



Appeal Decision

Inquiry (Virtual) held on 10 August 2021 - 19 August 2021

Site visit made on 11 & 12 November 2021

by Lesley Coffey BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2022

Appeal Ref: APP/A1720/W/21/3271412

Land South of Romsey Avenue, Fareham, PO16 9TA

- 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 Foreman Homes Ltd against the decision of Fareham Borough Council.
 - The application Ref P/18/1073/FP, dated 20 August 2018, was refused by notice dated 21 September 2020.
 - The development proposed is hybrid planning application for residential development of 225 dwellings, bird conservation area. Seeking full planning permission for 58 dwellings and outline planning permission for 167 dwellings with all matters reserved except for access.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of 225 dwellings, a bird conservation area and area of public open space with all matters reserved except for access, at Land South of Romsey Avenue, Fareham, PO16 9TA in accordance with the terms of the application, Ref P/18/1073/FP, dated 20 August 2018, subject to the conditions in the attached schedule.

Applications for costs

2. At the Inquiry an application for costs was made by Foreman Homes Ltd against Fareham Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description above is taken from the application form and was amended during the course of the application. The revised description is "Outline planning application for residential development of 225 dwellings, bird conservation area and area of public open space with all matters reserved except for access." I have considered the appeal on the basis of the revised description.
4. An Environmental Impact Assessment (EIA) has been undertaken and reported in an Environmental Statement (ES) in accordance with the Requirements of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. A revised ES was submitted prior to the Inquiry and has been taken into account in this decision.

5. There were 12 reasons for refusal. Reason for refusal e) was that the proposal failed to provide sufficient information to demonstrate the satisfactory disposal of surface water. On the basis of additional information submitted by the appellant, the Lead Local Flood Authority withdrew its holding objection, and the parties agree that this matter can be addressed by way of a condition. Notwithstanding this, local residents raised concerns about the suitability of the proposed drainage strategy and this matter is addressed below.
6. Reasons for refusal g) – l) relate to the absence of planning obligations in respect of a range of matters, including the provision of affordable housing and education. The appellant submitted two Unilateral Undertakings dated 2 September 2021 to address these matters.
7. The first Unilateral Undertaking (UU) covenants to deliver 40% of the residential units as affordable housing, open space, a Neighbourhood Equipped Area of Play (NEAP), as well as financial contributions towards mitigating the recreational impacts on the Solent, education, Countryside Service, a Traffic Regulation Order, highway and transport improvements, and a Travel Plan.
8. The second UU covenants to provide the Bird Conservation Area together with arrangements for the management, maintenance and monitoring of the Bird Conservation Area. Both UUs are discussed below.
9. The Council and the appellant submitted Statements of Common Ground in relation to Planning and Housing Land Supply. A SoCG with Hampshire County Council (The Highway Authority) in respect of highways and transport matters was also submitted. Notwithstanding the areas of agreement with the Highway Authority set out in the SoCG the Council and local residents remain concerned about the effect of the proposal on parking and highway safety.
10. The site visits were undertaken during term time at the request of local residents.

Main Issues

11. I consider the main issues to be:

- The effect of the proposal on highway safety and the effect of parking displacement on residential amenity;
- The effect of the proposal on on-site biodiversity;
- The effect of the proposal on European Protected Sites with particular reference to Support Areas for brent geese; and
- Whether the location of development outside the settlement boundary is acceptable having regard to Policy DSP40 of the Local Plan Part 2: Development Sites and Policies.

Reasons

12. The appeal site is located adjacent to but outside of the settlement boundary for Portchester. It is about 12.55 hectares in area and is broadly rectangular in shape. Access to the site is from a short stretch of road leading from Romsey Avenue which also provides rear access to some of the Romsey Avenue properties.

13. The northern boundary of the site is formed by the rear gardens of the properties fronting Romsey Avenue, whilst the eastern boundary is formed by recreational open space associated with the development of 120 dwellings of Cranleigh Road that are currently under construction. Wicor recreation ground lies to the south west of the appeal site.
14. The site is located about 1.9 kilometres West of Porchester town centre and 2.8 kilometres east of Fareham town centre. The appellant and the Highway Authority agree that the site is in a sustainable location, within walking and cycling distance of local services and facilities and would allow future residents to make sustainable transport choices, including by foot, by bicycle and public transport.

