, it is only necessary to require their provision before the dwellings are occupied.

Conclusion

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

Helen O'Connor

Inspector

Schedule of Conditions (6 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: Location Plan 775 L01 Rev A; Site Layout 755 P01 Rev B; Barrow House (Plot 5a) Plans and Elevations 775 P100; Chilbrook House (Plot 5b) Plans and Elevations 775 P101; Boundary Treatments 755 P02 Rev A; Parking and Refuse 755 P03 Rev A and Garages and Carports Plans and Elevations 679 P110 (only in relation to details of double garage for plot 5a, Barrow House).

3) The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans hereby approved or in materials which shall previously have been approved in writing by the local planning authority.

4) No dwelling shall be occupied until:

   1. A bird nest box, such as the Schwegler 1SP, has been provided on the southern elevation of the garage associated with the dwelling shown on plan as Barrow House. The exact position of the box shall be informed by a suitably qualified ecologist and installed in accordance with best practice guidance.

   2. An integral bat box, such as the Habibat 001, has been provided on the south eastern rear elevation of the dwelling shown on plan as Chilbrook House. The exact position of the box shall be informed by a suitably qualified ecologist and installed in accordance with best practice guidance.

   This condition will be discharged through the receipt of a letter from the project ecologist providing evidence and confirming that the biodiversity enhancements have been provided in accordance with this condition.

5) No dwelling shall be occupied until a foul and surface water drainage scheme has been implemented in accordance with a scheme previously approved in writing by the local planning authority.

6) No dwelling shall be occupied until the car parking spaces, turning spaces and cycle parking provision have been provided in accordance with drawing reference 755 P03 A. For the avoidance of doubt the garage for Plot 5a shall be in accordance with the double garage plan and elevations shown on drawing 679 P110. Thereafter, the car parking spaces and cycle parking provision shall be kept available for this use.

The Planning Inspectorate

Appeal Decision

Site visit made on 10 November 2020

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 18 November 2020

Appeal Ref: APP/V3120/W/20/3253584
J Curtis and Sons Ltd, Thrupp Lane, Radley, Abingdon OX14 3NG

- 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 J Curtis and Sons Ltd against the decision of Vale of White Horse District Council.
- The application Ref P18/V1704/FUL, dated 4 July 2018, was refused by notice dated 4 December 2019.
- The application sought planning permission for Variation of condition 1 attached to planning permission 03/01126/FUL to allow permitted use of buildings A, C, D, F and G for a further period of 5 years (from the date of this application) without complying with a condition attached to planning permission Ref 03/01126/FUL, dated 28 August 2003.
- The condition in dispute is No 1 which states that: the uses hereby permitted shall cease on or before 31 August 2011 or immediately following the substantial completion of the extraction of sand and/or gravel on land in the applicants' control which lies adjacent to the application site, whichever is the sooner.
- The reason given for the condition is: to accord with the terms of the planning application, as amended, and to preserve the openness and amenity of this part of the Oxford Green Belt in the longer term.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of buildings A, C, D, F and G to business purposes at J Curtis and Sons Ltd, Thrupp Lane, Radley, Abingdon OX14 3NG in accordance with the terms of the application, Ref P18/V1704/FUL, dated 4 July 2018, and the plans submitted with it, subject to the following conditions.

    1) The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision.

    2) The premises shall be used for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Procedural and preliminary matters

2. The summary details set out above are taken from the documents submitted by the parties to the appeal. The application was made on the Council's form for an application 'for removal or variation of a condition following grant of planning permission. Town and Country Planning Act 1990. Planning (Listed

Buildings and Conservation Areas) Act 1990'. Although this is the commonly used term for an application under s73 of the Act, the statute (s73(1)) applies the section to 'applications…for planning permission for the development of land without complying with the conditions subject to which a previous planning permission was granted.'

3. The effect of a successful application under s73 is the creation of a new planning permission subject to different condition(s) while the original remains extant. It is for the applicant/appellant to choose which to implement.

4. In this case, the original decision dates from December 1992 when, on appeal, enforcement notices were quashed, planning permissions granted and s78 appeals allowed. It appears from the subsequent decision by the Council that the relevant permission is that granted in respect of application RAD/57/15[1] (the 1992 permission). It concerns buildings A, C, D, F and G. While permission was granted in each case for the use of the building by the then named occupier, the only conditions were condition 1 (requiring the use to cease on or before 10 years from the decision date) and condition 2 which limits the use of the buildings to purposes within Class B1. Although the appellants also refer to a building E, I can find no other reference to this building and do not consider that further.

5. By virtue of condition 1 of the 1992 permission the use of the buildings should have ceased on 10 December 2002. On 28 August 2003 the Council granted planning permission[2] (the 2003 permission) for 'variation of condition 1 of Approval RAD/57/15 to allow the permitted uses of buildings A, C, D, F and G for a further 8 year period.' This was subject to one condition only which stated that 'the uses…shall cease on or before 31 August 2011 or immediately following the substantial completion of the extraction of sand and/or gravel on land…adjacent to the application site, whichever is the sooner.'

6. While the 2003 permission would appear to have been approved pursuant to s73 of the Act, by the date of its approval, the 1992 permission had lapsed. By the date of consent, the 2003 permission was therefore the only extant permission.

7. The 2003 permission lapsed in August 2011. As the Council notes, the continued use of the buildings for various commercial purposes represents a breach of planning control which is vulnerable to enforcement action. Equally clear is that in July 2018 when the appeal application was made, there was no extant planning permission. The appeal application, made under s73 of the Act, is therefore misconceived.

8. In dealing with this appeal I shall therefore treat the application as one made under s73A(2)(b) of the Act, namely for permission for development carried out before the date of the application by virtue of non-compliance with the one condition to which the 2003 permission was subject.

9. That leaves the question of how to describe the development for which retrospective permission is sought. Given the way the Council determined the 2003 permission, the development allowed is not described. It does however refer to the 'permitted uses of buildings A, C, D, F and G'. These uses are set out in the 1992 permission although the buildings are described by reference to

[1] Appeal T/APP/V3120/A/91/197081
[2] 03/01126/FUL

their former and/or current occupiers rather than by letter and by reference to the activities then taking place in each.

10. However, only Building A is still occupied now as it was in 1992. To describe the development in the same terms as in 1992 would not, in my view, be sufficiently clear. The buildings to which the application relates are clearly shown by letter on the application plan. In all the circumstances of this appeal I consider it reasonable to describe the development for which retrospective planning permission is sought as 'the change of use of buildings A, C, D, F and G to business purposes.'

Main Issues

11. The appeal site is within the Oxford Green Belt. The main issues for my determination of this appeal are therefore:
    (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (Framework) and any relevant development plan policies.
    (b) The effect on the openness of the Green Belt.
    (c) The effect of the development on users of Thrupp Lane with regard to highway safety and recreation; and
    (d) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

12. The planning history of the site is set out fully in both the Council's report to Committee dated 4 December 2019 and in the 1992 permission appeal decision letter. In short, the buildings that are the subject of this appeal were erected in association with a mineral planning permission dating back to 1954 under the permitted development rights then available.

13. The 1954 planning permission has not been submitted in evidence. However, the material condition is that which states:

> "All plant, buildings, foundations and machinery shall be removed from the site by the operator at such time as the Local Planning Authority, after consultation with the operator, is satisfied that they are no longer required for the purpose of working gravel".

14. It appears that the buildings have not been used in association with the permitted gravel extraction for a period of at least 45 years. The commercial uses have been subject to planning permissions granted over the years by the Council. In respect of the subject buildings, those planning permissions are the ones granted in 1992 (on appeal) and in 2003.

15. Although the non-mineral uses of the buildings are subject to planning control by the Council, it seems to me that it is the mineral planning authority, Oxfordshire County Council, that is responsible for the future of the buildings themselves. It has the power to require their removal in accordance with the condition of the 1954 planning permission set out above once it is satisfied,

having consulted the mineral operator, that the buildings are no longer required for the purpose of mineral working.

16. As I understand it, the County Council has resolved that mineral working at the site has permanently ceased. In accordance with the provisions of the statute and guidance relating to the review of old mineral permissions I understand that the County Council has a duty to serve a Prohibition Order in such circumstances.

17. It has previously done so in respect of the site in 2012. However, this Order was quashed on appeal. Although the County Council has resolved to serve a further Order, a planning application has been submitted which it has concluded may be new evidence of an intention to work the mineral in the relevant site. By virtue of a decision of the County Council Planning and Regulation Committee on 1 June 2020, the Order has not been served and a decision to do so will be made once the new planning application has been validated and, as necessary, determined. I have no evidence that either has occurred.

18. My understanding therefore is that the future of the buildings is yet to be resolved. For the purpose of my determination of this appeal I must therefore treat them as buildings erected in accordance with a mineral planning permission for the purpose of mineral working but which are now used for non-mineral purposes. In other words, the appeal application is for the re-use of buildings in the Green Belt.

19. Such development is addressed by Core Policy 13 (CP13) of the Vale of White Horse Local Plan 2031 Part 1-December 2016 (LP). The wording of CP13 seems to me generally consistent with Framework paragraphs 143 to 147. However, the wording of Framework paragraph 146 (d) (which is the same as 2012 Framework paragraph 90 with which the LP would have been found to be consistent) and the relevant part of CP13 differ slightly.

20. Framework paragraph 146 sets out a closed list of those forms of development which are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Form of development (d) is the reuse of buildings provided that the buildings are of permanent and substantial construction (emphasis added). The same wording for this form of development was used in paragraph 90 of the Framework published in 2012.

21. CP13 includes the same closed list as paragraph 90 of the 2012 Framework and states that these forms of development are not inappropriate in the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. The list includes the re-use of buildings '…provided that they are permanent and of substantial construction' (emphasis added).

22. I am not aware of any caselaw on the interpretation of Framework paragraph 146 (d) nor is it referred to in either the Planning Practice Guidance or the commentary in the Encyclopedia of Planning Law and Practice. The appellants have not argued that CP13 is inconsistent with the Framework and that, in accordance with Framework paragraph 213, the latter should therefore be given greater weight. Nevertheless, in my view, the phrasing of CP13 gives it a meaning different to that of the Framework and makes the policy inconsistent

with it. I therefore conclude that CP13 cannot attract full weight in accordance with Framework paragraph 213.

23. If I am wrong in that assessment and CP13 should, in fact, bear the same meaning as Framework paragraph 146 (d) full weight should be given to CP13 in accordance with Framework paragraph 213. In either case, it is, in effect, the Framework phrasing that must be applied.

24. The Framework and CP13 if consistent with it therefore require three considerations. First, are the buildings of permanent and substantial construction? Second, what is the effect of their use on the openness of the Green Belt? Third, what is the effect of their use on the purposes of including land within the Green Belt? These are addressed in turn.

25. The Council describes the buildings as being temporary 'by definition' rather than permanent in nature. That is correct in the sense that they have a finite life given the wording of the quoted condition of the 1954 mineral planning permission. However, the Framework and CP13 if consistent with it requires a different assessment, namely whether they are of permanent and substantial construction. I therefore disagree with the Council's interpretation of the meaning of 'permanent' in Framework paragraph 146 (d) although it may be a correct interpretation of CP13. I have explained above why, in that case, I do not believe CP13 to be consistent with the Framework.

26. Building A is a blockwork structure with a corrugated dual pitch roof with a number of almost full-height openings in the front elevation housing roller shutters. It was occupied by R P Cherry and Sons Ltd, as it was in 1992. Building G is of similar construction, size and design. At the date of my site inspection it was vacant.

27. Buildings C, F and D are, respectively, the westerly, central and easterly bays of a single blockwork building also under a corrugated roof. There is a small extension to the side of Building C. All were occupied at the date of my site inspection although, in each case, by a different occupier to that recorded in 1992. I do not believe the user, Andy's Autos Ltd, identified for Buildings C, F and D in paragraph 1.3 of the appellants' transport appraisal (TA) is correct.

28. There is no material difference between the buildings today and the description given of them in the 1992 permission appeal decision letter. The evidence strongly suggests that they have been in existence for at least 28 years and, from other paragraphs in the same decision letter, for considerably longer. My fact and degree judgement is that each of the buildings that are the subject of this appeal are of permanent and substantial construction.

29. I turn now to the effect on openness. Whatever the outcome of this appeal, the buildings will remain until their future is resolved by the County Council. The presence of the buildings affects the openness of the Green Belt but the reuse of the buildings themselves can have no further effect, either negative or positive. However, the associated use of the areas of hardstanding in front of buildings A and G could.

30. The appeal buildings lie within a larger industrial estate at the end of Thrupp Lane. Not subject of this appeal application are a number of small buildings and a small yard to the west of Building C and to the south of the Building G yard. In front of Buildings C, F and D is a small area for vehicle parking, the

use of which has no material effect on the openness of the Green Belt. Opposite these buildings is the vehicular access to a concrete plant operated by Tarmac which covers an extensive area. To the east and north of Building D is the even more extensive yard and large buildings associated with Terrafirma Roadways.

31. At the time of my site inspection, the yard in front of Building A was used for vehicle parking. As noted above, Building G was vacant and the yard thus largely unused. How it may be used going forward would depend on any future occupier. In the context of the area as a whole and the continued uses of the other extensive open areas, these two yards are quite modest in extent. In my judgement, their use has and would have a very limited effect on the overall openness of this part of the Green Belt.

32. Finally, while the Council contends that the appeal proposal would conflict with the purposes of including land within the Green Belt it does not say which of the five set out in Framework paragraph 134 would be compromised.

33. In my judgement the only one of relevance would be (c), to assist in safeguarding the countryside from encroachment. If the appeal was dismissed the other businesses discussed above would remain as would Buildings A, G, C, F and D. I believe the appellants are correct in saying that there is nothing in the condition of the 1954 planning permission that could require the hardstandings to be removed although they may be as part of any restoration scheme. It seems to me therefore that the only practical effect of denying planning permission would be to remove the vehicle parking use of the hardstandings associated with Buildings A and G. I do not consider this would have any material effect on the extent to which this area of countryside is already encroached upon by development.

34. To conclude on this main issue, having regard to the Framework and CP13 to the extent that it is consistent with it, I consider the development that is the subject of this appeal to be not inappropriate development in the Green Belt.

35. Having considered the effect of the development on the openness of the Green Belt in coming to my decision on main issue (a) it is unnecessary to consider the matter again under main issue (b). In addition, having concluded that the development is not inappropriate development in the Green Belt, main issue (d), the Green Belt balance to establish whether or not very special circumstances exist, does not require to be considered.

The effect of the development on users of Thrupp Lane with regard to highway safety and recreation

36. Thrupp Lane runs generally south from its junction with Radley Road. At its northern end it is two-way and subject to a 30mph speed restriction. However, over much of its length it is single-track with informal passing places and subject to the national speed limit. Much of the Lane is more or less straight with good forward visibility. There are however three 90-degree bends at regular intervals. Together with the reduced width, the geometry of the highway has a limiting effect on traffic speed. Up to a point around the road junction just beyond the entrance to the H Tuckwell & Sons Ltd quarry it is a public highway. It is however in what appeared to me to be in a generally poor state of repair with an uneven surface and failing verges in many places. Beyond and running adjacent to Thrupp Lake, it is a private road giving access

to the appeal buildings and the other development referred to under my first main issue.

37. Many of those making representations to the Planning Inspectorate have drawn attention to the comment by the Inspector in the previous 1992 appeal that '…it is incontrovertible that Thrupp Lane is of inadequate width to cater satisfactorily for the mixture of light and heavy traffic that uses it'. In my view that certainly remains the case now. However, in my experience, this is not uncommon in country areas where quarries have operated, as here, from the 1950s or earlier; a time when the vehicles serving them were much smaller than those doing so today.

38. It is also clear from the many representations received that the conflict between those using the Lane for recreation and those using it for access to the various commercial premises is a matter of great concern to the local community. The Lane is well used for recreation by walkers and runners and became part of the Sustrans National Cycletrack Network Route 5 (NCN5) in 2002, interestingly before the Council granted the 2003 permission extending the use of the buildings subject of this appeal for a further eight years.

39. This matter is considered in the Radley Neighbourhood Plan 2018-2031 (NP), which was adopted in 2018, where the Radley Lakes Area is discussed in section 4.6. The appeal site lies on the edge of but within the area defined on NP Map 7 and the appeal must be assessed against NP policy PP.8. The policy applies only within the area shown on NP Map 7 and does not apply to the whole length of Thrupp Lane.

40. The potential for nature conservation and quiet recreation in this area has increasingly been recognised since the approach to quarry restoration changed from one of backfilling with pulverised fuel ash from Didcot power station to allow a return to agriculture to one of restoration for nature conservation. However, a fair reading of the strategy set out in NP 4.6.2 is that realising this potential is the end goal to be achieved through a gradual process as the various mineral planning permissions expire and mineral working ceases. A new access solution which removes the current conflicts between recreational users and HGV traffic is said to be the key to unlocking this potential.

41. NP Community Action CA.11 sets out what the new access solution should be. In short, it requires the provision of a new road leading westwards and the closure of Thrupp Lane to vehicular traffic at a point to the north of the H Tuckwell & Sons Ltd quarry. The NP recognises that such a scheme can only be achieved by the Parish Council through cooperative working with all the local authorities and the relevant landowners.

42. NP policy PP.8 addresses three types of development. I agree with the Parish Council that it is only the final paragraph of the policy that applies and then only the second bullet. This says that development will be supported only if it meets the five criteria set out earlier in the policy and it is served by a suitable and safe access route that avoids conflicts between vehicles accessing the site and pedestrians and cyclists accessing the wider area.

43. Turning first to the five criteria, I have already concluded in considering the first main issue that the development would comply with CP13 (criterion 1) if consistent with the Framework. No evidence has been submitted to suggest that the appeal development would cause any detriment to the wider landscape

(criterion 2) or the integrity of the local ecology (criterion 4), nor has the Council raised any issue in respect of LP policy CP42, flood risk (criterion 3). Criterion 5 requires appropriate transport mitigation to be included. In my view that is embraced by the second bullet set out in the paragraph above. Subject to conclusions on that, I consider that the appeal proposal meets the five criteria of NP policy PP.8.

44. There are in fact two parts to the second bullet. First, the access route must be suitable and safe and, second, it must avoid the conflicts set out.

45. Dealing first with 'suitable and safe', the appellants have submitted a TA which has been reviewed by the Highway Authority. The TA estimates that bringing the uses of the buildings to a halt would reduce traffic on the public road section of Thrupp Lane by around 25-30%[3]. This would represent an absolute reduction in traffic levels. However, given both the other users of the road (which include the additional users of the industrial estate within which the appeal buildings lie, the Tarmac concrete plant and the quarry operated by H Tuckwell & Sons Ltd) and the nature of the traffic that would be removed (mostly cars and light goods vehicles), the TA asserts that there would be no material change in the character of the traffic on the Lane as the majority of the HGV traffic would be retained.

46. Taking the geometry of the Lane and its limiting effect on traffic speed into account, the Highway Authority raised no objection to the appeal proposal on highway safety grounds. Furthermore, there is no evidence that any form of weight restriction on Thrupp Lane has been imposed or considered. I acknowledge that this is a matter of great concern to those making representations, but I have no other professionally prepared technical evidence to lead me to disagree with the assessment of the responsible authority. I appreciate that the local community consider that a number of accidents have been caused along the Lane but neither the appellant nor the Highway Authority draw my attention to any formal accident data.

47. There is therefore no evidence from the Highway Authority to lead me to conclude that the access route as a whole is anything other than suitable and safe.

48. I now turn to the second part of the bullet. In doing so, it is necessary to understand the nature of the vehicle/recreational user conflicts that are occurring along Thrupp Lane. In considering this matter it is important therefore to draw a distinction between the effect of traffic arising from the appeal buildings and that arising from other quarry and commercial activities which use the public highway for vehicle access.

