

APPENDIX 4 Vale District Council's performance 1 April 2018 to end December 2019 2020 ¹quality 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>



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



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



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 Road¹ 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 decision² 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 plans³. 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 Street⁴. 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 decision⁶ 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 be 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.