Highway Safety and Parking Displacement

15. Access to the site would be from the existing access road that currently serves the rear of the properties in Romsey Avenue and a field gate to the site. The access road would be 5.5 metre wide with a 2 metre wide footway on the eastern side. A parking bay is proposed on the western side and would allow up to four cars to be parked.

Highway Safety

16. Beaulieu Avenue and Romsey Avenue are residential streets with approximately 5.5m carriageway widths and unrestricted on-street parking. In order to maintain the free-flow of traffic Hampshire County Council (the Highway Authority) required the provision of parking bays within current verges and double yellow lines adjacent to the junction of the access road and Romsey Avenue and the junction of Romsey Avenue and Beaulieu Avenue. A Traffic Regulation Order (TRO) would be necessary to implement the proposed parking restrictions. The UU includes a financial contribution towards the costs of the TRO.
17. The Highway Authority concluded that the introduction of parking restrictions would not incentivise inappropriate or dangerous parking and would not have a severe impact on the operation of the highway network. It also confirmed that the impact of the increased vehicular use of this section of the highway on walking distances to alternative parking spaces was a matter for the local planning authority.
18. In terms of highway safety, Mr Philpott, on behalf of the Council, explained that whilst yellow lines generally prevent waiting or parking, some activities such as stopping to load or unload, or parking with a valid Blue Badge for up to 3 hours are permissible.
19. Mr Philpott submitted that if a vehicle were to stop on the double yellow lines, service vehicles (particularly larger ones) may be obstructed, and this in turn could give rise to inappropriate manoeuvres or vehicles mounting the footway. He suggested that existing residents may need to stop on the yellow lines in order to load/unload, or for disabled parking. On the basis of the 17 properties with frontages onto the proposed yellow lines he suggests that there could be 2 or 3 vehicles a day for servicing purposes. This figure is based on TRICS data.¹

¹ Two way flow of 5 vehicles between 0700-1900 per day

20. It is possible that delivery drivers may park on the yellow lines to load/unload, particularly outside of the properties on the south side of Romsey Avenue between the site access and Beaulieu Avenue. However, there are no restrictions on such parking at present, although the Highway Code states that cars should not stop in such locations. Whilst the appeal proposal would increase the number of vehicles using this stretch of Romsey Avenue, including service vehicles, they would be unlikely to add to the number of vehicles stopping in the locations where the yellow lines are proposed.
21. Even on the Council's evidence the number of vehicles visiting these properties would be low. No evidence was submitted to the Inquiry to indicate that there are safety concerns in respect of the existing situation, or that delivery vehicles visiting these dwellings have a detrimental effect on highway safety. The proposed parking restrictions would deter rather than increase the propensity for vehicles to park in these locations, I therefore conclude that there is no substantive evidence to indicate that the proposed parking restrictions would be detrimental to highway safety. Indeed, the proposed parking bays would be likely to improve driver visibility and the free flow of traffic by comparison with the existing situation.
22. I agree with the Highway Authority that subject to the proposed improvements the proposal would not be harmful to highway safety.

Parking Displacement

23. The parties differ as to the number of parking spaces that would be displaced by the appeal scheme due to the introduction of the proposed parking restrictions. There are existing yellow lines at the northern end of Beaulieu Avenue at the junction with the A27. It is proposed to introduce yellow lines at the junction with Romsey Avenue, these would extend a short distance along Beaulieu Avenue, and due to the corner would be unlikely to displace any parking.
24. I acknowledge the Council's view that whilst the Highway Code states that vehicles should not stop within 10 metres of a junction other than in an authorised parking space this is not mandatory or underpinned by legislation.² Nonetheless, I consider that few drivers would park in such a clearly inappropriate and potentially dangerous location. The proposed parking bays would be sufficient for 11-12 cars. Given the limited length of the yellow lines proposed along Beaulieu Avenue I do not consider that the appeal proposal would have a significant adverse effect on parking.
25. A parking survey to establish the extent of existing on-street parking in Romsey Avenue and Beaulieu Avenue demonstrated that with the proposed parking there would be sufficient capacity within reasonable proximity to the existing parking locations to accommodate the displaced parking.
26. The yellow lines would extend in front of 15 properties in this part of Romsey Avenue. Of these, 11 have sufficient space to park two cars on their driveway. The appellant carried out an initial parking survey, and at the request of the Highway Authority undertook further independent surveys in November 2018. The latter identified that a maximum of 13 cars parked either in the bellmouth of Romsey Avenue or within the visibility splays where the parking restrictions