49. The traffic survey submitted by the Parish Council explicitly states that the survey points were chosen to distinguish between traffic from the Tarmac and the Tuckwell sites alone; neither are subject of this appeal. It recognises that this would omit traffic '…using only the top part of Thrupp Lane, but this was not the main focus of interest.' Furthermore, in the photographs submitted by local residents it is clear that many of the large vehicles shown as being responsible for the issues raised are in the company livery of Tarmac or other

[3] I note that this calculation is disputed by the Friends of Radley Lakes. However, as explained in the 'procedural and preliminary matters' above, the application is for permission for development already carried out. The traffic is already being generated and the approach in the TA therefore seems reasonable and is, in any event, not challenged by the Highway Authority.

well-known regional aggregates companies. The HGV movements from Terrafirma are also specifically referred to. None of these operations are the subject of this appeal and there is no reason to believe that its outcome will materially affect the issues identified.

50. There is therefore very little evidence substantiated by survey data of actual vehicle/recreational user conflicts being caused on Thrupp Lane by vehicles using the appeal buildings although there are references in the representations made to issues arising from vehicles accessing Building A.

51. To summarise, the appeal development is served by a suitable and safe access route and there is no evidence that the appeal proposal will materially affect, one way or the other, the vehicle/recreational user conflicts that already exist. I do not therefore consider transport mitigation measures to be appropriate or necessary and thus find no conflict with criterion 5. There is therefore no conflict with the final paragraph of NP policy PP.8 and thus no conflict on this issue with NP policy PP.8 as a whole.

Conditions

52. In considering the conditions that should be imposed on the planning permission that I shall grant I have had regard to the advice in the Planning Practice Guidance.

53. The appellants only ever sought a planning permission for a further period of five years. In the event of the appeal being allowed, the Council has suggested such a period be imposed by condition. In the particular circumstances of the area, which include the need to resolve the position with the mineral planning permissions, when and how the appeal site may be restored and when progress can be made on achieving the aspirations and strategy set out in the NP for the Radley Lakes Area, such a condition is entirely appropriate and necessary.

54. Although the Council has not suggested it, I also believe a condition is required to control the uses to which the buildings may be put. Such a condition was imposed on the 1992 permission but it was lost given the form in which the Council issued the 2003 permission. Nevertheless, as the appellant at least has approached this matter as if the 1992 permission was, in essence, being renewed for a second time, it is appropriate to reimpose it now in a form that recognises the changes made to the Town and Country Planning (Use Classes) Order 1987 as amended since 1992 and the current advice on restricting changes within a Class set out in the Planning Practice Guidance.

Conclusion

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

Brian Cook

Inspector

The Planning Inspectorate

Appeal Decision

Site visit made on 15 December 2020

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/V3120/X/20/3252127
Youlbury Cottage, White Barn, Sandy Lane, Boars Hill, Oxford OX1 5HH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Ashley Trice against the decision of Vale of White Horse District Council.
- The application Ref P20/V0490/LDE, dated 19 February 2020, was refused by notice dated 30 April 2020.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is described as "land to the east of the property coloured pink on the picture".

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Preliminary Matters

2. I am normally obliged to use the description of development as included on the application form although that describes the location and not the development that the appellant wishes to establish the lawfulness of. The Council re-described the application on the decision notice as "Lawful Development Certificate for the existing use of the land as residential curtilage". That however does not describe something for which a certificate can be sought because "curtilage" is not a use of land and it is not an act of development for which S191(1) can be applied to.

3. The application refers in section 6 in relation to why the LDC should be granted to "the land has been used as a garden since 2001". It is clear from this and the representations that the appellant, the Council and other parties have understood that the appeal relates to whether the use of the land as domestic garden in connection with the residential occupation of Youlbury Cottage is lawful. The main parties were written to in order to confirm the correct description of the development and I have used this on the certificate.

4. For the purposes of the Act uses are lawful at any time if, under s191(2)(a) no enforcement action may be taken in respect of them whether because they did not involve development or require planning permission or because the time for enforcement action has expired for any other reason. The application results from an enforcement investigation relating to the construction of a shed to the south-east of the dwelling. However, it has been confirmed that at the date of

the application no enforcement notice was in force and so there is not a contravention of S191(2)(b) that would prevent the issue of a LDC. I have not gone on to consider the lawfulness or otherwise of the shed which is therefore a separate matter.

Main Issues

5. I will constrain my consideration to whether the use for of the land as domestic garden in connection with the residential occupation of Youlbury Cottage was lawful on the date of the application. I am required to determine whether the Council's decision to refuse the application was well founded. However, there are a number of matters of relevance to the consideration of that.

6. The term 'curtilage' does not relate to a use of land being derived from conveyancing law and any building may have a curtilage regardless of the use of that building. If however, the land is within the curtilage of a 'dwellinghouse' then by reason of S55(2)(d) of the Act, "the use of any buildings or other land within the curtilage…for any purpose incidental to the enjoyment of the dwellinghouse as such", is excluded from the definition of development within S55(1).

7. There is no dispute that Youlbury Cottage is a dwellinghouse. It is first of all necessary to consider whether the areas shaded in pink on one of the plans submitted with the application, along with undisputed areas, fall within the curtilage of that dwellinghouse. If so, the use of those areas for purposes incidental to the residential occupation of that dwellinghouse would not constitute development and would therefore be lawful.

8. If I do not consider that the use is lawful on that basis, it would be necessary to go on to determine whether the use of the land beyond the curtilage as domestic garden would have constituted the making of a material change in the use of that land. If so, having regard to the time limits under S171B(3) of the 1990 Act, it would then be necessary to consider whether that use had continued for a period of 10 years prior to the date of the application. The material date for that would be 19 February 2010.

9. The onus is upon the appellant to demonstrate their case on the balance of probability. The evidence does not need to be corroborated independently in order to be accepted but it must be sufficiently precise and unambiguous.

Reasons

10. The Council has referred to a number of legal authorities regarding the concept of curtilage. I would generally agree with their assessment of the basic legal principles. It has been generally held that for land to fall within the curtilage of a building, it must be intimately associated with the building to support the conclusion that it forms part and parcel of the building. However, in Skerritts of Nottingham[1] the Court of Appeal held that previous cases including Dyer[2], "went further than it was necessary to go in expressing the view that the curtilage of a building must always be small, or that the notion of smallness is inherent in the expression". Case law overall has established that it is primarily a matter of fact and degree for the decision maker to decide what weight should be given to each of the relevant factors which are, (i) the

[1] *Skerritts of Nottingham Ltd v SSETR (No.1) [2000] EWCA Civ 60, [2001] JPL 1025*
[2] *Dyer v Dorset CC [1988] 3 WLR 213*

physical layout of the building and land; (ii) ownership past and present; and (iii) use or function past and present.

11. Youlbury Cottage is one of a pair of semi-detached dwellings, along with Gardener's Cottage, within a cluster of dwellings in an attractive wooded setting. At rear of the dwelling there is a modest, lawned garden separated from Gardener's Cottage by a low picket fence which also defines the rear boundary with a track that runs between the property and the nearest building to the south-west, 'Whitebarn'. The lawn continues on to the south and there is an incomplete line of planting along with more mature hedging and trees. That line may approximate to an apparent line indicated on the application plan but does provide any substantial barrier. The lawn continues past this line of planting and into the first area that the appeal relates to, the area shaded pink on one of the submitted plans that lies to the south-east of the dwellinghouse (the 'south-eastern' area).

12. The south-eastern area is on slightly raised land relative to the more formal lawn. It contains some mature trees, semi-formalised planted beds, some informal surfacing of what appears to be mulched chippings in places mixed with gravel as well as an informal grassed area in front of a large outbuilding with decking, climbing play-equipment and a log-store. This is enclosed by a mixture of lap-fencing and lower log-walling on the side adjoined by 'Agents Cottage' with the stacked-log walling continuing around the south-eastern boundary. On the other side of the south-eastern land, the ground level drops off distinctly to a lower track. From the appeal site, I could see what looked like old stone banks retaining land on the other side of that track which I am told is on land that is a part of the former Victorian pleasure garden.

13. The other area of land that is in dispute in this appeal is a roughly triangular shaped area to the north-east (the 'north-eastern' area) of Youlbury Cottage towards Agent's Cottage and which is currently used as part of the access, parking and vehicle circulation area on the approach to the front of the dwellinghouse. This is accessed from the area in front of the cottage by a gravel track but also from the side and rear via the lawn. The gravel track also leads along the north-eastern boundary through to the south-eastern area.

14. On entering the north-eastern area from the wider estate land it is clear that the parking area is closely associated with the dwellinghouse and that it is a private area. Visitors approaching would be apparent to people within the dwellinghouse. When I visited, I could also see that the substantial play equipment and domestic paraphernalia strewn around the south-eastern area support the uncontested position that all of the land including the large outbuilding, is presently used for purposes incidental to the occupation of Youlbury Cottage. Both of the areas of land are enclosed as one with the dwellinghouse and are closely related to it in my view. That close relationship to the dwellinghouse is due in part to the degree of enclosure and consequent separation from adjoining land but also the way in which the land is largely visible from the building and area immediately surrounding it.

15. Both areas of land have previously been in the same ownership as the adjoining Gardener's Cottage and along with other dwellings in this cluster would have originally been part of the wider Youlbury House Estate. From what I could see from within the appeal site as well as upon approach along the

shared driveway, the land within the remaining estate is now distinctly separate from any of the gardens around this and nearby dwellings.

16. There is some limited evidence such as the historic maps submitted by interested parties, to indicate that the south-eastern area may in the past have been more wooded in nature than at present. The boundaries shown on the historic maps also indicate that there may have been some separation from the areas immediately around the cottages previously, such as when the whole area was in single ownership. Over time that appears to have been eroded including at some point prior to 2016 the connection of both areas of land to Gardener's Cottage rather than Youlbury Cottage. There is also some evidence that is limited in any detail about a track across the south-eastern land as well as its use as what seems to have been a low-key garden area. However, there has been a significant change in circumstances by reason of the estate selling off individual dwellings and the land around them.

17. Looking in the round on the basis of the evidence submitted as a whole including what I saw, I am satisfied that the physical layout of the dwellinghouse and the land are closely and intimately linked. There is, as part of that, connectivity between all of the land, both that which is undisputedly part of the curtilage as well as the disputed areas. Ownership has varied and, in the case of the south-eastern land, possibly the function has also changed when there was a significant change in circumstances across the former estate. However, even when in different use and ownership, the south-eastern land is so closely related to the dwellinghouse that I do not consider this this overrides the other aspects of the judgement that I need to make. There is a dispute over the position of a fence on the ground between Youlbury Cottage, Gardener's Cottage and Agent's Cottage but even if neighbours have a right to access or take ownership of a small portion of the land, this does not make a significant difference to my overall consideration.

18. All of the land was at the time of the application and when I carried out my site visit, used for purposes incidental to the dwellinghouse. All of the land has an intimate relationship with the dwellinghouse and is in the same ownership. As a matter of fact and degree I am satisfied on the balance of probability, that the land currently forms part of the curtilage of the dwellinghouse. The use of land within the curtilage of the dwellinghouse for purposes incidental to the enjoyment of the dwellinghouse does not, given the provisions of s55(2)(d), involve development of the land. Consequently, the use of land as domestic garden is lawful. It is therefore unnecessary for me to consider whether the use as domestic garden has involved a material change in the use of the land or for how long that use has continued.

Conclusion

19. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use for of the land as domestic garden in connection with the residential occupation of Youlbury Cottage, was not well founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Harwood

INSPECTOR

The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 19 February 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The land is within the curtilage of the dwelinghouse. Under S55(2)(d) of the Town and Country Planning Act 1990, the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such, does not involve the development of land. By virtue of s191(2)(a) of the 1990 Act, the use of land as domestic garden is therefore lawful.

Signed

A Harwood
Inspector

Date: 29 December 2020

Reference: APP/V3120/X/20/3252127

First Schedule
The use of the land as domestic garden in connection with the residential occupation of Youlbury Cottage.

Second Schedule

Land at Youlbury Cottage, White Barn, Sandy Lane, Boars Hill, Oxford OX1 5HH

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated:29 December 2020

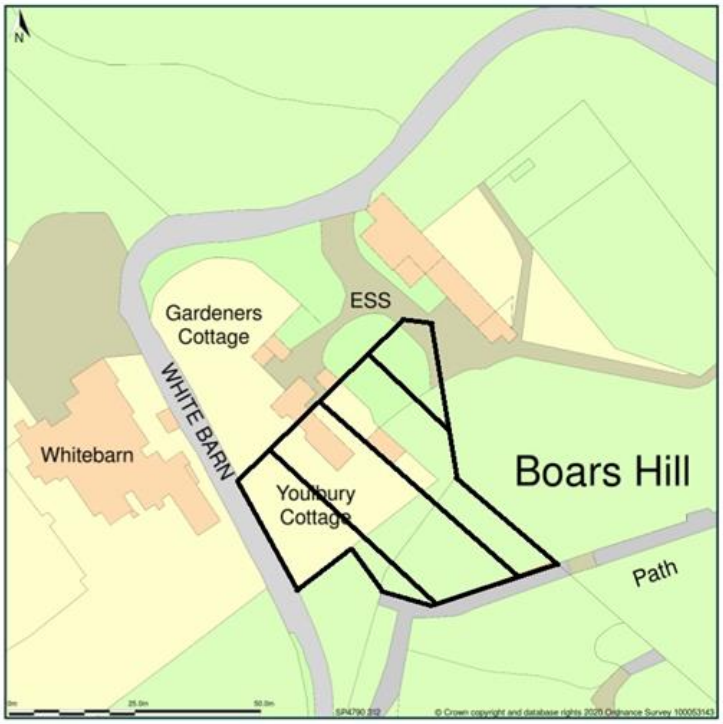
by Andy Harwood CMS MSc MRTPI

Land at: Youlbury Cottage, White Barn, Sandy Lane, Boars Hill, Oxford OX1 5HH

Reference: APP/V3120/X/20/3252127

Scale: Not to scale

Youlbury Cottage White Barn, Sandy Lane, Boars Hill, Oxford, Oxfordshire, OX1 5HH



Site Plan shows area bounded by: 447831.17, 203055.6 447972.6, 203197.02 (at a scale of 1:1250), OSGridRef: SP4790 312. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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The Planning Inspectorate

Appeal Decision

Site visit made on 18 August 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/V3210/W/20/3251366.
5 Toynbee Close, North Hinksey, Oxford, OX2 9HW.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Toynbee Close Development Ltd and 5 Toynbee Close Ltd. against the decision of Vale of the White Horse District Council.
- The application Ref. P19/V1512/FUL, dated 19 June 2019, was refused by notice dated 6 December 2019.
- The development proposed is the erection of a new building containing 2 no. x 2 bedroom flats to the rear of 5 Toynbee Close, demolition of car port and outbuilding to facilitate access from Toynbee Close with provision of parking with bin and cycle stores. Demolition of existing dwellinghouse and erection of a 2 storey building containing 1no. x 3 bedroom flat and 2no. x 1 bedroom flats with provision of parking with bin and cycles stores.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new building containing 2no. x 2 bedroom flats to the rear of 5 Toynbee Close, demolition of car port and outbuilding to facilitate access from Toynbee Close with provision of parking with bin and cycle stores. Demolition of existing dwellinghouse and erection of a 2 storey building containing 1no. x 3 bedroom flat and 2no. x 1 bedroom flats with provision of parking with bin and cycles stores at 5 Toynbee Close, North Hinksey, Oxford, OX2 9HW, in accordance with the terms of the application, Ref P19/V1512/FUL, dated 19 June 2019, and the plans submitted with it as amended, subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are:

    - the effect of the proposed development on the character and appearance of the area, with particular emphasis on the design of the new buildings; and
    - the effect on the living conditions of the occupiers of neighbouring properties by loss of privacy from being overlooked.

Reasons

Background

3. The appeal site comprises a bungalow and its large garden which lie at the eastern end of Toynbee Close, a short cul-de-sac, in a mainly residential area

of Botley a suburb to Oxford. It is proposed to demolish the exiting bungalow and erect a new detached two storey building comprising two 2-bed flats at the rear (northern) end of the site (the rear development) and also erect a new two storey building mostly over the footprint of the existing bungalow which would accommodate three flats (a three bed flat on the ground floor and 2 one-bed flats on the first floor. The submitted layout shows 7 parking spaces – 4 near the centre of the site fronting an extended driveway, and three on raised ground at the front of the site with access directly off Toynbee Close.

4. The appellant advises that planning permission has been granted for the erection of a new dwelling on the rear part of the site under ref. P16/V3039/FUL, together with a more recent permission for a flatted development under the ref. P20/V0301/FUL. These separate permissions over a similar part of the site are referred to by the appellant as a 'fallback' position which can be implemented, nevertheless the appeal scheme must be assessed on its individual planning merits.

Effect on character and appearance

5. In considering this issue I have had regard to the Council's North Hinksey Parish Character Assessment (January 2018) and particularly the Elms Rise Estate Character Area. The assessment describes the general character as a classic suburban character of two storey pyramid roofed semi-detached houses set back with green front gardens. The assessment recognises the high degree of consistency in architectural uniformity although it describes the Hutchcombe Road area (to which Toynbee Close lies off) as having a less uniform character and represents a transition to the lower density development at Cumnor Rise, and that here there is a greater mix of one and two storey houses and materials. I have also had regard to the emerging North Hinksey Village Neighbourhood Development Plan (NHVNDP) as modified and pending prior to referendum, although this is not yet part of the development plan.

6. At my site visit I noted the topography of the local part of North Hinksey is undulating and Toynbee Close slopes away from Hutchcombe Road before rising again at its eastern end. The level of Toynbee Close outside the appeal site is therefore at a higher level than the slab/floor level of the existing bungalow. There is also a slope running north-south so the rear part of the appeal site garden slopes downwards towards the rear of properties in Cope Close. The appeal site and surrounding gardens tend to be well landscaped with trees and shrubs although I noted at the visit that there is evidence of trees having been felled at the appeal site. Some mature trees in adjacent gardens overhang the site.

7. In terms of the local townscape the general character of the area is formed by mainly two storey properties both detached and semi-detached although in Toynbee Close there is also a pair of bungalows between the houses as well as the bungalow on the appeal site. The architecture of the area is therefore quite varied although most properties, whether single or two storeys, have some form of traditional pitched roof.

8. Dealing with the proposed new building on the front part of the site, this is proposed to have a contemporary form with the building broken up into a series of flat roof 'boxes' by different materials, roof heights and widths. On

the face of it the building would contrast markedly with the other properties in the Close, however, the actual effect is not likely to be materially harmful to the local townscape. The two storey form of the building, with a flat roof as an integral part of the design, would not appear over bulky alongside the neighbouring house (no.4) which is two storey plus the pitched roof and thus would be higher. On the eastern side the new property would be alongside trees/shrubs which enclose a parking area and the rear gardens of houses in Maple Close. Therefore, in visual terms the new building would only be read as part of the western end of the Close and its position at the end of this cul-de-sac limits the degree to which it affects the public realm. Moreover, the palette of materials proposed would not be dissimilar to the varied buff brick colour, brown vertical tile hanging and grey/brown roof tile that exist locally.

9. Taking the general range of materials, topography and position in the street scene into account, I find that the flat roof design of the building would not be an unduly obtrusive or alien feature in the street scene or would be visually inappropriate. It would not harm the general character of the area as described in the character assessment.

10. In terms of the proposed front parking spaces, these will be level with the road at the end of the Close, as opposed to driveways sloping down to the properties as per the other houses, but the parking area has to be seen in the context of the larger parking area at the end of the cul-de-sac. I find that the visual impact of this parking area in the street scene would be limited and not prominent or out of place as the Council alleges.

11. Turning to the building on the rearward part of the site, at the site visit I noted that this area was well contained at the moment by mature landscaping in most of the adjoining gardens. Further, because of the length of the garden a building here would not be read in conjunction with the frontage housing development in any of the existing Closes.