² Rule 243

- are proposed. This figure formed the basis for the appellant's parking displacement study.
27. The Council suggest that the number of vehicles displaced by the proposal would be greater than suggested by the appellant. It states that there is parking demand for 7 – 9 vehicles within the access road as evidenced by photographs submitted by residents and Google images that show between 7 and 5 vehicles (including a trailer).
 28. Based on the available evidence, it would seem that between 4 and 5 vehicles are generally parked on the access road. This is supported by the appellant's parking surveys, evidence from additional visits undertaken by Mr Wiseman on behalf of the appellant, and my own observations from visiting the site at various times of day and different times of year. It may be that on occasion that parking demand exceeds this figure as indicated in the photographs submitted by residents. The Council's position relies on photographs, the most recent of which support the appellant's position, whereas the appellant relies on independent survey evidence. Whilst there may be some variation in the level of parking on the access road, on the basis of all of the evidence submitted to the Inquiry and my own observations, I consider the typical level of parking displacement to be about 5 vehicles, 4 of which would be provided for by the proposed parking bays.
 29. The appellant's parking displacement study concluded that the furthest a vehicle would be displaced would be 45.1 metres, whilst the average would be 22 metres. The Council is critical of this figure on the basis of the number of cars to be displaced and the methodology used. It undertook its own assessment (the Mayer Brown Parking Displacement Study).
 30. The Council's study considered a number of scenarios including 7 vehicles parked in the access road, with 3 being displaced, and 9 vehicles parked in the access road with 5 displaced. Whilst the Council accept that the scenario put forward by the appellant that assumes that all cars are able to park in the closest space possible to their original position is possible, it considers that in practice displacement would be more random. Therefore, for each scenario it submitted 5 rounds of displacement.
 31. For the reasons given above in respect of the number of vehicles displaced from the access road I find scenario 1 to be the most representative. Based on the Mayer Brown Parking Displacement Study about 3 vehicles would be displaced by more than the 45 metres suggested by the appellant. The extent of displacement ranges from 46 metres to 87.8 metres. In each round the majority of vehicles would be displaced by less than 20 metres, and the number of vehicles displaced by more than 60 metres is low in all rounds. Moreover, since the survey on which scenario 1 is based was undertaken, two additional properties now benefit from off-street parking, and therefore the extent of displacement may be less than assessed at the time of the survey. I do however accept Mr Philpott's view that such off-street parking provision may have been provided to accommodate additional cars within the same household. I have therefore relied on the number of vehicles in scenario 1.
 32. Although there may be some displacement of existing parking on surrounding roads caused by the parking restrictions, the extent of displacement would not be great. Moreover, many of the properties in Romsey Avenue, including the

locations where yellow lines are proposed have one or more off-street parking space.

33. I therefore conclude that the proposal would not have an adverse effect on highway safety and may even provide some safety benefits due to the improved visibility at junctions and greater width of the running carriageway. Nor would the proposal give rise to a significant loss of amenity due to parking displacement.
34. Overall the proposal would not conflict with Core Strategy Policy CS5 which states that proposals should not affect the safety and operation of the strategic and local road network and Policy DSP40 of the Local Plan Part 2 Development Sites and Policies in so far as it would not have any unacceptable amenity or traffic implications.

On-Site Biodiversity

35. The Council consider that insufficient information was submitted with the application to conclude that it would not harm on-site biodiversity. The appellant subsequently updated the Environmental Statement including Chapter 10 in relation to Ecology and Biodiversity and submitted a Framework Landscape and Ecological Specification Plan (fLEMP)
36. Further clarification in relation to the fencing surrounding the Bird Conservation Area, the badger sett, and the mix of grasses was provided during the Inquiry. As a consequence, the remaining differences between the parties relate to the need for updated surveys and the cumulative effects on badgers arising from the adjacent Cranleigh Road development.
37. The surveys assessed in the original ES took place between 2014-2018. The Phase 1 Habitat and the badger surveys were updated in November 2020. The most recent survey found that the badger sett recorded in the south eastern corner of the site was still active and it is suggested that this is an annex to a main sett on the neighbouring site to the east.
38. The proposal would provide some enhancement in terms of improved foraging for badgers and additional open space. The existing trees and hedgerows on the site would be retained. The Council nevertheless remains concerned that the badger group on the adjoining site would be 'hemmed in' by development to the north, east and west.
39. The fLEMP sets out that there would be a 30-metre buffer zone around the badger sett in the south east corner of the site. Any works within this area would be carried out under the supervision of an Ecological Clerk of Works and a licence would be sought from Natural England due to the proximity of the proposed fence to the sett.
40. The proposed measures within the fLEMP and the Construction Traffic Environment Management Plan would avoid harm to the badgers on the site. There is sufficient survey information to avoid any significant impact on badgers during construction. Badgers are a mobile species and should any works be required in the vicinity of the setts, further surveys may be necessary as part of the licencing process.
41. In terms of the 'in combination' effects, the hedgerows, which afford foraging opportunities would be retained and enhanced, and further hedgerows would

- be planted as part of the Bird Conservation Area proposals. Overall, the proposal would improve the foraging habitat for badgers on the site.
42. The baseline conditions for bats were reassessed following updated manual and automated activity surveys conducted in May 2021 and compared with the previous baseline. The May bat surveys recorded Barbastelle bats in addition to those identified in the previous surveys. As a result of this finding, this species was added to the EIA.
 43. Six ash trees in the south west corner of the site were identified as having low potential to support roosting bats. No further roosting features were identified in the November 2020 survey.
 44. The updated baseline evidence indicates no significant change to bat activity on the site. The boundary features, including the hedgerows and trees used by commuting bats would be retained and enhanced. Whilst updated bat surveys (that are due to continue until October) may be useful for the determination of the reserved matters, in the light of the updated baseline evidence, and having regard to the characteristics of the site I consider that there is sufficient information in order to assess the likely significant effect of the proposal on bats.
 45. The fLEMP includes a number of mitigation measures in relation to biodiversity including areas of semi-improved grassland, hedgerow planting, a kingfisher and sand martin bank. Taken together these measures would deliver a biodiversity net gain. The proposal also includes a number of mitigation measures such as bird and bat boxes, artificial hibernacula for reptiles and amphibians and log piles. The appellant has calculated of 10.04% biodiversity net gain in accordance with the Framework.
 46. On site ecological features of interest including badgers, bats, breeding birds and reptiles would be protected. The Ecological Design Strategy, together with the CEMP and the LEMP would deliver include mitigation and enhancement measures. These would be secured through appropriate conditions.
 47. I conclude that the effect of the proposal on on-site biodiversity is, subject to the proposed mitigation, acceptable and would comply with Local Plan Part 2 Policy DSP13 which seeks to safeguard protected and priority species and their associated habitats, breeding areas, foraging areas and would also secure a net gain in biodiversity through environmental enhancements.

The effect of the proposal on European Protected Sites

48. Eight Natura 2000 sites fall within either the standard 10km buffer applied during the Ecological Impact Assessment, or separately defined Zone of Influence (ZOI). At its closest point the appeal site is situated 0.2 km from the Portsmouth Harbour Special Protection Area (SPA) and Ramsar, 5.14 km from the Solent and Southampton Water SPA and Ramsar, 6.79km from the Solent Maritime SAC, 6.83 km from the Chichester and Langston Harbour SPA and Ramsar and 7.43 km from the Solent and wildlife Lagoons SAC. Together these are referred to as the Solent Special Protection Areas (SPAs).
49. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') aims to conserve key habitats and species by creating and maintaining a network of sites known as the Natura 2000 network.