12. I find that the proposed rearward building would reasonably assimilate with its surroundings. The fact that the Council have already permitted a building in this location of similar design and scale adds weight to this conclusion.

13. I have also had regard to the general advice on 'achieving well-designed places' in the NPPF. Paragraph 127 (c) advises that planning decisions should ensure new development is sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change (such as increased densities).

14. Overall, I find that the design and scale of both buildings proposed and the related aspects of the development would result in an innovative and visually attractive form of development which establishes a distinct identity in itself and is visually appropriate to fit in with the surroundings of the site and the wider area. The proposal accords with the requirements of Policy CP37 of the Vale of the White Horse Local Plan (VWHLP) Part 1, and respects local character as per Policy HS1 of the emerging NHVNDP.

Effect on living conditions

15. This issue is concerned with overlooking from windows and a balcony/terrace particularly at first floor level, and whether these would result in a loss of privacy and amenity for the occupiers of existing and the new properties and thus have a significant adverse effect as referred to in Policy 23.

16. Dealing with the rearward building first, the building has been designed with its main aspect facing south 'up' the site. Other windows at first floor level on the south elevation are shown to be glazed with obscure glass while the bedroom window on the west elevation faces a mature tree screen. The Council's main concern is the introduction of a first floor terrace facing south. This would look over the proposed flat roof of the new building mainly towards the garden and parking area, and oblique views to the east would be visually restricted by the proposed opaque glass screen. The provision and retention of this can be required by condition.

17. Although there could be some additional overlooking from the terrace when compared to that arising from the full width bedroom window in the permitted 'fallback' scheme, views towards the gardens of adjoining properties would be limited because of the degree of landscape screening which exists and the topography of the land.

18. Turning to the forward building, again the design here is for the main aspect to be north-south with minor flank windows glazed with obscure glass. The exception to this layout is the corner window to the front facing first floor flat. I considered the position of this at the site visit and noted that the front wall of the garage of the adjoining property (No.4) would be about the same distance from the road as the corner window. However, this adjacent property does not have any existing windows in the east facing flank other than a roof light to the garage. The proposed corner living room window would therefore face towards a blank wall rather than directly into this neighbouring property or its private amenity space, and to the public realm where a degree of overlooking has to be expected.

19. I conclude on this issue that the proposal would not materially harm the living conditions of neighbours by resulting in overlooking and loss of privacy and there is no conflict with the provisions of Policy 23 in terms of ensuring that a new development does not have a significant adverse effect on living conditions or residential amenity of the occupiers of neighbouring properties.

Other matters

20. In additional to the above issues, local residents are concerned about the increase in the density of development and resulting activity on site and also raise objections in terms of noise impact and light and traffic pollution. However, dealing with the latter first, I note that the highway authority did not raise objection to the increased level of traffic generation on Toynbee Close from one bungalow to 5 flats and it appeared to me that the nature of this part of the highway is adequate for the use proposed. Moreover, it has not been demonstrated that there is a local air pollution problem or that the degree of additional traffic would make this materially worse, or that the frequency of vehicle movement would harm residential amenity. The

proposal would give rise to more residential activity on site and may result in more light stemming from the properties, but the proposed development has to be considered in the context of the site being within a suburban residential area and the increase in noise or light emissions would not be materially out of place. I am therefore not able to give significant weight on these objections.

Planning balance

21. Bringing together my conclusions on the main issues I have found that the proposed housing scheme would reasonably fit in with the surroundings of the site and although a contemporary form of design is proposed this would not be harmful to the general residential character of the area. I am also satisfied that with appropriate conditions to control overlooking from upper floor windows and an aspect from the terrace in the rearward building, the proposal would not result in a level of overlooking which would have a significant adverse effect on the living conditions or amenity of the occupiers of neighbouring properties. For the reasons given, I find that the proposal is in accordance the relevant provisions of the development plan.

22. This position has to be balanced with the other adverse effects but these are limited and not of such weight as to outweigh the positive aspects of the development.

23. I have also taken account of the national guidance in the NPPF to achieve well designed places and make effective use of land. I find that the proposal meets the balance of guidance when the NPPF is read as a whole and the proposal should be regarded as 'sustainable development' which the NPPF seeks to achieve.

24. Overall, as the proposal accords with the development plan and the other material considerations do not outweigh this, the scheme should be permitted

Conditions

25. In terms of conditions the Council recommended 15 which I will consider under the same numbering. Moreover, where the conditions are 'pre-commencement' ones, the appellant's agent was given the opportunity to comment on them prior to the decision.

26. In addition to the condition on the commencement of the development (no.1) a condition specifying the plans that are approved (no.2) is necessary in the interest of clarity and the development must be carried out in accordance with these plans to maintain the appearance of the area. To ensure that the development is carried out in an appropriate manner further details are necessary of the existing and proposed ground levels (no.3); measures for the protection of trees that are to be retained (no.4); details of external materials (no.8) and boundary treatment (no.9); as well as a scheme for new landscaping (no.5).

27. In order to ensure the residential scheme has proper drainage to avoid pollution or flooding, further details of the means of disposal of surface and foul water are needed and the approved scheme must be implemented (no.6 & 7). I will therefore impose these conditions. The submission and agreement of further details of refuse storage and recycling (no.10) is

necessary to avoid pollution and in the interests of amenity and I will impose this along with conditions to ensure the implementation of the cycle parking facilities (no.11) and new access arrangements and vehicle parking facilities (no.12) in the interests of highway safety and sustainable transport. Finally, conditions to ensure that specific windows are non-opening below eye level and glazed with obscure glass (no.13 and 14) are reasonable and necessary to prevent overlooking of neighbouring properties and I will also impose no.15 for a similar reason to require the provision of a side screen, although I will amend this to also allow the erection of a solid wall 1.8m high in the light of an alternative scheme permitted by the Council.

Conclusions

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

David Murray

INSPECTOR

Schedule of conditions

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, A-02-100 Rev B, A-04-100, A05-101 Rev A, A-05-103 Rev B, A-03-100 Rev A, A-03-102 Rev B, A-03-300 Rev A and A-02-100 Rev B, except as controlled or modified by conditions of this permission.

3) Prior to the commencement of development detailed plans showing the existing and proposed ground levels of the site together with the slab, finished floor 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 details.

4) Prior to the commencement of any site works or operations relating to the development hereby permitted, 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. Written approval must be obtained 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 BS 5837 'Trees in relation to design, demolition and 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 of 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;

   (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) Details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area (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 the supervision of ANY works within the RPA 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. Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

5) 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 and the treatment of the access road and hard standings, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation 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.

6) Prior to the commencement of development, a full foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this.

7) Prior to the commencement of development, a full surface water drainage scheme, including details of the size, position and construction of drainage works, shall be submitted to, and approved in writing by, the Local Planning Authority. The drainage scheme shall be designed to accommodate a 1 in 100 year storm + 40% Climate Change and will be implemented in accordance with the approved details prior to the commencement of the development hereby approved.

8) Prior to the construction of the buildings hereby approved above foundation slab level, a photographic schedule of all materials to be used in the external construction and finishes of the development (including bin and cycle stores) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.

9) Notwithstanding any details shown on the approved drawings, the site's internal and external boundaries shall be enclosed in accordance with a detailed scheme and programme of implementation which shall first have been submitted to and approved in writing by the Local Planning

Authority. The programme shall ensure that the approved boundary treatments for each dwelling are completed prior to the occupation of that dwelling, and the approved boundary treatments for the whole site are completed prior to the occupation of the first dwelling.

10) Prior to the occupation of any dwelling, provision shall be made for storing domestic refuse and recycling materials for that dwelling in accordance with the approved plans. Thereafter, the approved refuse and recycling materials storage facilities scheme shall be permanently retained.

11) Cycle parking facilities shall be provided prior to the occupation of the development hereby approved in accordance with the details shown on drawing A-02-100 rev B & A-03-300 rev A. Thereafter, the cycle parking shall be retained as approved.

12) Prior to the use or occupation of the new development, the new vehicular access, parking area/spaces and turning space shall be constructed and the visibility splays provided in accordance with the details shown on approved drawing number A-02-100 Rev B. The parking and turning areas shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking and turning areas shall be kept permanently free of any obstruction to such use, and the visibility splays shall be permanently maintained free from obstruction to vision.

13) The two first floor windows in the east and west side elevation of the front building hereby permitted (labelled 'high level obscure glazing' on drawing A-03-100 rev A) shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the building and shall be retained as such thereafter.

14) The three first floor windows in the north elevation of the rear building hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the accommodation and it shall be retained as such thereafter.

15) The east balcony elevation of the rear building hereby permitted shall be screened by the erection of either an obscure glass screen or a solid brick wall, 1.8m in height, prior to the first occupation of the accommodation and the screen/wall shall be retained as such thereafter.

APPENDIX 8 Vale District Council's performance 1 January 2021 end of June 2021 – quality of decisions – non-major appeals allowed (overturned)

To accompany Table 7

Application Reference	Site Address	Description of Development	Decision Process	Appeal Process	Appeal Decision	Costs
P18/V1886/FUL	15 Cumnor Hill, Oxford	Demolition of existing dwelling. Construction of 2.5 storey building containing 9 flats (7 x 2bed and 2 x 1Bed), improved vehicular access and associated works	Delegated refusal	WR	Appeal allowed 4 January 2021	N/A
P19/V3253/FUL	Rumseys Barn, London Road, Blewbury	Conversion of existing double garage and swimming pool enclosure to form new dwelling	Delegated refusal	WR	Appeal allowed 29 January 2021	N/A
P20/V0857/O	Land off Lower Road, Chilton	Provision of 6 serviced plots for	Delegated refusal	Hearing (virtual) 8 April 2021	Appeal allowed 28 May 2021	N/A

		self and custom build dwellings				
P19/V2459/O	Land behind 31-33 The Causeway, Steventon	Provision of self-build and/or custom housing plots for 7 detached dwellings	Delegated refusal	Hearing (virtual) 15 April 2021	Appeal allowed 28 May 2021	N/A
P20/V0404/FUL	2 Tennyson Drive, Abingdon	Extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flats with associated parking (Removal of one bedroom and reduction in mass as shown on P11G	Committee overturn	WR	Appeal allowed 9 April 2021	Costs application made by the appellant.
Costs: A costs application was made by the appellant on the grounds of delays due to highways matters; the fact that the committee debate was not based on accurate information about the site and no formal site visit was undertaken and inconsistent decision making. The Inspector refused the cost application since there was evidence of the council and appellant working together to resolve highways issues which would have necessitated the instruction of a highways consultant to assist them, the delays were acceptable in the light of the Covid 19 pandemic and the schemes the appellant considered comparable were not.						

The Planning Inspectorate

Appeal Decision

Site visit made on 17 November 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2021

Appeal Ref: APP/V3120/W/19/3232046
15 Cumnor Hill, Oxford, OX2 9EY.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Lucy Developments Ltd. against the decision of Vale of the White Horse District Council.
- The application Ref. P18/V1886/FUL, dated 25 July 2018, was refused by notice dated 23 April 2019.
- The development proposed is the demolition of existing dwelling and construction of 2.5 storey building containing 8 No. 2-bed flats, including improved vehicular access, 8 resident car parking spaces, 16 covered cycle parking spaces and covered refuse/ recycling store.
- This decision supersedes that issued on the 1st October 2019. That decision on the appeal was quashed by Order of the High Court.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and construction of a 2.5 storey building containing 8 No. 2-bed flats, including improved vehicular access, 8 resident car parking spaces, 16 covered cycle parking spaces and covered refuse/ recycling store at 15 Cumnor Hill, Oxford, OX2 9EY, in accordance with the terms of the application, Ref P18/V1886/FUL, dated 25 July 2018, and the plans submitted with it, as amended on the 26 March 2019, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The appellant submitted amended plans of the proposal on the 26 March 2019, before the Council's formal decision was made, to supersede the plans originally submitted to the Council with the planning application. The details of the revised drawing numbers are set out in paragraph 18 of the appellant's statement 'Re-Determined Appeal Representations', as agreed with the Council, and I have had regard only to these plans.

3. I note that the Council issued a Certificate of Lawfulness in February 2020[1] which indicates that a proposal to extend the area of hardstanding at the front of the property to have a larger parking and turning area for the dwelling would be lawful 'permitted development' as defined in the GPDO[2]. The appellant describes this as a 'fallback' position.

[1] Ref. P20/V0359/LDP
[2] Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Main Issues

4. The main issues are:

   - the effect of the proposed redevelopment scheme on the character and appearance of the area; and
   - the effect on the living conditions of the occupiers of the neighbouring properties.

Reasons

Background

5. The appeal site comprises a detached house within a large garden which is set back from the frontage along Cumnor Hill, a main road leading west out of Oxford. The site lies at the Botley end of the hill and the road rises to the west to the village of Cumnor. There are other detached houses to the west of the appeal site but a new building of apartments lies to the east at No.13 on the corner with Hurst Rise Road and some of the detached houses in this side road back onto the appeal site.

6. The proposal involves the redevelopment of the existing property with a new building of mainly 2.5 storey form with accommodation in the roof space lit by a combination of small dormer windows, windows in the gables and rooflights.

Policy context

7. The Council's Local Plan 2031 Part 2 was adopted on the 9 October 2019. This replaces the Local Plan 2011 as referred in the second reason for refusal.

8. The representations of some local people refer to the emerging Cumnor Neighbourhood Plan but there is no evidence presented that this plan relates to the appeal site or that it has been 'made' following a referendum therefore I have not been able to afford it weight.

Effect on character and appearance

9. The relevant policy on design matters is Core Policy 37 of the Local Plan 2031 which, amongst other aspects, requires new development to be of a high quality design which responds positively to the site and surroundings and reinforces local identity. In assessing this issue, I have had regard to the Council's Design Guide (DG) adopted in 2015 and to the specific design principles as referred to in the reasons for refusal which I will consider in turn. I note that Part 6 of the Design Guide refers to 'buildings in rural and lower density areas' and the introduction to this includes a reference to Cumnor Hill. However, having regard to the surroundings of the appeal site in the local part of Cumnor Hill, which is a general suburban area associated with Botley rather than a rural landscape, in the absence of any specific clarification in the Guide, I find that the principles set out in Part 6 of the Guide are of very limited relevance to the appeal site.

   DG51, and DG69 – Scale, height and massing

10. The existing dwelling has a mainly two storey form and an appearance akin to a ski chalet with a shallow sloping roof and prominent white painted fascia at the eaves. It is not of a design generally characteristic of the area and there

are no compelling planning reasons to require its retention. Nevertheless, the building is well set back from the road frontage and this form is repeated along most of Cumnor Hill.

11. The proposed building respects this general building line with an even greater set back from the road. The local area is also characterised by large buildings, mainly detached houses on the higher reaches of the road, but around the appeal site there are other examples of larger buildings comprising apartment development. This includes the development on the adjacent site at No.13. On the southern side of the appeal site the house at No.17 is also of a large scale with 2.5 storeys of accommodation. I find that the general scale of the building proposed is not at odds with the site's surroundings.

12. The setting of the proposed building in the street scene, as shown on plan PA-09 Rev B indicates that the height of the building would respect that of neighbouring properties and also follow the general slope of the land. Viewed from the front the mass of the building would be greater than the existing chalet but would not appear too great or imposing in the context of the immediately adjacent properties. There would be a slight reduction in the gap between the corner of the building and the party boundary to the west but the greater width of the proposed building would not give rise to an unacceptable visual bulk as demonstrated in the street scene elevation.

13. The building would have a greater depth, shown in part by the crown roof where there would be a roof ridge at the front as well as on each side elevation. However, this building depth would not be apparent in views from a north-east direction in Cumnor Hill as these would largely be screened by the presence of the building at No. 13 and its forward position in the street. Viewed from the south-west the large west elevation would be seen in the context of the extended front at No. 17 and existing vegetation in the front garden, and this structure and the landscaping help reduce the apparent bulk of the building.

14. Overall, I find that the scale, height and massing of the building proposed would respond positively to the surroundings of the site and meet the characteristic form of the area. It would not have a harmful effect on the local street scene but would enhance it.

DG75 – apartment parking

15. The Council's objection about parking relates to the prominence of the proposed parking area at the front of the site and suggests that this would have an overbearing visual effect on the area. The amended scheme indicates that a parking area for eight spaces and visitor parking can be formed in a sweep of hard surfacing at the front of the building and by making use of a variation in surface materials. The appellant says that the effect of the parking area proposed should be compared to that of the 'fallback' position, as described in paragraph 3 above, on what could be lawfully undertaken as 'permitted development'. However, I am not able to place much weight on this comparison as it is not established that it is any landowner's clear intention to carry out such changes while the host property is a dwellinghouse and in advance of any redevelopment scheme. I have therefore considered the parking proposal on its individual merits.

16. The land at the front of the No.15 rises from the road and also there is the general slope of the land from east to west. The parking of vehicles to the front of the proposed new apartment building could therefore be quite prominent in the street scene. However, the existing parking area and driveway is well screened by the hedge and tree along the road frontage. The proposed parking scheme would retain much of the openness to the front of the building and the width and alignment of the access road has been reduced and mellowed from the original submission. The revision for the waste bin area shows that this would be small in scale and can be further screened by planting. Overall, I am satisfied that with appropriate landscaping and surface materials the parking area proposed would be integrated well in the local landscape, as suggested in DG75, and it would not be an overbearing or harmful feature in the local street scene.

17. The Council refers to another decision where an appeal[3] for a redevelopment with flats was dismissed at 108 Cumnor Hill, but it appears to me that the circumstances of that site are materially different to the appeal site, as that part of the Hill is characterised by less dense individual houses in large gardens within a mature landscaped setting.

18. I conclude on this issue that it has been demonstrated that the redevelopment scheme proposed would respond positively to the site and its surroundings and would enhance the character and appearance of the area rather than harm them. It therefore meets the requirements of Core Policy 37 and the emphasis placed on good design in section 12 of the National Planning Policy Framework (the Framework).

Effect on living conditions

19. Core Policy 23 on housing density now supersedes Policy DC9 and this requires new development to be at a higher density unless various factors apply, including having an adverse effect on the amenity of neighbours. The Council's concerns are about the relationship with No.2 Hurst Rise Road but the occupier of No.4 of this road together with No.17 Cumnor Hill also raise objection to the scheme under this issue.

20. Dealing with the Hurst Rise Road properties first, the officer report sets out the distances involved in the relationship between the two properties, including the difference in land levels, and I also considered the specific relationships at my site visit. The existing chalet building is sited close to the eastern boundary of the site and at a point where the rear garden of No.2 is at its shortest. The proposed scheme re-sites the building bulk further south and the flank wall is staggered away from neighbouring land. Moreover, the amended plan avoids windows at first floor level in the flank elevation facing east.

21. I have also had regard to the subsequent Daylight and Sunlight Analysis (DaSA) prepared in June 2019 on behalf of the appellant. This concludes that the proposed building would not cause loss of daylight or sunlight to the surrounding properties and would have a negligible effect on the gardens' hours of sunlight. This evidence is not contested by the Council.

22. Although there would be an increased building bulk and height, I am satisfied that the siting and staggered set back of this elevation of the proposed building

[3] APP/V3120/W/19/3227259

mean that it would not have an overbearing effect on the general residential aspect enjoyed by the occupiers of the Hurst Rise properties, bearing in mind this suburban area is already developed.

23. Turning to No.17 Cumnor Hill, this detached property is well set back from the road frontage and is sited close to the party boundary shared with the appeal site. The property also has a number of windows at ground and first floor level which look towards the appeal site but the majority of these at first floor level light bathrooms with two of the windows being to a bedroom as set out in the DaSA.

24. The proposed building would have side facing eaves level about the same height as the existing chalet but the flank wall of the building would be closer to the boundary. However, the re-sited building would lie in part along-side the single storey element to the front of No.17 which does not have windows in the flank elevation. Taking account of the assessment in the DaSA, it is reasonably demonstrated that the position and extent of building bulk would not result in a loss of daylight or sunlight to this property. The proposal would therefore not have an overbearing impact on the amenity or living conditions of the occupiers of this property.