50. Core Strategy Policy CS4 seeks to prevent adverse effects upon sensitive European sites and states that the Council will work with other local authorities (including the Partnership for Urban South Hampshire) to develop and implement a strategic approach to protecting European sites from recreational pressure and development. Development likely to have an individual or cumulative adverse impact will not be permitted unless the necessary mitigation measures have been secured.
51. Policy DSP13 of the Local Plan Part 2 states that development may be permitted where it can be demonstrated that amongst other matters designated sites and sites of nature conservation value, as well as protected and priority species populations and their associated habitats, breeding areas, foraging areas are protected and, where appropriate, enhanced and the proposal would not prejudice or result in the fragmentation of the biodiversity network.
52. Policy DSP15 states that proposals resulting in a net increase in residential units may be permitted where 'in combination' effects of recreation on the SPAs are satisfactorily mitigated through the provision of a financial contribution that is consistent with the approach being taken through the Solent Recreation Mitigation Strategy. Any proposal likely to have a direct effect on a European-designated site, will be required to undergo an individual Appropriate Assessment. This may result in the need for additional site-specific avoidance and/or mitigation measures to be maintained in perpetuity. Where proposals would result in an adverse effect on the integrity of any SPAs, planning permission will be refused.
53. The proposal has the potential to impact on the integrity of the Solent SPAs through recreational disturbance, the deterioration of the water quality, disturbance during construction, and the loss of supporting habitat for brent geese'

Recreational Disturbance

54. The proposed development would increase the population of the local area and in the absence of suitable alternative recreational space, people are likely to visit the Solent SPAs, including Portsmouth Harbour. This increased recreational pressure may lead to disturbance of SPA designation bird species, and therefore, have potential effects on the features of the SPA.
55. The appellant proposes mitigation for this increased recreational disturbance in accordance with Policy NE3. The mitigation includes a financial contribution based on the Bird Solent Aware payment schedule (April 2021), in accordance with the Solent Bird Aware Solent Recreation Mitigation Strategy and secured through the UU. The Strategy details the mitigation measures implemented to minimise the impacts of increased recreational disturbance. The inclusion of public open space within the proposed development would also be likely to significantly reduce the proportion of daily visits away from the Portsmouth Harbour SPA.

Water Quality

56. The waste water from the new development would introduce an additional source of nutrient loading (Total Nitrogen) to the Portsmouth Harbour SPA, Ramsar catchment. There is existing evidence of high levels of nitrogen and

phosphorus in the water environment with evidence of eutrophication at some designated sites.

57. The appellant submitted a nitrogen budget that demonstrates that the development would be nitrogen neutral and that no mitigation is required. Neither the Council, nor Natural England raise any concerns with regard to the submitted nitrogen budget, subject to a condition that secures water use of 110 litres of water per person per day.
58. On the basis of the submitted nitrogen budget I am satisfied that the proposed development would not have an adverse effect on water quality.

Brent Geese

59. Fareham Borough is an internationally important wintering location for brent geese and wading bird species. These areas are dependent on a network of habitats to provide feeding and roosting areas for brent geese and waders (SPA birds) outside of the SPA boundaries. These supporting sites are functionally linked to the SPAs, and adverse impacts to these supporting habitats may affect the integrity of the SPA.
60. The appeal site is identified within the Local Plan as an 'uncertain' site for brent geese and waders. However, the most recent assessment, *the 2020 Solent Waders and Brent Goose Strategy* (SWBGS), categorises the site as a Primary Support Area for the Portsmouth Harbour Special Protection Area (SPA) and Ramsar site. Primary Support Areas are land that, when in suitable management, make an important contribution to the function of the ecological network for Solent waders and brent geese. Such areas are "important" for the purposes of Policy DSP14 and the loss of such a site requires either evidence to demonstrate that there would be no adverse impact on the site, or that appropriate avoidance and/or mitigation measures to address the identified impacts can be secured.
61. The site forms part of Parcel F21 which includes an agricultural field to the south of the appeal site. It is adjoined by a 'low use' site to the west (F22) and a secondary support area to the south west (F05).
62. Parcel F21 would be reduced in size by about 8.1 hectares. The remaining 10 hectares would include a 4.5 ha Bird Conservation Area within the appeal site of which 3.7 ha would be managed to provide optimal foraging habitat for brent geese. The brent goose mitigation habitat would comprise improved grassland specifically managed as foraging habitat for brent geese and would be located at the southern end of the site to ensure that it would be bordered as much as possible by open arable land. The delivery and future maintenance of this area would be secured by the Bird Conservation Area UU.
63. In terms of Primary Support Areas the SWBGS states that where on-site avoidance or mitigation measures are unable to manage impacts, there may be opportunities for the loss or damage to these areas to be off-set by the provision of new sites to ensure a long term protection and enhancement of the wider wader and brent goose ecological network. In this instance it is proposed to provide mitigation on-site. Such mitigation must ensure the continued ecological function of the wader and brent goose sites is maintained and enhanced.