25. I conclude on this issue that on the evidence presented and my observations at the site visit, the proposal would not have an adverse effect on the amenity or living conditions of the occupiers of neighbouring properties and I find no conflict with the requirements of Core Policy 23.

Other matters

26. Local residents also raise concern that the proposed development of apartments would add to a problem of air pollution from cars parking at the front of the site. However, there is no substantiated evidence before me to demonstrate that there is an existing problem over air quality locally or that the proposal would make this materially worse.

Planning Balance

27. On the main issues I have found that the scale, height, massing and overall design of the proposed new building of apartments would respond positively to the surroundings of the site in this lower part of Cumnor Hill and also maintain the characteristic set back of development in the frontage. The proposal would not have a harmful effect on the street scene but would enhance it. Moreover, the detailed evidence submitted by the appellant demonstrates that the proposed building although larger in size than the existing chalet would not have an overbearing effect on the amenity or living conditions of the occupiers of properties neighbouring the site.

28. This assessment is based on the amended plans submitted in March 2019 which had been revised to address concerns about the extent and form of the parking area and access road and the direct effect on neighbours.

29. Taking account of the Council's Design Guide I find that the proposal meets the relevant provisions of the development plan on securing high quality design. The proposal is also in line with the guidance in the Framework in support of sustainable development which makes an effective use of land and achieves well designed places without harming the character of an area.

30. This accord with an up-to-date development plan is not outweighed by any other consideration, either on its own or taken collectively, and this indicates that the appeal should be allowed.

Conditions

31. The Council recommends seven conditions on any permission which I will consider under the same numbering. Some of these conditions are 'pre-commencement' ones but this restriction on development is unnecessary and the conditions can be amended to ensure that the condition must be satisfied before any construction works begins.

32. In addition to the condition on the commencement of development (no.1) a condition (no.2) which specifies the plans that are approved is necessary in the interest of clarity as well as the appearance of the area and the development, if proceeded with, must be in accordance with them. The appearance of the development is also dependant on a detailed landscaping scheme (no.3) and I will add to the one recommended by the Council to make it clear that the landscaping scheme has to address the boundaries of the site and the open garden and parking area to the front.

33. Further details are also required of the disposal of foul and surface water from the site (no's 4 and 5) in the interests of avoiding pollution and flooding and I will impose these conditions. Condition no.6 is also necessary to ensure that there is reasonable parking provision on site for the development proposed.

34. Finally, the condition (no.7) regarding the external materials of the development is reasonable and necessary to ensure that the development fits in with the surroundings of the site and I will impose it but modify it so that it relates to the surface materials of the driveway and parking area as well.

Conclusion

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

David Murray

INSPECTOR

Schedule of Conditions

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; PA-01, PA-02E, PA-03, PA-04, PA-05, PA-06F, PA-07F, PA-08D, PA-09B, PA-10B, PA-15 and PA16 received on 3rd August 2018 and 2nd April 2019, except as controlled or modified by conditions of this permission.

3) No construction shall take place until landscape details have been submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted, noting species, plant sizes and numbers/densities, the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme. The landscaping scheme shall address the eastern, western and southern boundaries of the site, the parking areas, and the open area of garden.

4) No construction shall commence until a full surface water drainage scheme has been submitted to and approved by the Local Planning Authority. The surface water drainage scheme must include details of the size, position and construction of drainage works and be designed to accommodate a 1 in 100 year storm + 40% CC. Thereafter the surface water drainage scheme shall be implemented in accordance with the approved details.

5) No construction shall commence until a full foul water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The foul water drainage scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. Thereafter the foul water drainage scheme shall be implemented in accordance with the approved details.

6) The residential units shall not be occupied until the car parking spaces, turning spaces, access improvements, cycle parking provision, and vision splays shown on approved drawing number PA-02E1, received 2nd April 2019 have been constructed and surfaced. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking spaces, cycle parking provision and vision splays shall be kept permanently free of any obstruction to such use.

7) The exterior of the development hereby permitted, together with the driveway and parking areas, shall only be constructed in the materials specified on the plans hereby approved or in materials which shall previously have been approved in writing by the Local Planning Authority.

The Planning Inspectorate

Appeal Decision

Site visit made on 11 January 2021

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 29 January 2021

Appeal Ref: APP/V3120/W/20/3259797
Rumseys Barn, London Road, Blewbury, Didcot, OX11 9PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ms Annabel Cochrane against the decision of Vale of White Horse District Council.
- The application Ref P19/V3253/FUL, dated 4 December 2019, was refused by notice dated 27 March 2020.
- The development proposed is conversion of existing double garage and swimming pool enclosure to form new dwelling.

Decision

1. The appeal is allowed and planning permission is granted for conversion of existing double garage and swimming pool enclosure to form new dwelling at Rumseys Barn, London Road, Blewbury, Didcot, OX11 9PB, in accordance with the terms of application ref: P19/V3253/FUL, dated 4 December 2019, subject to the planning conditions in the attached schedule.

Main Issue

2. The main issue of the appeal is whether the proposal would preserve or enhance the character or appearance of the Blewbury Conservation Area.

Reasons

3. The appeal site is located on and accessed from London Road. The site includes an existing double garage and a building that houses a currently unused swimming pool that are both ancillary to the residential dwelling known as Rumseys Barn. The scheme seeks to convert the existing buildings, with an additional new glazed link between the two, to form a new independent 2 bedroom residential dwelling. This would involve the partitioning of the existing garden of Rumseys Barn.

4. The appeal site is located within the Blewbury Conservation Area (the BCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the BCA.

5. A previous Inspector for an appeal[1] immediately to the west of the appeal site stated: '*This part of BCA on the northern side of London Road is characterised by a variety of age and architectural style to its built form which appears to be*

[1] APP/V3120/W/18/3209796

largely in residential use. However, despite this variety there is a clear linear pattern of development with the majority of dwellings fronting onto and in close proximity to London Road. Largely these dwellings have generous space around them. This gives this part of BCA a spacious character and appearance, which is further enhanced by the presence of established trees within gardens'.

6. I agree with this assessment for the northern side of London Road, within the vicinity of the appeal site. However, from my own observations, I consider that the southern side of London Road has a different character and appearance, with dwellings that have much less space between them, particularly moving west from the appeal site. The space behind these dwellings is far less evident. For these reasons, in my view, the southern side of London Road within the vicinity of the appeal site has a much more compact character and appearance than the northern side. This is also evident from the plot area and density assessment carried out by the appellant[2]. I consider that the northern and southern side of London Road influence the overall character and appearance in the immediate area around the appeal site.

7. Further, whilst it is clear there is a prominent linear pattern to development along London Road with dwellings fronting onto the highway, there are several instances of substantial buildings set further back from the road along driveways. The previous Inspector[3] also commented on this and stated: '*I acknowledge that there is development that does not conform to this linear arrangement, including the dwelling identified as Scott's Gap… However, from my observations it appears that a large proportion of the built form to the rear of the frontage properties is historic and relates to converted ancillary outbuildings/agricultural buildings. Furthermore, despite being converted to residential use these buildings largely retain their ancillary/subservient character and appearance'*.

8. The scheme would utilise existing buildings and when viewed from London Road, would not appear as an obvious independent dwelling that would jar with the existing grain of development. Instead, due to the scale and siting of the existing buildings, it would retain an ancillary/subservient character and appearance, in keeping with the other existing examples in the area that I observed and were referred to by the previous Inspector above.

9. Whilst I acknowledge that the size of the appeal site and the remaining plot associated with Rumsey Barn would be fairly modest, there are numerous other comparable plots within a close distance of the appeal site, as can be seen in the appellant's plot area and density assessment, particularly taking into account the southern side of London Road.

10. The Council are of the view, that the subdivision of the plot would represent an over intensive use of the site / over development, with the proposed dwelling coming with its own additional movements and domestic paraphernalia, which would be detrimental to the character of the area. I consider that the scheme would provide for sufficient amenity space for a 2 bedroom dwelling and would not appear cramped. The host dwelling would also retain a reasonably sized garden. In addition, I am mindful that the Council has not raised any concerns with regard to the living conditions of the future occupants or in terms of

[2] Design and Access Statement – Supplementary Information, dated March 2020.
[3] APP/V3120/W/18/3209796

impacts from noise and disturbance to the occupants of neighbouring properties.

11. It was evident from my site visit that views of the appeal site are relatively limited. But where views are gained, namely from neighbouring properties, I agree with the Council's conservation officer that higher quality materials and the removal of some rooflights would enhance the appearance of the appeal site. Whilst the conservation officer was commenting in terms of the setting of nearby listed buildings, I consider that this also applies to views from neighbouring properties.

12. For all of the above reasons, I consider that the scheme would preserve the character and appearance of the BCA and therefore complies with Policy CP37 of the Vale of White Horse Local Plan 2031 Part 1, Policies P2 and P6 of the Blewbury Neighbourhood Plan, the National Planning Policy Framework and the Council's adopted Design Guide.

Other matters

13. Neighbouring residents have raised strong concerns with regard to the proposed parking arrangements for the scheme. I am content based on my observations at the site visit and the evidence provided by the appellant that suitable access and parking can be achieved. Whilst the manoeuvres are clearly tight, I accept they are nonetheless achievable, including at night, given the use of headlights.

14. Whilst the parking arrangements for Rumseys Barn require cars to be moved to allow another car to exit, this is not an uncommon arrangement. In addition, it has been suggested that the cars used to demonstrate the turning areas were overly small. However, the cars used were a large sports car and a family sized hatchback. To my mind, this offers a reasonable representation.

15. Whilst it has also been suggested that the turning areas could be blocked by other parked vehicles, I consider this to be unlikely as only the occupants of the proposed dwelling or Rumseys Barn are likely to utilise the northern part of the driveway where the turning areas are located. Further, a planning condition can be imposed that ensures the parking and turning areas remain unobstructed and in use for the intended purpose, this includes the garage. It has been suggested that such conditions won't be enforced. However, there is no reason before me to believe that the Council would not do so if required.

16. I acknowledge that other properties also use the shared driveway and there is reliance on parking within a garage halfway along the driveway and a parking space to the north of the garage. However, it is clear from the evidence that vehicles can be turned at the northern end of the driveway without interfering or blocking the other garages or parking space.

17. Vehicles speeds along the driveway and whilst manoeuvring within it would be low and giving the limited number of transport movements that would occur, there would be no unacceptable risk to highway or pedestrian safety.

18. Turning to sight lines of the main access, I observed that these are adequate for the proposed development of one additional dwelling. Given this, along with the 30 mph speed limit on London Road, I consider that the access is suitable and there would not be any unacceptable risk to highway safety in this regard.

19. In terms of emergency access, I am mindful that the access driveway is already in place and serves Rumseys Barn. I am not of the view that the addition of one dwelling utilising the existing driveway would result in unacceptable safety concerns.

20. I am also mindful that the Council's highway officer does not raise any concerns following the provision of the additional highway evidence and this adds weight to my own findings.

21. The noise and disturbance associated with the additional dwelling, including vehicle movements would be minor and would not, in my view, result in unacceptable living conditions to the occupants of neighbouring properties, including Gable End.

22. There is no evidence before me to suggest that the drainage network in the area cannot accommodate an additional dwelling. Further, such matters can be addressed by a planning condition that would secure a suitable drainage scheme.

23. Concern has been raised that there will be impacts on the occupants of neighbouring properties during the construction works. However, any disturbance would be temporary and therefore it is not a reason to withhold planning permission.

Conclusion and Planning Conditions

24. For the reasons given above, and having regard to all other matters raised, I consider that the scheme complies with the development plan when considered as a whole and the appeal therefore succeeds, subject to necessary planning conditions.

25. I have considered the Council's suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance (the PPG) and have amended them where required. As well as the standard time limit condition (1), I consider that a condition (2) is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty.

26. Conditions (3) and (4) are necessary in the interests of the character and appearance of the area. To ensure that there would be no adverse impacts on the water environment, the imposition of conditions (5) and (6) are required.

27. To ensure the protection of existing trees, condition (7) is imposed. The appellant has questioned the need for this condition. However, there are several trees within the neighbouring property to the west that are sited close to the boundary with the appeal site. Therefore, I consider the provision of an arboricultural method statement to be necessary to ensure that no harm is caused to the trees during the refurbishment works. The Council's suggested condition in this regard included a large amount of detail and requirements. I have not included this in the condition in the interests of brevity, but I am nonetheless mindful that such detail can be requested by the Council when discharging the condition.

28. Condition (8) is required in the interests of biodiversity. Conditions (9) and (10) are necessary, to ensure the scheme is acceptable in terms of highway safety.

29. The Council has suggested a condition that seeks to restrict permitted development rights. However, I consider that exceptional circumstances to do so have not been demonstrated. I have therefore not imposed the sought condition.

30. There are several pre-commencement conditions. I am satisfied that this is necessary to make the development acceptable in planning terms and it would have been otherwise necessary to refuse planning permission.

Jonathan Manning

INSPECTOR

Schedule of Planning Conditions

1) The development hereby permitted shall be begun within a period of three years from the date of this permission.

2) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans:

- Location Plan - LSA-043-FP-L-101 Rev B;
- Site Plan Proposed - LSA-043-FP-P-101 Rev C;
- Block Plan Proposed - LSA-043-FP-P-102 Rev D;
- Site Plan Existing Demolition - LSA-043-FP-D-103 Rev B;
- Existing Elevation Demolition - LSA-043-FP-D-201 Rev B;
- Existing Elevation Demolition - LSA-043-FP-D-202 Rev B;
- Proposed Elevation - LSA-043-FP-P-201 Rev B;
- Proposed Elevation - LSA-043-FP-P-202 Rev C;
- Proposed Long Section - LSA-043-FP-P-301 Rev C;
- Proposed Plan Basement Floor - LSA-043-FP-P-105 Rev C;
- Proposed Plan Ground Floor - LSA-043-FP-P-103 Rev D;
- Proposed Plan Mezzanine Floor - LSA-043-FP-P-104 Rev C;
- Parking Tracking Space 1 - LSA-043-SK-201;
- Parking Tracking Space 2 - LSA-043-SK-202;
- Parking Tracking Space 3 - LSA-043-SK-203;
- Parking Tracking Space 4 - LSA-043-SK-204; and
- Parking Tracking Space 5 - LSA-043-SK-205.

3) Prior to the commencement of development, samples of all materials to be used externally in the construction of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

4) Notwithstanding any details shown on the approved drawings, the sites internal and external boundaries shall be enclosed in accordance with a detailed landscaping scheme and programme of implementation which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the first occupation of the dwelling hereby approved.

5) Prior to the commencement of development, a full surface water drainage scheme, including details of the size, position and construction of drainage works, shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be designed to accommodate a 1 in 10 year storm + 40% CC and must follow SuDS principles. All drainage works will be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.

6) Prior to the commencement of development, a full foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. All drainage works will be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.

7) Prior to the commencement of any site works or operations, including demolition and site clearance relating to the development hereby permitted, an Arboricultural Method Statement and accompanying Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

8) Before the first occupation of the development hereby permitted, the recommendations set out within Section 5 (mitigations and enhancements section) of the bat emergence survey report, dated 28 August 2019 (REF 2019-040 version 1.1) and Section 5.2 (bird mitigation and enhancements) of the preliminary bat roost assessment report, dated 20 June 2019 (REF 2019-040 version 1) shall be implemented.

9) Prior to the first occupation of the new development, the vehicular parking area/spaces and turning spaces shall be constructed in accordance with the details shown on approved drawing numbers LSA- 043-FP-P-103 Rev D, LSA-043-SK-201, LSA-043-SK-202, LSA-043- SK-203, LSA-043-SK-204, and LSA-043-SK-205. The parking and turning areas shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking and turning areas shall be kept permanently free of any obstruction to such use.

10) Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), the garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose.

The Planning Inspectorate

Appeal Decision

Hearing (Virtual) Held on 8 April 2021

Site Visit made on 20 April 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal Ref: APP/V3120/W/20/3261691
Land off Lower Road, Chilton, OX11 0RR

- 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 Summix (Chilton) Developments LLP against the decision of Vale of White Horse District Council.
- The application Ref P20/V0857/O, dated 20 March 2020, was refused by notice dated 13 August 2020.
- The development proposed is the provision of 6 serviced plots for self and custom-build dwellings, all matters reserved except access and layout.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access and layout.

3. Due to discussions at the Hearing about suggested planning conditions, I asked both parties to review, discuss and agree the draft list of planning conditions having regard to the six tests set out in paragraph 55 of the National Planning Policy Framework (the Framework). If, having discussed the merits of the suggested conditions, agreement could not be reached, I invited written comments from either party to explain their respective position. I have had regard to the revised suggested planning conditions and the submissions made by each party in reaching my decision.

The plans, revisions and whether prejudice would be caused to interested parties

4. The planning application made to the Council included a proposed illustrative masterplan, an access plan and a site location plan[1]. These plans were subsequently consulted upon. In response to this, the Highway Authority explained that any proposed access would need to link to adjacent pedestrian infrastructure to the west. As such, a new footway was sought but the effect of this on existing trees was highlighted.

5. Revised plans[2] were submitted on 6 July 2020 to the Council along with supporting technical information concerning trees and transport matters. The revised plans included a footpath to the west of the proposed access and a potential alternative footpath to the east. The footpath to the east largely falls

[1] Plan Ref: BIR.5094_03_03_Rev G, JNY8238-03 Rev A and BIR-5094_01 Rev A
[2] Plan Ref: BIR.5094_03_03_Rev H and BIR.5094_10

within the site edged red whereas the footpath to the west does not. Further comments were provided by the Highway Authority and the Forestry Team on the revisions and the Council proceeded to refuse planning permission based on the merits of the revised plans. Residents were not, however, despite the description of development being updated, re-consulted on the revised plans nor was the site edged red amended to reflect the proposed footpath.

6. The appellant company submitted evidence with the appeal to address the Council's third and fourth reasons for refusing planning permission. They also confirmed that the footpath to the east is no longer part of their proposal as the gradient that the link would need to overcome from the road would not be suitable for all. Instead, their submissions include a revised site location plan, illustrative masterplan, illustrative footpath proposals and several engineering drawings[3] which relate to the footpath to the west. The former two plans alter the site edged red to include the western footpath. The illustrative footpath plan is more detailed than the revised scheme determined by the Council.

7. The appeal process should not be used to evolve a scheme, but there would be no material change to the scheme considered and refused by the Council. That said, residents are concerned about highway safety on Lower Road and they have not been given an opportunity to comment on any proposed footpaths or the amended site edged red. They were informed of the appeal and given the opportunity to comment further should they have wished to, but the consultation letter does not draw residents' attention to the amended plans or the detail submitted about the footpath which they were not consulted upon by the Council after the scheme was revised. In the interests of fairness and natural justice, I consider interested parties would be prejudiced by the consideration of the proposed footpath. The main parties' common position about the Council's third and fourth reasons for refusing planning permission based on the information submitted as part of the appeal does not change this.

8. Thus, I have considered the appeal based on the plans originally submitted to the Council. I will explore the merits of the scheme having regard to these plans and the points put to me about the proposal's effect in the main issues.

Main Issues

9. The main issues in this case are: (a) whether the development would accord with development plan policies relating to the location of development in the District, including the provision of self-build and custom-build dwellings; (b) whether the proposed development would conserve and enhance the North Wessex Downs Area of Outstanding Natural Beauty (AONB); and (c) the effect of the proposed access arrangements, having regard to protected trees, hedgerows and accessibility.

Reasons

Location of development and self-build and custom-build dwellings

10. Chilton is identified as a Smaller Village in Policy CP3 of the Local Plan 2031 Part 1 Strategic Sites and Policies (Local Plan). Smaller Village's have a low level of services and facilities, where any development should be modest and proportionate in scale and primarily be to meet local needs. The market town

[3] Plan Ref: BIR.5094_Rev B, Plan Ref: BIR.5094_03_03_Rev J, BIR.5094_38-B and Statement of Common Ground, Paragraph 2.9

of Wantage, accessible by a local bus service, offers a wider range of facilities and services while Harwell Oxford Science Centre is situated around 1.5 miles to the north-west of the site and provides employment opportunities in addition to a small parade of shops which includes a newsagents, bank and a nursery.

11. The appeal site is a paddock which adjoins the settlement of Chilton. The site is not isolated. Residential properties to the south of Lower Road extend to the south and west of the appeal site and are read as being part of the village. However, this does not necessarily mean that the site ought to be developed to mirror that extent. The village hall and playing fields are to the north of the site. To the west of the appeal site, is further paddock. Beyond here and Lower Road, are allotments. The site is enclosed by a mixture of hedgerows, hedgerow trees and a linear tree belt to the north. Whilst the site's boundaries are not delineated on the ground to the north and west, it is enclosed to the south and east by the existing pattern of the settlement.

12. The character of the village varies in terms of the age, style and finish of properties, but also in terms of the layout, as the settlement pattern is not wholly linear, though this is a strong component of Chilton. However, the proposed dwellings, while of a lower density, would be laid out in a manner that would not resonate with the tighter grain, and thus, character of the village which is evident on Main Street and Lower Road near to the site. The site also lies outside of the proposed settlement boundary of the Chilton Neighbourhood Development Plan, but this is emerging and yet to be examined. Even so, the site is visually understood as being on the edge of, but outside of the village. This is reinforced by the frontage development on High Street backing onto the site, by the tree belt that separates the wider parcel of land with the village hall and playing fields to the north, and the allotments to the west which are not uncommonly found at the edge of village settlements. As such, despite the presence of the A34, the site lies in the open countryside.

13. The modest and proportionate scale of the proposal and any potential for it to meet local needs does not change this. Even if I am wrong about the site's location, the proposal would not be infill development as paddock would remain to the west. Policy CP4 states that development in open countryside will not be appropriate unless specifically supported by other relevant policies as set out in the Development Plan or national policy. The focus in this case is Policy DP1 of the Local Plan 2031 Part 2 Detailed Policies and Additional Sites (Local Plan 2) which supports the provision of plots for sale to self and custom builders.

Self-build and custom build housing

14. The Council has a duty under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) ('the Act') to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. Framework paragraph 61 is supportive of this type of housing.

15. There is no dispute between the main parties about the number of persons who have been added to the register in each base period since December 2015. The demand for each base period must be met by 30 October 3 years after the end of that period.

16. For the purposes of meeting the demand, the Act defines a development permission is suitable if it is a permission in respect of development that could include self-build or custom housebuilding. The Planning Practice Guidance (the

Guidance) outlines examples of how authorities could determine whether an application, permission or development is for self-build or custom housebuilding[4].

17. The Council accepts that it has not granted enough suitable planning permissions to address the demand arising from the first two base periods (70 and 109 entries respectively) which was to be met by 30 October in 2019 and 2020. It is continuing to assess whether other planning permissions have been granted which could count towards the first, second or third base periods. This work is ongoing, and I must reach my decision based on the current situation.

18. Notwithstanding the demand established by the register, the Council speculates on what the 'actual' demand is for this type of housing if they were to apply a local eligibility test and financial solvency test. This is an academic exercise as neither test has been subject to public consultation as advised by the Guidance. The Council confirmed at the Hearing that it does not operate a two-part register. In any event, information from the various sources identified by the appellant company could point to a potentially higher level of demand compared to that established by the register.

19. Regardless, the proposal would contribute towards meeting the demand arising from the third base period (80 entries). As of 24 February 2021, the Council confirmed that 7 suitable permissions have been granted. This figure was unchanged at the time of the Hearing. The Council has until 30 October 2021 to meet this demand and fulfil its duty for the third base period, but the Council recognised that it would, based on current progress, not be likely to meet the demand for the third base period. I am aware of an appeal at Steventon[5] for 7 self-build and custom build houses and as part of that Hearing there was anecdotal evidence of a further proposal on another site in the District, but even if all these were granted planning permission, there would still a good number of suitable permissions to grant and there is no evidence to suggest that there are other schemes either being considered or likely to be considered or determined by the Council before the end of October.

20. A planning condition would secure this type of housing. Hence, the proposal would contribute towards addressing the demand arising from the third base period. This provision would be of a substantial benefit given the period of time left for the Council to meet the demand for the third base period.

21. Discussion at the Hearing centred on how the under delivery of self-build and custom build houses against the established demand from the first two base periods should be dealt with. The number of suitable permissions granted by the Council for these base periods varies between the main parties with either 47 (appellant) or 53 (Council) suitable permissions granted for the first base period, and either 24 (appellant) or 25 (Council) for the second base period.

22. Legislation, planning policy or guidance does not set out how any under supply of this type of housing should be dealt with. However, not accounting for past under delivery would seem to be, when considered in the context of the duties placed on local authorities in the Act, Framework paragraph 61, Local Plan 2 Policy DP1 and Government's encouragement for this type of housing, illogical. Approaches to unmet demand, which is a relevant consideration, have been

[4] Paragraph: 038 Reference ID: 57-038-20210508
[5] Appeal Ref: APP/V3120/W/20/3265465

considered in several appeal decisions[6]. However, if I did take it into account, the substantial weight that I set out above would not change due to the proposal's scale. Nevertheless, the unmet demand would only confirm the weight that I have given to the provision of this type of housing.

23. The main parties agree that the development plan is not out-of-date as the Council can demonstrate a five-year supply of deliverable housing sites. A different stance is taken by the appellant in the Steventon case, so I address the point out of consistency. Local Plan Policies CP3 and CP4 appear to be fulfilling their purposes based on the level of housing supply in the District. These policies must be read alongside other policies in the development plan, such as Policy DP1. Jointly, these policies support self-build or custom build housing schemes or with elements thereof if in line with the settlement hierarchy and the strategy for housing delivery. There is not a specific exception to the Council's strategy that allows this type of housing to come forward in the open countryside. But, evidently the mechanics of policy or the application of it are not yielding the number of suitable permissions required. However, the position could change once further robust work is completed by the Council. Given this and considering how Policies CP3, CP4 and DP1 can operate together, I am content that they are not out-of-date.

Conclusion on this main issue

24. The provision of self-build and custom-build dwellings would accord with Local Plan 2 Policy DP1. However, it does not 'specifically support' development of this type of housing in the open countryside which is the wording used in Local Plan Policy CP4. This leads me to conclude that the development would not accord with Local Plan Policies CP3 and CP4 and Local Plan 2 Policy DP1 which, when taken together, relate to the location of development in the District, including the provision of self-build and custom-build dwellings. This is the approach set out in the explanatory text to Local Plan 2 Policy DP1.

North Wessex Downs Area of Outstanding Natural Beauty

25. Chilton, including the appeal site is located within the AONB. Framework paragraph 172 explains that great weight should be given to conserving and enhancing landscape and scenic beauty in an AONB. This is the primary purpose behind the AONB designation. Framework paragraph 172 goes onto to say that the scale and extent of development within AONB's should be limited even though I agree with the main parties that the appeal scheme would not be 'major development'. Local Plan CP44 is consistent with the Framework in giving high priority to the conservation and enhancement of the natural beauty of the landscape and resisting harmful development.

26. The AONB Integrated Landscape Character Assessment locates Chilton within the Downs Plain and Scarp landscape character type, characterised by a large scale, open arable landscape. The appeal site and Chilton do not seem to make a significant contribution to this character type. From the wider landscape, Chilton has a wooded setting which is mainly experienced from elevated views surrounding the village. Consequently, the proposal would have a negligible impact when viewed from long distance views.

27. Chilton lies within the Hendred Plain character area and the appeal site shares some of its identified characteristics of undulating landscape, shelter belt

[6] Appeal Decision Refs: APP/G2435/W/18/3214451; APP/W0530/W/19/3230103; and APP/C1570/W/19/3234530

planting and equestrian activity. The site abuts Chilton, which means that the visual effect of the appeal scheme would be experienced locally in this context. Lower Road connects a number of public rights of way that allow movement between the village and the wider AONB.

28. The appeal scheme is for a different type of housing, for a lower number of units and the layout is not the same as that which was dismissed at appeal in 2016[7]. The appeal site may be a small component of the AONB, but it was expressed in this decision that a localised experience of the site 'does not imply that the site is unimportant to the AONB. The site is an attractive, open area that forms part of the immediate setting of the western edge of Chilton and enhances its local character.' Both landscape experts agreed that the baseline has not changed from 2016.

29. As I set out earlier, the layout of the proposed dwellings, while of a lower density, would not resonate with the tighter grain, and thus, character of the village near to the site. The individual design of each of the dwellings, the scale of the development and the use of a design code would mitigate this to some extent, as would the retention of existing boundaries and further planting, though the latter would take some time to establish. Even so, the proposed layout would have a suburban feel that would not sit comfortably as an extension to the village given that the site acts as a transition between the built form and the rural countryside. Despite the localised effect, the proposal would be out of keeping and it would affect two of the characteristics of the character area of an undulating landscape and equestrian activity.

30. By forming a new access from Lower Road an initial adverse impact would be felt due to the removal of around 28 metres of hedgerow. The access would create a new visual break in what is otherwise a consistent stretch of trees and hedgerow. Despite the driveways on Lower Road of a comparable width to the proposed access, the new access would be a new urban feature.

31. I note the conclusion of the appellant's Landscape and Visual Impact Assessment and the Council's assessment. However, in my own view, the proposed development would be likely to lead to a large localised magnitude of change to this attractive, open area that is part of the immediate setting of the western edge of Chilton which enhances its local character.

32. Unlike the previous appeal scheme, T5 is proposed for retention. By not removing any soil from or needing to regrade the verge will help achieve this, though the access would be formed partly into its root protection area. Even so, I consider that it could potentially be retained. New landscaping within the site, and near to or next to the proposed access could mitigate the loss of the hedgerow and potential loss of T5 if it were to be affected by the new access. It would also soften the development to some extent and help it respond to the character of the area. Over time this would develop, but the proposal would still likely amount to a moderate adverse effect which would be a harmful visual impact to the landscape's character. Planting would be highly unlikely to mitigate this impact. Hence, the proposal would not conserve and enhance the land which positively contributes to the landscape character and setting of Chilton and by extension the AONB.

33. I conclude that the proposed development would not conserve and enhance the

[7] Appeal Decision Ref: APP/V3120/W/16/3153209

AONB which means that conflict would occur with Local Plan Policies CP37 and CP44 and Framework paragraph 172. Jointly these seek high quality designed development that responds positively to the site and its surroundings with a high priority given to conservation and enhancement of the natural beauty of the AONB.

Effect of proposed access arrangements

Footpath provision

34. The scheme originally submitted to the Council did not include any footpath provision either along Lower Road or within the site or adjoining land. However, development either on the appeal site or the wider parcel of land that the site forms part of has been proposed through various schemes. In these schemes, each scheme has included a foot/cycle path running behind the trees and hedgerow that line Lower Road to provide a link between the existing footway provision to the east and west of the site.

35. The Highway Authority's stance about a new footway is consistent with earlier schemes. While the appellant company did revise their proposals to show a footpath to the west, they stated at the Hearing that the footway to the west was not part of their original scheme and that I may need to consider whether it is necessary or not if I did not accept the revised plans.

36. The section of Lower Road extending across the site's frontage is narrow and has no footway. The road is used by pedestrians, including children attending the nearby primary school, cyclists, horse riders, and a variety of vehicles including buses. The road is a country lane and while the road offers good visibility in either direction, is subject of a 30 mph speed limit and does not seem to be heavily trafficked, I recognise the potential conflict that could arise between different road users and the effect this could have on their safety. A link parallel to and bypassing the narrow part of the road would remove this potential conflict. However, previous schemes were for a different number of dwellings spread across the entire parcel of land that would have resulted in a considerably greater number of movements by vehicles or other road users than the 6 dwellings now proposed.

37. A partial footpath link would mean that vulnerable road users would still need to share Lower Road for a section that dips slightly between the proposed access and existing footway around the junction of Lower Road and Thorningdown when travelling in a easterly or westerly direction. The scale of the proposal would result in an increase in vehicle movements, but not to an extent that I consider they would dominate Lower Road at the expense of other modes of transport or cause Lower Road to not provide for safe movement. Hence, notwithstanding my view about a comprehensive foot/cycle link, the need for a footpath to the west that does not resolve the potential conflicts on Lower Road is not there.

38. There was considerable debate between the main parties at the Hearing about the use of a Grampian condition to secure the western footpath. However, such a condition would not be necessary for the reasons set out.

Effect of footpaths on trees and hedgerow

39. Despite the Council's concerns relating to the effect of the footpaths to the east and west of the access on existing trees and hedgerow, no such issues would

occur based on the proposal originally submitted and consulted upon.

Effect of the proposed access on trees and hedgerow

40. The proposed access from Lower Road into the site has not changed since the appellant company's original submission. This can, based on the technical responses submitted by the appellant company, be formed without incurring into the roof protection areas of any protected trees that extend along Lower Road. Nor would the access affect the stems of these trees either from its construction or the formation of visibility splays in either direction which would not rely on the removal of any highway verge either. However, the construction of the access would result in the loss of a section of hedgerow and potential loss of T5 to the east of the access. These could be mitigated by suitable replacement planting being brought forward at reserved matters stage and controlled through a planning condition.

Conclusion on this main issue

41. I conclude that the proposal would accord with Local Plan Policies CP37 and CP44 which, among other things, seek new development to be of high-quality design, well connected to provide safe and convenient ease of movement by all users and to integrate it into the landscape character of the area.

Other Matters

42. The communal areas of the appeal site not set aside for individual plots would be formed first to enable each plot to be sold as a service plot. They would not be areas of public open space even though a large part of the site includes a new attenuation pond. I note the Council's concerns about how foul and surface water drainage is managed and maintained between the communal areas being finished, up to the final plot being occupied and in the long term so that they function effectively. However, based on the evidence before me, I am of the view that they could be addressed through planning conditions.

43. Various other planning conditions have been discussed and agreed between the main parties as part of the appeal, and while these have been drafted having regard to the six tests, they do not overcome the harm that I have identified in respect of the first two main issues.

Conclusion

44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

45. The proposal would accord with the Government's objective to significantly boost the supply of housing and it would widen the type and size of housing in the area. This would be a limited social benefit. Specifically, the proposal would help meet the demand for self-build and custom-build housing. The provision of this type of housing is a social benefit that carries substantial weight for the reasons set out above. Even so, the proposal would still conflict with the District's strategic approach to the delivery of housing as it does not 'specifically support' development of this type of housing in the open countryside. The statutory duty of the Act to meet the demand for this type of house and the Framework's support for a range of house sizes, types and tenures do not outweigh this significant conflict.

46. I attach significant weight to the scheme's conflict with policies relating to the AONB due to great weight that should be afforded to conserving and enhancing the landscape and scenic beauty of this designation. Future occupiers would be likely to use and support local services, local facilities and local businesses, albeit the village has a low level of services and facilities. The development of each house should also create opportunities for local builders, tradesmen and builder's merchants leading to local employment opportunities. The proposal would offer social and economic support the wellbeing of the community, but they would not outweigh the conflict that the scheme would cause with the aims of conservation and enhancement of the AONB. No harm would be caused by the proposed access arrangements.

47. Having regard to the merits of this case, I conclude that these considerations, including the provisions of the Framework, do not outweigh the scheme's conflict with the development plan as a whole. Nor do they indicate that I should take a decision other than in accordance with the development plan.

48. For the reasons set out above, I conclude that the appeal is dismissed.

Mr Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Hunt	Howes Percival
Jeremy Peachey	Pesgasus Group
Andy Moger	Tetlow King
Richard Brown	Richard Brown Planning
Oliver Brown	Richard Brown Planning
Stuart Wand	Pegasus Group
Andy Warren	Cotswold Wildlife Surveys

FOR THE LOCAL PLANNING AUTHORITY:

Celina Colquhoun	39 Essex
Tracy Smith	South Oxfordshire and Vale of White Horse District Councils
Ryan Hunt	South Oxfordshire and Vale of White Horse District Councils
Joe Smith	South Oxfordshire and Vale of White Horse District Councils
Clare Roberts	South Oxfordshire and Vale of White Horse District Councils
Luke Veillet	South Oxfordshire and Vale of White Horse District Councils
Martin Deans	South Oxfordshire and Vale of White Horse District Councils
Peter Radmall	Landscape Consultant
Alex Tait	39 Essex

INTERESTED PARTIES:

Alan Liddle

Martin Edwards

Chris Broad, Chair, Chilton Parish Council

Andre Botha, Albright Dene Ltd

DOCUMENTS:

1 - Policy DP1 of Local Plan 2031 Part 2 Detailed Policies and Additional Sites

2 - Appeal Note, Ref: 4129-6311-1213

3 - Draft s106 – Open Space

4 - Chilton Draft Conditions Schedule

5 - Supplementary Note, Vale of White Horse District Council

PLANS:

BIR.5094_03_03_Rev J

BIR.5094_38-C

BIR.5094_Rev B

The Planning Inspectorate

Appeal Decision

Hearing (Virtual) Held on 15 April 2021

Site Visit made on 19 and 20 April 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal Ref: APP/V3120/W/20/3265465
Land behind 31-33 The Causeway, Steventon OX13 6SE

- 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 Mr Joe McDermott of Albright Dene Ltd against the decision of Vale of White Horse District Council.
- The application Ref P19/V2459/O, dated 7 October 2019, was refused by notice dated 17 June 2020.
- The development proposed is an outline application for provision of self-build and/or custom housebuilding plots for 7 detached dwellings, with all matters reserved except for access and layout.

Decision

1. The appeal is allowed and planning permission is granted for outline application for provision of self-build and/or custom housebuilding plots for 7 detached dwellings, with all matters reserved except for access and layout at Land behind 31-33 The Causeway, Steventon OX13 6SE in accordance with the terms of the application, Ref P19/V2459/O, dated 7 October 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access and layout.

3. The main parties agree that a revised layout to plot 7 submitted as part of the appeal is minor in detail. The dwelling is now shown to be positioned further away from the eastern boundary, and the gable end facing the driveway has been moved to the rear of the house. Both parties agree that the consideration of the amended plans as part of the appeal would not prejudice interested parties. I agree and thus I have considered the appeal on this basis.

4. In my Pre-Hearing Note, I identified the provisional main issues in this case. The fourth of these concerned local bus transport and biodiversity. Along with the land to the east, the site is a Priority Habitat as a Traditional Orchard. Three fruit trees on site are a remnant part of this habitat. To address a net loss of biodiversity, it is common ground between the main parties that a planning condition would mitigate the effects of this. Moreover, they agree that landscaping details could be addressed at reserved matters stage so that the proposed development would not have a significant biodiversity impact.

5. A signed and dated Section 106 Deed of Agreement (s106) has been submitted which includes a contribution towards public transport services. As a result, the Council accepts that the fourth reason for refusing planning permission has been addressed. I agree, and I am satisfied that this would meet the tests of

the Framework and Regulation 122 of the Community Infrastructure (CIL) Regulations. The s106 also includes provisions in respect of self-build and custom housebuilding and a waste strategy. I shall consider the merits of these shortly. A Unilateral Undertaking mirroring the provisions of the s106 was also submitted by the appellant in case the s106 was not executed in accordance with the deadline that I set for its submission. However, as the s106 has been signed and dated by all parties, I have reached my decision based on the s106.

6. To reflect the party's points made at the Hearing, I have adjusted the third main issue compared to the version that I read out at the start of the event.

Main Issues

7. The main issues are: a) whether the proposed development would preserve or enhance the listed buildings at 39 The Causeway, 35/37 The Causeway, Pound House, The Cottage, the Raised Causeway, Station House and Brook House, and character or appearance of the Steventon Conservation Area; b) whether the development would accord with development plan policies relating to the location of development in the District, including the provision of self-build and custom-build dwellings; and c) whether the proposed development would provide suitable access arrangements and adequate provision for on-site waste management.

Reasons

Heritage assets

8. Steventon is an historic, extended village that has evolved along two historic routes: The Causeway which runs roughly west to east and joining it, on its southern side, High Street, which runs roughly south to north. The village is characterised by domestic and commercial development. The appeal site is located near to the centre of the village, to the west of the junction of The Causeway and High Street. The site itself mostly lies behind the detached dwellings at 31 and 33 The Causeway. It comprises of improved grassland with an area of dense scrub with four mature sycamore trees on the southern boundary. Beyond here is a field extending to Ginge Brook and the buildings of Station Yard which lie near to the Great Western Railway line. Access to the site is between Nos 29 and 31. To the west of the site is Bargus Close, which contains 15 static caravans. To the east is a rectangular shaped orchard. Dwellings accessed from High Street adjoin its eastern boundary.

9. The proposed access and the upper part of the site lie within the Conservation Area whilst most of the site lies outside, but next to the larger of part of the Conservation Area which is focussed around the historic core of the village and its listed buildings. The smaller part of the Conservation Area is to the south of the site around the former railway station, Station House, Brook House and the 20th century development at Station Yard that abuts the railway line.

10. The early development of the village took place along the length of the 'Raised Causeway' which is an ancient, raised cobbled Grade II* listed pathway lined by mature trees that extends alongside The Causeway. Buildings within the Conservation Area range from 15th and 16th century timber framed houses to 19th brick vernacular and mid-20th century housing. The village has a high number of Grade II and II* listed timber framed houses that extend along the Raised Causeway towards the Grade I listed parish church found at the western end of The Causeway. Fields and paddocks do abut, extend up to and between

parts of the village, and in turn the Conservation Area. Some then give way to a character that is more readily associated as open countryside. This reflects the village's rural heritage.

11. Several of the historic buildings along this part of The Causeway are listed, including Nos 35/37 (Grade II), 39 (Grade II*), Pound House and The Cottage (both Grade II). Pound House and The Cottage are the closest to the appeal site. The latter of the two is an exposed timber frame two storey building with a two-storey bay window with a jettied roof over. Pound House is of a roughcast construction on timber-framing with a plain tile roof and a brick chimney stack above the ridge to the right of centre of this two-storey dwelling. To the rear of Pound House is a long orchard/paddock.

12. Nos 35/37 is next to the junction of Bargus Close with The Causeway. This two-storey timber framed building is now two dwellings and has a rendered cross-wing to the left-hand side. Next door is No 39 which is a two-storey detached dwelling dating from around late 14th century with additions in later years. The building is rendered with a timber frame and a cross-wing.

13. The appeal scheme would not physically affect any of the listed buildings and not fall within the setting of Station House and Brook House which were constructed for use by the Great Western Railway. These buildings are a reasonable distance from the site, separated by other development which is more reflective of the village's vernacular and associated with the arrival of the railway to Steventon in 1840. Hence, no harm would arise to their significance. The proposal would also not harm the setting, and thus the significance of the southern part of the Conservation Area.

14. No appraisal or management plan associated with the Conservation Area has been produced as per Policy CP39 of the Local Plan 2031 Part 1 Strategic Sites and Policies (Local Plan). The setting of the Conservation Area extending along The Causeway varies according to the development or space next to it or how it is experienced. In turn this influences its significance, albeit it remains an irreplaceable resource and great weight should be given to its conservation. Nevertheless, I agree with the appellant's assessment that the eastern and western ends of The Causeway are areas of very high heritage significance, and that there are pockets of 20th century development next to or to the east of the site that don't positively contribute to its significance. The listed buildings either side of the proposed access in tandem with the Raised Causeway do, however, still positively contribute to the overall significance of the Conservation Area, though the varied type, form and age of development along this stretch of The Causeway displays how the village has evolved over time.

15. Gaps between buildings fronting The Causeway between High Street and Stocks Lane are not uniform in their size or frequency. Nor do they always allow views beyond due to alignment of built form or the presence of outbuildings. These gaps, when travelling by car or on foot in either direction on The Causeway, are not readily perceived due to the speed of travel, the need to focus on oncoming or parked vehicles, or the close proximity of the footway to the frontage development. So, while there are limited glimpsed views, the undeveloped land behind parts of the frontage development is not readily apparent or sensed. The projection of development at Bargus Close and outbuildings associated with nearby dwellings also influences matters.

16. However, the experience differs from the elevated Raised Causeway which is

set back on the northern side of The Causeway. Users speed of travel allows for the site's surroundings to be appreciated. Mature trees lining the Raised Causeway inhibit views to some extent, especially whilst in leaf, but there are pockets of elevated views through some gaps and above boundary treatments to the undeveloped land beyond. This positively reflects the village's rural heritage, historic pattern of development and evolution. At times, the views include Steventon Hill. Some gaps also include views of the static caravans on Bargus Close, Timsbury House, the development next to the railway line and the electrified lines themselves. The ridgeline of Steventon Hill prevents views to the wider countryside beyond.

17. The proposal would introduce development behind the predominate frontage development lining The Causeway, despite the development at Bargus Close and on and behind High Street. While the proposed layout would allow views down the access road to the land beyond, the access would be a long formal arrangement. The use of a design code would inform any reserved matters application so that the dwellings are of a high-quality design and responsive to their surroundings, but even with bespoke designs, the proposal would erode the sense of open space that the appeal site positively contributes to and which informs the sense of being within a rural village. The loss of this space would adversely affect the character and appearance of the Conservation Area as a whole and harm the rural setting, and thus significance of the listed buildings at Nos 35/37, 39, Pound House, The Cottage and The Raised Causeway.

Location of development

18. Local Plan Policy CP3 details the settlement hierarchy in the District. Steventon is a 'Larger Village'. Local Plan Policy CP4 outlines the Council's strategy for meeting housing needs through the allocation of strategic sites, and development within the 'built area' of the larger settlements such as Larger Villages. The appeal site is not allocated for development by the Local Plan or by a neighbourhood plan. There is no defined settlement boundary for Larger Villages, such as Steventon. Consequently, it is a matter of judgement[1] as to whether or not the appeal site lies within the built area of Steventon.

19. Bargus Close could be viewed as an anomaly in the context of the historic pattern of development nearby, but it has been part of the village for a long period of time. Built form has also been added to the east of the site over the 20th century. The appeal scheme would mirror the length of Bargus Close and extend as far as the development at Timsbury House.

20. Collectively, the existing development on The Causeway, High Street (including that set behind and accessed from High Street) and Bargus Close provides a sense of enclosure to three sides of the site even with the adjacent orchard separating the site to the development to the east. The dense scrub and trees on the site's southern boundary add to the sense of enclosure, but their retention cannot be relied upon in perpetuity. Between here and the buildings at Station Yard is a field leading to Ginge Brook. While this physically 'loops' around to the other side of Bargus Close and a wider field/paddock, this is not appreciated from within the site, from The Causeway or High Street. The railway line beyond Station Yard is a strong physical feature with Steventon Hill rising up beyond and of a more rural countryside character. The perception from within the site is one of enclosure, but it does have a transitional feel

[1] Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

between the development fronting The Causeway and the open countryside beyond Station Yard and the railway line. However, the site does not have the same open character as the land beyond the railway line or benefit from its openness due to the built form adjoining the site or near to it.

21. The relationship between and point at which built form becomes open countryside varies physically and visually across the village. The appeal site has a greater degree of enclosure and far fewer physical and visual links to the open countryside than the Brewers Close[2] site which affects how it is experienced. Hence, the two sites are not directly comparable. I have also noted the context to 97 The Causeway[3], but this differs to the appeal site due to the cohesive block of undeveloped backland spaces that extend between the development on The Causeway and Castle Street. There is not the same sense of enclosure as that which influences the appeal site. Therefore, I consider, on balance, that the appeal site lies within the built area of Steventon.

Self-build and custom housebuilding

22. The Council has a duty under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) ('the Act') to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. Policy DP1 of the Local Plan 2031 Part 2 Detailed Policies and Additional Site (Local Plan 2) and Framework paragraph 61 are generally supportive of the provision of plots for sale to self and custom builders in the District. Framework paragraph 61 reflects this.

23. There is no dispute between the main parties about the number of persons who have been added to the register in each base period since December 2015. The demand for each base period must be met by 30 October 3 years after the end of that period.

24. The Council accepts that it has not granted enough suitable planning permissions to address the demand arising from the first two base periods (70 and 109 entries respectively) which was to be met by 30 October in 2019 and 2020. It is continuing to assess whether other planning permissions have been granted which could count towards the first, second or third base periods. This work is ongoing, but I must reach my decision based on the current situation.

25. Despite the demand established by the register, the Council speculates on what the 'actual' demand is for this type of housing if they were to apply a local eligibility test and financial solvency test. This is an academic exercise as neither test has been subject to public consultation as advised by the Planning Practice Guidance. The Council confirmed at the Hearing that it does not operate a two-part register.

26. In any event, the proposal would help meet the demand arising from the third base period (80 entries). As of 24 February 2021, the Council had granted 7 suitable planning permissions. This figure was unchanged by the time of the Hearing. The Council has until 30 October 2021 to meet this demand and fulfil its duty for the third base period. The Council accepted in the Chilton[4] hearing that it would, based on current progress, not be likely to meet the demand for

[2] Appeal Decision Ref: APP/V3120/W/16/3160879
[3] Appeal Decision Ref: APP/V3120/W/18/3208949
[4] Appeal Ref: APP/V3120/W/20/3261691

the third base period. A different view was expressed by Ms Smith at the Hearing relating to this case, but consistency is important in decision-making. I am aware of the 6 self-build and custom build houses proposed at Chilton and anecdotally of a further proposal on another site in the District, but even if all these were granted planning permission, and suitable, there would still a good number of permissions to grant and there is no evidence to suggest that there are other schemes either being considered or likely to be considered or determined by the Council before the end of October. The proposed provision would be of a substantial benefit given the period of time left for the Council to meet the demand for the third base period.

27. Notwithstanding this, the appellant considers Policies CP3, CP4 and DP1 are out of date due to the under delivery of this type of housing. The number of suitable permissions granted by the Council for the first two base periods varies between the main parties with either 30 (appellant) or 53 (Council) suitable permissions granted for the first base period, and either 13 (appellant) or 25 (Council) for the second base period.

28. Legislation, planning policy or guidance does not set out how any under supply of this type of housing against the established demand should be dealt with. However, not accounting for past under delivery of this type of housing would seem to be, when considered in the context of the duties placed on local authorities in the Act, Framework paragraph 61, Local Plan 2 Policy DP1 and Government's encouragement for this type of housing, illogical. Approaches to unmet demand, which is a relevant consideration, have been considered in several appeal decisions[5]. If I were to take unmet demand into account, the scale of the proposal would not change the substantial weight that I have set out above, nevertheless, the position would only confirm my opinion about the weight that I have given to the provision of this type of housing.

29. Local Plan Policies CP3 and CP4 outline the approach to housing development in the district, where it ought to be located and how much. They don't specifically refer to self-build or custom build housing, so they must be read with other development plan policies such as Policy DP1. As the Council can demonstrate a five-year supply of deliverable housing sites, Policies CP3 and CP4 appear to be fulfilling their purposes. Jointly Policies CP3, CP4 and DP1 support self-build or custom build housing schemes or with elements thereof if in line with the settlement hierarchy and the strategy for housing delivery. There is not a specific exception to the Council's strategy for housing delivery that allows self-build and custom build housing to come forward. But, evidently the mechanics of policy or the application of it are not yielding the number of suitable permissions required. However, the position could change once further robust work is completed by the Council. Given this, and considering how Policies CP3, CP4 and DP1 can operate together, I am content that they are not out-of-date.

Conclusion on this main issue

30. I conclude, in respect of this issue, that the proposal would accord with Local Plan Policies CP3 and CP4 and Local Plan 2 Policy DP1 which, when taken together, relate to the location of development in the District, including the provision of self-build and custom-build dwellings.

[5] Appeal Decision Refs: APP/G2435/W/18/3214451 and APP/W0530/W/19/3230103

On-site waste management

31. Local Plan Policy CP43 seeks developments to make adequate provision for the recycling of waste on site. Local Plan 2 Policy DP28 adds that development will not be permitted if recycling and refuse provision that meets the requirements set out within the policy cannot feasibly or practicably be provided. Proposals must ensure that there is sufficient space for recycling and refuse containers; access is safe for existing users/residents and for refuse and recycling collection vehicles; and the location and design of recycling and refuse provision should be integral to the design of the proposed development, having regard to the level and type of provision.

32. The width and length of the proposed access would mean that the Council's large refuse vehicles would not be able to access the site to undertake household refuse and recycling collections. It would also not be practical or reasonable for future occupiers to move refuse, recycling and food waste receptacles to the kerb on The Causeway for collection due to the distance and number of containers involved. The latter would be likely to block or hinder pedestrian access along the footway and/or affect potentially affect the safety of vehicles using the road. A communal collection point nearer to the highway is also not an option due to the width of the proposed access as this would comprise the ability of users to pass one another safely.

33. The appellant submitted an option agreement during the Hearing. This may allow the access to be widened, but it is not the scheme before me and both parties agreed that it was a matter of fact and that I was not being asked to grant planning permission on this basis.

34. Given the practical issues of a Council waste collection, the s106 proposes a private waste collection to mirror the Council's own service in terms of bin provision and the frequency of collection for refuse, recycling and food waste.

35. The evidence shows that a private waste contractor could use a vehicle to access the site, collect refuse and recycling, turn around and leave in forward gear. Moreover, each property could have separate refuse and recycling containers to match the size of those used for Council collections. There is sufficient space for these to be accommodated on each plot. The key difference would be that future occupiers would need to pay for this service. While this would be an extra financial commitment on top of Council Tax, this would not be prohibitively expensive for future occupiers.

36. The Council also collects food waste weekly. This is line with the proposals within the Environment Bill which is yet to receive Royal Assent. The evidence of the potential private waste operator confirms that they would be unable to offer a weekly food waste collection. Therefore, to match the Council's service, the appellant suggests two options. The first is that the Council collect food waste. A partial collection service may not be normal practice, but it is possible based on the size of the vehicle currently used. However, this size of vehicle could well change. Hence, Council food waste collections are uncertain over the lifetime of the development.

37. The second option would be a composting bin for each dwelling. This could be of a benefit to the environment in mitigating the effects of climate change, and financially beneficial to future occupants as they could re-use composted material in their gardens. Otherwise future occupiers would either dispose of their food waste in refuse collections, need to pay for food waste to be

collected or they would need to dispose of it themselves. It is therefore a sustainable waste management measure that would encourage future occupiers to recycle their food waste. While the Council are concerned about its potential use, and I recognise that it would be a choice for future occupiers, this is no different to the choice that residents have in using the Council food waste collection. The Environment Bill may change matters, but my decision is based on the current situation and adopted development plan policy.

38. The Council are worried about future occupiers expecting a Council run collection service and the associated costs of responding to queries such as this, but there is no substantive evidence of what, if any, costs there would be to the Council based on a private waste collection service.

39. Insofar as the s106, I consider that the proposed waste strategy would meet the tests of the Framework and CIL Regulation 122. Consequently, I conclude that the proposed development would provide suitable access arrangements and adequate provision for on-site waste management and would as a result accord with Local Plan Policy CP43 and Local Plan 2 Policy DP28. These policies collectively seek development to make adequate provision of the recycling of waste on site and ensure safe access for existing users/residents.

Other Matters

40. Points are raised by residents about the use of The Causeway, highway safety and the effect of additional parking. The proposal would provide off-street parking for each plot and the access could be used by the majority of vehicles, including fire tenders. There would not be any specific visitor parking, but there are no parking restrictions along this stretch of The Causeway which allows for good forward visibility in either direction. Although vehicles do need to wait to pass oncoming vehicles, the proposal would not change this or make matters worse in highway safety terms.

41. I have had regard to the points raised about the effect of the proposal's construction on existing built form, but there is no substantive evidence before me to support the concerns. Any existing damage will not be because of the proposal as no development has commenced.

Planning Balance

42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

43. The Government's objective is to significantly boost the supply of housing and the proposal would accord with the strategic plan-led approach set out in the Development Plan and provide 7 modern self-build and custom-build dwellings in a location with adequate access to facilities and services.

44. No harm would be caused by the proposed waste strategy and the s106 would mitigate the scheme's impact on public transport services and biodiversity. These matters do not weigh in favour or against the proposal.

45. I have found that the character and appearance of the Conservation Area would not be preserved and that the proposal would harm to the setting of the listed buildings at Nos 35/37, 39, Pound House, The Cottage and The Raised Causeway which would be contrary to the respective duties of Sections 66(1)

and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

46. In terms of the Framework, the degree of harm to the special interest and significance of the heritage assets would be at the lower end of less than substantial harm. Even so, I give it great weight and importance. Policies DP36 and DP37 along with Framework paragraph 196 require such harm to be weighed against the public benefits of the proposal which require clear and convincing justification. Policy DP37 states insofar as the Conservation Area that the development should make an equal or greater contribution in terms of public benefit.

47. The provision of self-build and custom-build houses would be a public benefit as they would help the Council meet its duty, help address the established demand for this type of house and widen the type and size of housing in the area. These are substantial social benefits. The s106 would secure the provision of the self-build or custom-build houses and satisfy the relevant tests. Future occupiers would be very likely to use and support local services, local facilities and local businesses. Consequently, the proposal would make a positive contribution to the local economy. The development of each house should also create opportunities for local builders, tradesmen and builder's merchants leading to local employment opportunities, especially given that construction is the third highest employment type in Steventon[6]. These economic benefits carry moderate weight. Council Tax is mitigation not a public benefit. Collectively, in this case, I consider these public benefits would outweigh the less than substantial harm that I have identified. Accordingly, the proposal would accord with Local Plan Policies CP1, CP37 and CP39, and Local Plan 2 Policies DP36, DP37 and DP38 and Framework paragraph 196.

48. I note the Corner Mead[7] appeal decision, but the issues in this case differ. Concerns are expressed about a precedent being set, but my decision is based on the specific circumstances of the site, its surroundings and the merits of the case itself. It would be for the Council to consider any other development proposal based on its own merits in the first instance but having visited the village I am satisfied that my decision would not set a precedent.

Conditions

49. Conditions in respect of the reserved matters for the individual plots and the shared area of the site are necessary due to the nature of the scheme before me and to ensure the site is developed in accordance with the details submitted. I understand the points about the length of time which the development could take place over and to strike a balance between this and the type of housing that would be pursued by individuals, I have adjusted the timescale for submission of the reserved matters for each individual plot. An approved plans condition is necessary in the interests of certainty. Whilst allowing for flexibility in the design of each self-build and custom-build dwelling, a design code condition is necessary so secure a coherent and high-quality development that conserves or enhances the surrounding historic environment. For the same reason, conditions to secure tree protection measures and landscaping of the shared area are necessary.

50. A condition to secure a detailed sustainable drainage scheme for foul and

[6] Appellant Statement of Case, Appendix C
[7] Appeal Decision Ref: APP/H1840/W/19/3241879

surface water is necessary to prevent pollution and flooding. To ensure the construction of the development does not adversely affect highway safety, the living conditions of residents and the historic environment, I have imposed a condition for a construction traffic management plan. Conditions have been imposed in respect of car parking provision, turning areas and the access in the interests of highway safety. To compensate and mitigate for the net loss of biodiversity resulting from the development I have imposed a condition to secure off-site biodiversity enhancements. To minimise the impacts of the development on biodiversity, I have imposed a condition requiring the recommendations of the Preliminary Ecological Appraisal to be implemented. A permitted development restriction is necessary for extensions, roof additions or alterations and outbuildings due to the size of the plots, neighbouring residents living conditions and so that future development accords with the design code. A permitted development restriction is also necessary for gates, fences, walls or other means of enclosure to ensure compliance with the design code.

Conclusion

51. The proposal would accord with the Development Plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision.

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

Mr Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

1) Within two years of the date of this planning permission an application for approval of the initial reserved matters for the Initial Phase of the development involving all elements of the scheme not comprised within the individual dwelling plots shall be submitted, to include the following details:

- the site access works comprising the access to The Causeway generally in accordance with, but not limited in detail to the application drawings, such including the removal or relocation of the existing telegraph post;
- the shared access driveway and shared surfaces;
- all car parking facilities and manoeuvring areas to be provided within the site in accordance with Oxfordshire County Council's standards (Transport for New Developments Parking Standards for New Residential Developments 2017 design guide document or any superseding document);
- any external lighting in these areas;
- site boundary treatments and structures;
- landscaping not incorporated within a residential plot curtilage including shared open space and associated tree planting; and
- the identification of plot boundaries

All subsequent reserved matters for each individual plot or plots must be submitted not later than three years from the date of this planning permission and development must be begun not later than two years from the date of the approval of the last reserved matter for the Initial Phase.

2) Approval of the details of the scale and appearance of buildings and landscaping within any particular plot (hereinafter called "the reserved matters") shall be in accordance with the approved Design Code for the site and shall be obtained from the Local Planning Authority in writing before the development of the dwelling on that plot is commenced. The development of each plot shall be carried out as approved.

3) That the development hereby approved shall be carried out in accordance with the following approved plans, A-02-102; A-01-101 Appeal Revision – Plot 7; Parameters for 7 plots Rev A; 333675-1; P850-03; P850-04; and P850-02a, except as controlled or modified by conditions of this permission.

4) No reserved matters applications shall be submitted until such time as a Design Code for the entirety of the site has been submitted to and approved in writing by the Local Planning Authority. The Design Code shall reflect guidance in the Vale of White Horse District Council Design Guide (March 2015) and include details, but not be limited to;

- the form, massing and scale of the buildings;
- plot coverage and plot parameters;
- maximum building and storey heights for each plot;
- building appearance;
- building openings
- material palette and detailing;
- boundary treatments, soft and hard landscaping;
- vehicle parking reflecting parking provision as per the approved initial reserved matters
- cycle parking facilities;
- external lighting;

- water and Waste Water (including SUDs);
- sustainable Construction (standards and design principles);
- gross Internal Floor Areas meeting the Local Government's Technical Housing Standards - Nationally Described Space Standard Level 1 in the case of any one or two-bedroom dwellings; and
- facilities for the storage of household waste and recycling;

All reserved matters applications shall include a statement providing an explanation as to how the design of the development complies with and responds to the details approved in the Design Code. The development shall thereafter be carried out in accordance with the approved details.

5) Prior to the commencement of any site works (including 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 approved measures shall be kept in place during the entire course of development.

6) No development shall commence until a detailed sustainable drainage scheme for foul and surface water along with a programme and phasing plans for these works has been submitted to and approved by the Local Planning Authority. The strategy shall be based on Version 3 of the Flood Risk Assessment prepared by Water Resource Associates dated October 2019 and the information contained within letter reference WRACS02 dated 06/12/2019. The scheme shall have full consideration for the hydrogeological situation of the site and be based on latest sustainable drainage principles. No dwelling shall be occupied until all drainage required to serve that dwelling has been constructed in accordance with the scheme. The scheme shall include;

- infiltration tests to be undertaken in accordance with BRE365;
- proposed discharge rate limited to greenfield QBar (if attenuation based) and details of flow control;
- SUDS features, attenuation requirements and detail drawings;
- detailed drainage layout with pipe/chamber/soakaway numbers & sizes;
- maintenance and management plan for SUDS;
- detailed network calculations to include climate change allowances;
- ground investigation report;
- proposed site levels, floor levels and an exceedance plan;
- site emergency response plan based on Environment Agency warnings with safe access and egress routes highlighted.

7) No development hereby permitted shall commence until a Construction Traffic Management Plan (CTMP) is submitted to and approved by the Local Planning Authority. The CTMP shall include details of:
   - parking arrangements for all vehicles of site personnel, operatives and visitors and mechanisms to ensure no vehicles of site personnel, operatives and visitors are parked on The Causeway;
   - the arrangements for the loading and unloading of plant and materials on to the site for the duration of the works;
   - the storage of all plant and materials on the site;
   - on-site turning for construction vehicles;
   - hours of construction and operation of machinery of deliveries;

- confirmation that no deliveries of plant or materials to/from the site shall take place between the hours of 0730 – 0930 hours and 1500 – 1800 hours;
- point of contact details for site manager during initial construction phase and prior to the construction of individual units;
- details of where the approved CTMP will be displayed on site for all site personnel, operatives and visitors to observe;
- details of wheel washing facilities and their location on the site;
- a plan showing the route to and from the site along the highway network for delivery vehicles; and
- details of how access to the site will be controlled (e.g. a banksman).

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 and the development of each individual plot.

8) Subsequent to the initial reserved matters application, a scheme for the landscaping of the site in communal areas, including boundary treatments and the planting of live trees and shrubs, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the building up of the eastern stone boundary wall and schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and a implementation and maintenance programme.

   The approved scheme shall be commenced prior to the first occupation of any dwelling and implemented in accordance with the approved implementation programme. Thereafter it shall be maintained in accordance with the approved scheme and maintenance programme. In the event of any of the trees or plants so planted within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, such trees or plants shall be replaced in the next planting season with others of similar size and species.

9) No development shall commence until details of all car parking facilities and manoeuvring areas to be provided within the site have been submitted as part of the initial reserved matters and approved in writing by the Local Planning Authority. The approved car parking and manoeuvring facilities shall be provided before first occupation and shall thereafter be retained at all times for the use of the development.

10) No development shall commence until details of the proposed works to the existing access to the site have been submitted as part of the initial reserved matters and approved in writing by the Local Planning Authority and no part of the development shall be occupied until those works have been constructed in accordance with the approved details. Thereafter, prior to the first occupation of any dwelling, the entire means of access to and shared surface drive within the site (except for the final surfacing thereof) shall be laid out, constructed, lit and drained and if required, temporary or permanent traffic calming shall be put in place in accordance with the previously approved details.

11) No development shall commence unless and until a certificate confirming the agreement of an Offsetting Provider to deliver a Biodiversity Offsetting Scheme totalling a minimum of 0.82 biodiversity units has been submitted to and approved in writing by the Local Planning Authority. The written approval of the Council shall not be issued before the certificate has been issued by the Offset Provider. The

details of biodiversity enhancements shall be documented by the Offset Provider and issued to the Council for their records.

12) The development hereby approved shall be implemented in accordance with all the recommendations made in section 6 of the supporting Preliminary Ecological Appraisal (Ecology By Design Ltd, 18/04/2019, Project Code: EBD000803).

13) Notwithstanding the provisions of Classes A, B, and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), there shall be no extension to any of the dwellings hereby permitted and no incidental buildings or structures shall be erected within the curtilage of any dwelling without the prior grant of planning permission.

14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) (England) 2015 (or any Order revoking or re-enacting that Order) the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without obtaining planning permission from the Local Planning Authority.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Karen Cooksley	W Legal
Andre Botha	Albright Dene Ltd
Nichola Burley	Heritage Vision

FOR THE LOCAL PLANNING AUTHORITY:

Celina Colquhoun	39 Essex
Tracy Smith	South Oxfordshire and Vale of White Horse District Councils
Samantha Allen	South Oxfordshire and Vale of White Horse District Councils
Ryan Hunt	South Oxfordshire and Vale of White Horse District Councils
Lisa Selby	South Oxfordshire and Vale of White Horse District Councils
Kate Morris	South Oxfordshire and Vale of White Horse District Councils
Luke Veillet	South Oxfordshire and Vale of White Horse District Councils
Paul Harrison	Oxfordshire County Council
Nick Hill	South Oxfordshire and Vale of White Horse District Councils
Alex Tait	39 Essex

INTERESTED PARTIES:

Lesley Lovell	
Alexandra Freeman	
Dr C Wilding	Steventon Parish Council
Angela Einon	Steventon Parish Council

DOCUMENTS

1 - Suggestion walking route for site visit

2 – Two photographs of Council food collection vehicle

3 - Option agreement

4 – Revised wording to suggested condition no. 7

5 – Unilateral Undertaking

6 – Section 106 Dead of Agreement

The Planning Inspectorate

Costs Decision

Site visit made on 22 March 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Costs application in relation to Appeal Ref: APP/V3120/W/20/3264528
2 Tennyson Drive, Abingdon OX14 5PD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mrs Lee Kelsey for a full award of costs against Vale of White Horse District Council.
- The appeal was against the refusal of planning permission for extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flat with associated parking.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.

3. The application experienced significant delays during its consultation period, notably in regard to liaison with the Highway Authority. Some of the delays can be explained by the restrictions placed on officer site visits during the Covid-19 lockdown. The remainder were the result of toing and froing as the appellant sought to challenge the highways response. The matter was resolved in the appellant's favour when a senior officer reviewed the case. The original highway officer raised additional concerns that should have been voiced sooner, but ultimately it was a difference of professional opinion over the application of maximum parking standards. The appellant incurred the expense of appointing a highway consultant but this was a necessary part of the process of engaging with the Highway Authority.

4. The District Council was entitled to rely upon expert advice from its consultee, even if that advice was far slower than might be ideal. Bearing in mind the extenuating circumstances of the global pandemic, and the pressures placed on public bodies during this time, I do not consider that the delays incurred constitute unreasonable behaviour. I have noted that the case officer maintained reasonable communication with the applicant throughout the process.

5. The appellant has various grievances in relation to the committee debate and argues that this was not based on an accurate knowledge of the site. Despite lockdown restrictions, the site is clearly visible from the road and members would have been able to visit individually prior to the committee. For those

unable to do so, I am told that photographs of the site and its surroundings were made available as part of a presentation with the proposed plans. It is evident that there was discussion at the meeting on the merits of the application. The nature of debate varies between committees, and it is not for me to pass judgement on whether this particular committee adhered to its own protocols – that is a matter for the Council. The question for me to consider is whether the decision arrived at by members has been substantiated with evidence.

6. The refusal reason is clear and specific and cross-referenced to development plan policy. It is not uncommon in my experience for professional officers to assist members with the framing of their objections. The Council's statement of case expands upon the refusal reason by describing the character of the area and explaining how the proposal would affect this. The evidence seeks to differentiate the appeal scheme from the development at 9 Masefield Crescent. Although the appellant cites this and other corner developments as precedents, the reality is that each is different in terms of its scale, design and surrounding context. None of the other schemes are directly comparable and therefore the Council was not guilty of dealing with similar cases in an inconsistent manner.

7. The appeal required the exercise of judgement concerning the impact on the character and appearance of the area. Given the degree of subjectivity involved it would not be appropriate to make an award of costs unless the local planning authority has failed to support its arguments with any objective analysis. In this case, the Council has been able to provide an explanation as to why it considers the proposal would harm the character and appearance of the area. Overall, I am satisfied that the concerns raised by the planning committee had a rational basis, even though I have concluded that the proposal would not have a material adverse impact on the character and appearance of the area.

8. Officers, having recommended the original application for approval, were not prepared to support a revised scheme and they were reluctant to provide constructive advice on what could make the proposal acceptable. Although a more helpful stance may have lessened the appellant's frustration, it would not have avoided the appeal in its entirety. The stated intention was to progress the appeal alongside a new application in order to allow an earlier start on site. On this basis, unnecessary or wasted expense has not been demonstrated.

9. It may be that the application could have been determined sooner, had the Covid-19 restrictions not been in place and the Highway Authority been more efficient in its consideration. Nonetheless, for the reasons set out above, unreasonable behaviour has not been demonstrated. The appeal could not have been avoided and therefore it follows that the costs incurred in preparing the appellant's evidence were required expenditure. Unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Robert Parker

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 22 March 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Appeal Ref: APP/V3120/W/20/3264528
2 Tennyson Drive, Abingdon OX14 5PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Lee Kelsey against the decision of Vale of White Horse District Council.
- The application Ref P20/V0404/FUL, dated 10 February 2020, was refused by notice dated 11 November 2020.
- The development proposed is extension and conversion of existing house into four new dwellings, 3x2 bed flats and 1x1 bed flat with associated parking.

Preliminary Matters

1. The above wording is taken from the application form. Revised plans were submitted during the course of the application. These altered the housing mix to 2x2 bed flats and 2x1 bed flats. The Council made its decision against the amended plans and I shall determine the appeal on the same basis. I have adjusted the description of development in my decision to reflect the revisions.

Decision

2. The appeal is allowed and planning permission is granted for extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flats with associated parking at 2 Tennyson Drive, Abingdon OX14 5PD in accordance with the terms of the application, Ref P20/V0404/FUL, dated 10 February 2020, subject to the conditions set out in the attached schedule.

Application for costs

3. An application for costs was made by Mrs Lee Kelsey against Vale of White Horse District Council. This application is the subject of a separate decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal property occupies a corner plot at the junction of Tennyson Drive and Masefield Crescent. This link-detached house is a component part of the street scene of Masefield Crescent and is particularly prominent in views from the direction of Mill Road. Hedging along the boundary with Masefield Crescent is visually attractive, but the side garden does not make a significant contribution to the sense of spaciousness at the junction.

6. The proposal would bring the built form closer to Masefield Crescent and this would make the appeal property more conspicuous in the street scene. However, visibility does not always equate to harm. The new extension would be lower than the existing roof ridge and its mass would be articulated into two discrete blocks with varying eaves heights. From most angles, the extension would read as 1½ storey, particularly from the front where a dormer would sit within the roof slope. Materials would match the host property, with contrasting cladding being used to break up the side elevation. The result would be a subordinate addition which harmonises with the original building.

7. The design would be unique to the appeal property; there are no similar examples within the surrounding area. However, this is a mature residential estate and domestic extensions are commonplace. Given the wide variety that exists locally, including extensions that have taken place on corner plots, I do not consider that the development would be out of keeping. The extension would be set back into the site behind the pavement and grass verge, and this would ensure that it is not overly dominant in views along Masefield Crescent. The retention of existing greenery would help to soften the visual impact.

8. I am told that the planning committee voted to refuse the application on the basis that it failed to meet the criteria in DG 51, 52, 57 and 59 of the Council's Design Guide Supplementary Planning Document (2015) (SPD). These criteria have not been addressed in the authority's evidence, but having read the guidance I do not consider there to be any substantive conflicts. The proposed extension would have an appropriate scale, form and massing and furthermore the design of the roofscape and dormer would be acceptable.

9. Accordingly, I conclude that the proposal would not cause unacceptable harm to the character or appearance of the area. There would be no conflict with Policy CP37 of the Vale of White Horse Local Plan 2031 (LP) insofar as this seeks high quality design that responds positively to the site and its surroundings.

Other Matters

10. The site lies within Abingdon which is classified as a Market Town within the LP. Market Towns have the greatest long-term potential for development to provide the jobs and homes to help sustain, and where appropriate, enhance their services and facilities to support viable and sustainable communities in a proportionate manner. The extension and conversion of the appeal property to flats is therefore acceptable in principle, subject to compliance with policies on detailed matters such as design and highways.

11. The scheme makes provision for 4 parking spaces, equivalent to 1 per flat. This is in line with the Oxfordshire Parking Standards. Concerns have been raised regarding highway safety impacts. However, a development of this nature is unlikely to generate a large number of traffic movements or significant additional demand for parking. The extension would not obstruct sight lines at the junction and timed and dated photographic evidence submitted by the appellant, together with my own observations, indicates that displaced parking, including visitor parking, can be safely accommodated on the road. The Highway Authority considers the proposal to be acceptable in highway terms and based on the evidence before me I am minded to agree.

12. Paragraph 109 of the National Planning Policy Framework explains that development should only be prevented or refused on highways grounds if there

would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Whilst I acknowledge the level of local concern in relation to parking and highway matters, such adverse impacts have not been evidenced.

13. The proposal provides courtyards for the ground floor flats and a communal amenity space for the first floor flats. This accords with the recommendations set out within principle DG 72 of the Design Guide SPD. Although gross internal floor areas have not been provided there is no suggestion that the flats would be substandard in terms of their internal floor area. Overall, I am content that the flats would provide an acceptable living environment.

14. The plans show that the proposed extension would have windows in the side elevation. However, an adequate distance would be maintained to existing dwellings on the opposite side of Masefield Crescent, sufficient to ensure that there would be no material loss of privacy. The distance to neighbouring properties is also such that the development would not have an overbearing impact or result in a material loss of daylight or sunlight for adjoining occupiers.

15. The Council's drainage engineer is satisfied that, subject to further details of surface water disposal being secured by condition, no significant flooding issues would arise. There is no technical evidence to lead me to a different view.

16. I have taken account of all other concerns raised, including those in relation to party wall issues and pollution from an oil storage tank, but they do not alter my overall conclusion. As regards concerns over precedent, it is an established principle that planning applications should be determined on their own merits.

Conditions

17. In addition to the standard commencement condition I have attached a condition specifying the approved plans, in the interests of certainty. To secure harmonious treatment, a condition is required in relation to materials.

18. I have also imposed conditions to secure the car parking and cycle parking provisions, in the interests of highway safety and encouraging sustainable transport modes respectively. For highway safety reasons a further condition is needed to require the provision of visibility splays.

19. Details of foul and surface water drainage are required prior to groundworks commencing and therefore the Council's suggested pre-commencement conditions are justified.

Conclusion

20. The proposal would accord with the development plan read as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF 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: Location Plan and Drawing no TNNY.P11 Revision G.

3) No development shall commence until a full surface water drainage scheme, including details of the size, position and construction of drainage works, coupled with Planning Practice Guidance measures, has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be designed to accommodate a 1 in 100 year storm + 40% climate change allowance and shall be implemented in accordance with the approved details prior to the completion or first occupation of the development, whichever is sooner.

4) No development shall commence until a full foul water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. The approved scheme shall be implemented prior to first occupation of the development.

5) The development shall not be occupied until visibility splays have been provided in both directions measuring 2.4m by 25m or to the termination of the road. Such splays shall be designed to ensure there is no obstruction to vision above 0.9 metre in height relative to the centre line of the adjacent carriageway over the whole of each visibility splay area. Thereafter, the visibility splays shall be permanently maintained free from obstruction to vision.

6) The development shall not be occupied until the parking spaces shown on approved Drawing No. TNNY.P11 REV G, have been constructed, surfaced in a properly consolidated material (not loose stone or gravel) and marked out. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking spaces shall be kept permanently free of any obstruction to such use.

7) The development shall not be occupied until the cycle parking provision shown on approved Drawing No. TNNY.P11 REV G has been constructed. Thereafter, the cycle parking provision shall be kept permanently free of any obstruction to such use.

8) The development shall be built using only the external materials specified on the forms and/or shown on the approved drawings the subject of this planning permission, unless otherwise agreed in writing by the local planning authority.

*** END ***

Scrutiny Committee Report

Vale of White Horse District Council

REPORT NO

Report of Head of Finance

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Wards affected: All

Cabinet member responsible: Andrew Crawford

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To: Scrutiny Committee

DATE: 12 October 2021

Financial Outturn 2020/21

Recommendation(s)

Scrutiny committee is recommended to note the overall outturn position of the council as well as the outturn of individual service areas.

Note: If committee members wish to raise specific questions please send these in advance if possible, to either the committee clerk or the strategic finance manager (richard.spraggett@southandvale.gov.uk). Please be aware that if questions are not submitted in advance, it may not be possible to answer these in detail at the meeting. In addition, if committee members wish specific heads of service to attend the meeting this should also be raised in advance.

Purpose of Report

1. To report the final year end position for revenue and capital expenditure against budget for the financial year 2020/21.

Strategic Objectives

2. The allocation of financial resources within the revenue and capital budgets needs to match the objectives agreed by the council. The outturn report shows how these resources have been used in the 2020/21 financial year.

Background

3. The attached papers contain summarised schedules of revenue and capital expenditure for 2020/21; they also present an explanation of the significant variances against budget. This is presented by service. All the figures in this report are pre-audit and may be subject to change following the conclusion of the audit of the statement of accounts.

Revenue Outturn 2020/21

4. In February 2020 the council approved a net expenditure budget of £15.04 million which was subsequently revised in October 2020 to £15.8 million. The increase was funded from revenue reserves, primarily to reflect the financial impact of the Coronavirus pandemic. This includes costs incurred in supporting residents and businesses affected by the pandemic, together with anticipated reductions in a number of the council's key income streams which had been affected by the country going into lockdown. The budget adjustments are shown as follows in table 1 below:

Table 1: Revised budget 2020/21

	£000
Original net expenditure budget 2020/21	**15,044**
Impact of Coronavirus pandemic:	
Additional expenditure pressures	1,137
Additional income pressures	2,403
Additional grant funding	(3,281)
Other revisions	532
Total revisions	**791**
Total revised expenditure budget 2020/21	**15,835**

5. The budget was further amended to include one-off budgets that had been carried forward from the previous financial year. With the inclusion of budget carry forwards and other in-year changes, the working budget for 2020/21 was increased to £17.4 million.

6. Against the working budget £17.4 million net expenditure at year end was £14.8 million. This equates to a favourable variance of £2.6 million which has been transferred to the council's reserves. The summary by service is shown in table 2 below.

Table 2: summary of revenue budgets and variance

Summary of revenue budgets and variance	Budget £000	Actual £000	Variance £000	Notes
Strategic Management Team	917	710	(207)	
Corporate Services	3,896	3,495	(401)	
Development & Regeneration	809	1,392	583	
Finance	475	695	220	(a)
Housing & Environment	7,156	6,641	(515)	
Legal & Democratic	1,092	944	(148)	
Partnerships	3,414	3,026	(388)	
Planning	1,886	965	(921)	
Policy & Programmes	672	450	(222)	
Contingency	(2,849)	(3,493)	(644)	
Service Expenditure	**17,468**	**14,825**	**(2,643)**	
Investment Income	(833)	(1,021)	(188)	(b)
Net Expenditure	**16,635**	**13,804**	**(2,831)**	

Notes:

a) Finance includes housing benefits and rent allowances funded by government grant as shown in table 3 below.

b) The council's treasury management outturn report will be considered by Joint Audit and Governance Committee, Cabinet and Council.

Table 3: housing benefits and rent allowances

	Budget £000	Actual £000	Variance £000
Rent allowance payments	17,440	19,920	2,480
Government subsidy income	(16,963)	(19,075)	(2,112)
Rent allowance overpayments	(477)	(794)	(317)
Net Position	**0**	**51**	**51**

7. Appendix 1 analyses income and expenditure across the service areas. This appendix shows the expenditure budget was £46.6 million compared to an actual spend of £47.6 million resulting in an overspend of £1.0 million. This overspend is approximately 2.1 per cent of total expenditure. The income budget was £29.1 million compared to actual income of £32.8 million, a favourable variance of £3.7 million representing 12.7 per cent of total income.

8. Table 4 below provides a further breakdown of the revenue outturn position.

Table 4: summary of major variances against revenue budget

		TRANSFERS			VARIANCES BREAKDOWN	
	Total Variance	**Under-spend c/fwd. to 2021/22**	**Grant Income transferred to reserves**	**Net Variances after Transfers**	**Employee Costs**	**Other**
	£000	**£000**	**£000**	**£000**	**£000**	**£000**
Strategic Management	(207)	230	0	23	19	4
Corporate Services	(401)	50	0	(351)	(212)	(139)
Development & Regeneration	583	436	0	1,019	99	920
Finance	220	58	0	278	69	209
Housing & Environment	(515)	146	237	(132)	40	(172)
Legal & Democratic	(148)	0	0	(148)	(46)	(102)
Partnerships	(388)	352	0	(36)	85	(121)
Planning	(921)	0	65	(856)	(377)	(479)
Policy & Programmes	(222)	238	0	16	(27)	43
Contingency	(644)	0	0	(644)	78	(722)
Direct Service Expenditure	**(2,643)**	**1,510**	**302**	**(831)**	**(272)**	**(559)**
Investment Income	(188)	0	0	**(188)**	0	(188)
Net Expenditure	**(2,831)**	**1,510**	**302**	**(1,019)**	**(272)**	**(747)**

Budgets carried forward to 2020/21 and unbudgeted grant income

9. As shown in table 4, of the £2.6 million variance to budget, £1.5 million represents slippage in one-off budgets that have been agreed as budget carry forwards to 2021/22. A further £0.3 million of unbudgeted grant income received in year has been transferred to reserves for future expenditure.

10. Details of all the carried forward budgets are included in Appendix 2. The unbudgeted grant income received in the financial year was £0.3 million. This income will either be transferred to reserves and set against expenditure in 2021/22 or in the case of the neighbourhood planning grant offsets expenditure in previous years. The breakdown of this funding is shown in table 5 below.

Table 5: Grant funding transferred to reserves

Grant	**£**
Neighbourhood planning grant	65,000
Flexible Homeless Support Grant	189,414
Local Authority Compliance & Enforcement	47,638
TOTAL	**302,052**

Employee Costs

11. Employment costs show an underspend for the year of £272,000 with the largest variances being in Corporate Services and Planning.

12. In Corporate Services there were staff underspends arising at The Beacon due to staff employed their being redeployed elsewhere in the council to support the response to the pandemic. The corporate training budget was also underspent by £55,000 at year end. In addition there was a £79,000 overspend on the fixed cost element of the council's contribution to the pension fund following the latest triennial valuation. The results of the valuation were received after the budget was set.

13. In Planning, the underspend primarily reflects progress on the local plan that has been affected by the coronavirus pandemic, and also the involvement of some staff on South Oxfordshire's Local Plan 2035 examination.

Service Department Variances over £50,000

14. Excluding the carry forwards and grant income transferred to reserves, net revenue expenditure was £0.6 million underspent against budget. The significant "other" variations from budget are shown in table 3 above and are explained below.

Corporate Services

15. Expenditure on grants was £110,000 below budget due to lower activity during the pandemic. £50,000 for discrete grants has been carried forward into 2021/22 leaving an overall saving of £60,000.

Development & Regeneration

16. The costs of running the council's leisure centres were £1 million above the revised budget at year end. The budget was revised downwards due to the closure of the leisure centres caused by the pandemic but the revised budget was set in Autumn 2020, ahead of two further lockdown periods in which the leisure centres would have to be closed. The council was however able to claim for the loss of management fee income under the government's sales fees and charges scheme and additional income received for the additional lockdown periods is reflected in the contingency budget outturn position.

17. The commercial rental income budget of £767,000 was reduced by £208,000 due to the pandemic to £559,000. Despite this, property income was £100,000 below the revised budget at year end and reflected lower occupancy than originally budgeted.

18. Facilities Management, which includes the rent and service charges for Abbey House, was overspent by £72,000. When the budget was set it was anticipated that more of Abbey House would be let to Oxfordshire County Council but this will not now happen.

Finance

19. The revenues and benefits client budget was overspent by £145,000 at year end. In addition to the overspend on housing benefits identified above, this primarily reflected the loss of court fee income during 2020/21 due to the suspension of debt recovery action during the pandemic. This recovery action has now restarted.

Housing and Environment

20. Car Parking was £170,000 overspent at year end against the revised budget. The service was severely affected by the pandemic lockdowns and the income budget of £457,000 was reduced to £242,000 in October 2020. Despite this car parking income was down by £50,000 against the revised budget. Contract costs were overspent by £77,000 primarily due to unbudgeted pension costs.

21. The homelessness budget was underspent by £328,000. The budget was increased as part of the revised budget by £190,000 but, in practice, not all of this increase proved to be required. In addition, as identified above unbudgeted Flexible Homelessness Support Grant income of £189,000 was received later in the year.

22. Waste services were underspent by £229,000. Of this, contractor payments were £75,000 below budget due to indexation being lower than expected. In addition, income from garden waste and recycling was over £100,000 above budget.

23. Mobile Home Parks were overspent by £62,000 due to unexpected repairs to mobile home bases. However, £15,000 of the overspend is recoverable from tenants and will be invoiced in 2021/22.

Legal Services

24. Land Charges had a favourable variance of £88,000 against a revised budget of £150,000, which had been revised down from £210,000. This was through increased demand for the land charges service caused by the temporary change in stamp duty.

Partnerships

25. There was an underspend of £85,000 on the Five Councils contract reflecting changes to profiling of contract charges following the insourcing of the exchequer and payroll functions at the start of the financial year.

Planning

26. There was an underspend on Planning Policy of £440,000 largely due to the delays highlighted earlier in progressing the Local Plan.

Contingency

27. When the revised budget was set, provision was made for losses in income from sales, fees and charges to be met under the government's sales fees and charges compensation scheme. However, as identified above, management fee income from leisure continued to be affected by further lockdowns and this, and other variations from fee income predicted when the revised budget was set, led to claims from government under the compensation scheme being over £700,000 higher than estimated.

Comparison to previous year revenue outturn

28. A comparison of the 2019/20 outturn to the 2020/21 revenue outturn is shown in table 6 below:

Table 6: 2019/20 and 2020/21 revenue outturn

	2019/20 Total £000	2020/21 Total £000
Income	2,841	(3,660)
Expenditure	(4,402)	1,017
Net position before Carried Forward Budgets	(1,561)	(2,643)
Carried Forward Budgets	833	1,510
Net position after Carried Forward Budgets	**(728)**	**(1,133)**

Capital

29. The original capital budget for 2020/21 including growth was agreed in February 2020 at £10.5 million. Details of the changes to the capital programme in year are summarised in table 7 below:

Table 7: movement on capital programme

	Approved
Original capital budget 1 April 2020	**10,500**
Roll forward from prior years	4,060
Additions in year (externally funded)	874
Additions in year (other)	352
Schemes deleted	(370)
Slippage into future years	(1,627)
Working budget 31 March 2021	**13,789**

30. Capital expenditure for 2020/21 was £0.8 million. Detail of the variance of spend against the capital programme working budget is shown in appendix 3 to this report.

31. During the year, budget holders review their projects and identify those where delays mean that the current working budget will not be spent in year. The budget profile is then moved to reflect the new spend profile and budgets are slipped into future years if applicable. Slipped budgets remain committed for use in future years. During the year £1.6 million was slipped in this way. A list of slipped schemes is shown in appendix 4.

Financial, Legal and any other implications

32. The financial implications are as set out in the body of the report. There are no other implications of this report.

Conclusion

33. The 2020/21 financial year was particularly challenging as the council faced the impact of the Coronavirus pandemic, but at year end the outturn position on revenue and capital was an underspend against the working budget for the year. Details of major variances are detailed within this report and the appendices.

Appendices:

1. Revenue outturn – expenditure and income variance
2. Revenue carry forward 2020/21 requests
3. Capital outturn – summary and commentary
4. Capital outturn - slippage

Background Papers

- Budget papers for 2020/21

Vale of White Horse DC variance by income and expenditure 2020/21

	Expenditure			Income			Total			Notes
Service Team	**Budget £000**	**Actual £000**	**Variance £000**	**Budget £000**	**Actual £000**	**Variance £000**	**Budget £000**	**Actual £000**	**Variance £000**	
Strategic Management	917	710	(207)	0	0	0	917	710	(207)	
Corporate Services	3,982	3,511	(471)	(86)	(15)	71	3,896	3,496	(400)	
Development & Regeneration	3,136	4,025	889	(2,327)	(2,632)	(305)	809	1,393	584	
Finance	18,487	21,137	2,650	(18,012)	(20,442)	(2,430)	475	695	220	(a)
Housing & Environment	10,669	10,508	(161)	(3,512)	(3,867)	(355)	7,157	6,641	(516)	
Legal & Democratic	1,272	1,247	(25)	(181)	(303)	(122)	1,091	944	(147)	
Partnerships	3,529	3,168	(361)	(115)	(142)	(27)	3,414	3,026	(388)	
Planning	3,464	2,612	(852)	(1,578)	(1,647)	(69)	1,886	965	(921)	
Policy & Programmes	672	659	(13)	0	(210)	(210)	672	449	(223)	
Contingency	432	0	(432)	(3,281)	(3,494)	(213)	(2,849)	(3,494)	(645)	
Service Expenditure	**46,560**	**47,577**	**1,017**	**(29,092)**	**(32,752)**	**(3,660)**	**17,468**	**14,825**	**(2,643)**	
Investment Income				(833)	(1,021)	(188)	(833)	(1,021)	(188)	(b)
Net Expenditure	**46,560**	**47,577**	**1,017**	**(29,925)**	**(33,773)**	**(3,848)**	**16,635**	**13,804**	**(2,831)**	

Notes:

a) Finance includes housing benefits and rent allowancesfunded by government grant

b) The councils's treasury management outturn reportwill be considered by joint Audit and Governance Committee and cabinet and council

Appendix 2 VALE revenue carry forwards for revenue expenditure 2020-21 - requests

Budget code	New carry forward from 2020-21	Total carried forward to C/F £	Reason carry forward needed
Strategic Management Board			
4400 SB11	230,000	230,000	One off budget not spent for transformation activities
	230,000	**230,000**	
Corporate Services			
4706 CG11	50,000	50,000	£50,000 was a one off budget to fund a climate grants scheme. This was paused due to COVID and the transformation review. Other than the already committed budget to fund the 21/22 Partnership grants, the Vale does not have a grants budget and there is not enough flexibility in the other account codes to make up the £50,000. Whilst in 20/21 we have underspent on salaries, we are unlikely to do so in 21/22 as we are currently out to recruit for 2 posts.
	50,000	**50,000**	
Finance			
4655 CH15	50,000	50,000	Exchequer/procurement implementation
4055 UV01	8,194	8,194	Grant funding from Universal Credits used to fund revenue expenditure
	58,194	**58,194**	
Development and Regeneration			
9104 GW12	176,486	176,486	Underspend due to Covid as Centre unable to open. The S106 sum is for management and maintenance of GWP District Centre and can only be used for this purpose.
4400 SD01	1,800	1,800	Vale received one-off external grant funding for an outdoor table tennis table for Kennington, Kingston Bagpuize & Shrivenham Parish Councils. Vale needs to provide match funding for the tables. Project was due to be completed in March 2021 but was delayed. Each council receives £600
4660 HP01	28,307	28,307	Growth budget only allocated in October 2020 for Council Delivery Vehicle
4655 DB11	145,675	145,675	Government grant to fund Dalton Barracks garden village.
4655 HP03	45,556	45,556	Didcot Garden Town funding. Budget made up of grant funding for long term projects.
4655 SR21	37,500	37,500	One off budget to review and develop an active communities strategy
	435,324	**435,324**	
Legal & Democratic			
		0	
Housing & Environment			
2006 PS11	37,502	37,502	This budget was set up using CIL to cover repair works required to a river wall and bank in Hales Meadow, Abingdon. Unfortunately, delays in getting the works contract finalised delayed the ability to provide purchase orders in March. This contract was instead completed on 09 April 2021 at which point PO's were issued.
4400 PA41	30,080	30,080	Further work to be carried out against initial budget for tree works PO816202 (out of the initial £50k). Works agreed by ICMD and budget transferred from one off Public Realm budget.
4400 PA42	64,779	64,779	Funds identified as part of the continuing project to bring the GM PC and PR back in-house
4450/HM21	14,000	14,000	Budget to fund temporary staff to assist with additional workload due to covid pandemic
	146,361	**146,361**	
Partnerships			
4055 GD11	94,734	94,734	This came from a one off growth bid to fund our costs for staffing the Growth Board (our share) and the costs of hosting and aspects of the Growth Deal. We are not using a recurring budget at the present time as a) Growth Board management is under review, and b) Covid 19 means that we have not been in a position to think about restructuring our funding arrangements with an ongoing budget. We will revisit this next year.
SV11		0	
4053 SV11	156,278	156,278	It is requested that £156,278 is carried forward. It is grant funding from the Didcot Garden Town Capacity funding which was put forward in the Cabinet paper that allocated the capacity funding by Gerry Brough to cover Science Vale Marketing/publicity. There is no ongoing funding for Science Vale marketing as it is to be fully funded by grants. It has not been spent to date due to contractual issues
4055 SV11	43,890	43,890	It is requested that £43,890 is carried forward. It is grant funding from the Didcot Garden Town Capacity funding which was put forward in the Cabinet paper that allocated the capacity funding by Gerry Brough to cover Science Vale Marketing/publicity. There is no ongoing funding for Science Vale marketing as it is to be fully funded by grants. It has not been spent to date due to contractual issues
5130 SV11	56,803	56,803	Science Vale - Budget made up of growth bid for long term project

Appendix 2 VALE revenue carry forwards for revenue expenditure 2020-21 - requests			
Budget code	**New carry forward from 2020-21**	**Total carried forward to C/F £**	**Reason carry forward needed**
	351,705	**351,705**	
Planning			
	0	**0**	
Policy & Programmes			
CD01 Community Hub	139,000	139,000	Covid Support Budget Carried forward
1001 HT11	37,227	37,227	Climate change project budget-staffing
4020 HT11	39,014	39,014	Climate change project budget
4066 HT11	23,183	23,183	Brexit grant
	238,424	**238,424**	
TOTAL TO C/F	**1,510,008**	**1,510,008**	

Appendix 3

Vale of White Horse DC 2020/21 capital budget monitoring

	Budget £000	Outturn £000	Outturn variance £000
Corporate services	168	19	(149)
Development & Regeneration	9,335	266	(9,069)
Finance	170	117	(53)
Housing & Environment	3,436	390	(3,046)
	13,109	**792**	**(12,317)**
Percentage			(94%)
Capital contingency (unspent)	680		
Total working budget	**13,789**		

Note: Budget is the full year working budget, Percentage is the total variance excluding contingency as a ratio of the budget

Explanation of significant variances

Corporate Services

Arts projects were underspent by £94k. The installations often have a long lead time and therefore projects have slipped into 2021/22.

Development & Regeneration

The affordable housing scheme (£8.0 million) was underspent at year end . This is a project in conjunction with Oxfordshire County Council and payments were not finalised until quarter one of 2021/22. The underspend has been slipped to 2021/22. £2.6million was spent in June 2021.

There are several leisure centre projects with small underspends, however these total £96,000. The most significant underspend is on essential works - £71,000. Projects within this scheme slipped due to the Covid lockdown earlier in the year and the budget has been slipped to 2021/22.

Finance

A new general ledger system was implemented in the final month of 2020/21. Final payments are not due until 2021/22 and the budget has been slipped.

Housing & Environment

Procurement for CCTV has taken longer than anticipated. The underspend of £185,000 has been slipped to 2021/22.

Procurement for Housing Act works has taken longer than anticipated. The underspend of £256,000 has been slipped to 2021/22.

As a result of other work pressures during the year, the car park improvement works were not completed, resulting in a £318,000 underspend. This has been slipped to 2021/22.

The grounds team were brought back in-house during 2020/21 and the capital budget to purchase new equipment was not fully spent. Some equipment is required for summer and the underspend of £146,000 has been slipped to 2021/22.

There is a long lead time on Disabled Facilities Grants and, coupled with delays during the pandemic, there is an underspend of £1,191,000. This will be slipped to 2021/22.

Appendix 4

Vale of White Horse DC slippage of capital schemes from 2020/21 to later years

Corporate Services	**£000**
Community grants fund	11
	11

Development & Regeneration	**£000**
Leisure centre essential works	200
Wantage leisure centre capital investment	79
Abbey Meadows & gardens improvement	29
Fitness extension at White Horse leisure centre	109
White Horse leisure centre gym equipment upgrade	189
Faringdon leisure centre gym equipment upgrade	8
Faringdon pitch	878
Wantage leisure centre water filter	3
White Horse leisure centre wetside refurbishment	70
Faringdon sports hall	51
	1,616

Total	**1,627**