64. Aside from sightings of individual birds by local residents there are no records of brent geese on the appeal site since 2013. Although winter crops were previously cultivated on the site, since 2014 it is ploughed in November and sown with summer crops in March. This regime means that the earth is bare from November until April when the first crops start to appear and therefore the site has not been in suitable management for brent geese since 2014. Therefore, the suitability of the mitigation needs to be assessed against the potential of the land to support brent geese when in suitable management. The last recorded brent geese on the site were in 2012 and 2013 when 300 geese were recorded on the site.
65. Although the *SWBGS - Guidance on Mitigation and Off-setting Requirements* does not set out criteria against which mitigation should be assessed, the remaining land with mitigation in place should fulfil the same special contribution and particular function of the areas lost. I therefore consider that given the significant reduction in the size of the Primary Support Area that the criteria for off-set land within the SWBGS provide a useful guide as to the suitability of the proposed mitigation. These are habitat type; disturbance; area/size of habitat; timing and availability of habitat; and geographic location. These factors are closely related to the concerns raised by Natural England in relation to the appeal scheme, namely the size of the proposed reserve, the loss of openness, restricted sight lines and the close proximity of new development.
66. *Habitat Type* It is proposed to provide 3.7 ha of improved grassland, with the remainder of the Parcel F21 outside of the site remaining in agricultural use. Overall, in comparison with the agricultural use of the site, even when in favourable management, the proposed habitat would represent an enhancement. This enhancement must be balanced against the overall loss of habitat and the ability of the mitigation land to accommodate brent geese at a comparable level to that previously recorded on the site.
67. *Disturbance* At the present time the rear gardens of the dwellings on the south side of Romsey Avenue back on to the appeal site. Anecdotal evidence from the appellant suggests that some residents use the site for recreational purposes. The SWBGS states that buildings within 50 – 500 metres of the support site make it less suitable for brent geese. There are already numerous dwellings within this distance and the proposed development would not make a significant difference in this regard.
68. There is also a potential for greater disturbance from recreational use and unmanaged public access to the public open space on the site and the site to the east. The mitigation proposals include a 2 m high perimeter fence to prevent access to the Bird Conservation Area, as well as a ditch along the length of the fence on the reserve side with a single point of access for maintenance/security. These measures would assist with limiting disturbance. The Bird Conservation Area UU includes provision to transfer the area to the Hampshire and Isle of Wight Wildlife Trust, the RSPB or another body together with a monitoring fee to cover the costs of an annual report for the first 10 years, with provision for additional monitoring every 10 years, in perpetuity, in accordance with the SWBGS Mitigation and Off-setting requirements. On this basis I am satisfied that the proposed measures would remain effective for the lifetime of the development.

69. *Area/Size* The appellant submitted details of other Primary Support Areas or Core Areas³ nearby that support a similar or greater number of geese and are considered to be comparable in character and size with the proposed Bird Conservation Area.⁴ A number of these areas are used as sports facilities and also have urban development close by. They nonetheless continue to support a similar or higher number of brent geese as recorded at the site when it was under suitable management.
70. These sites range in size from 2.92 ha to 5.6 ha and with the exception of G30C all record in excess of 300 brent geese during surveys. The number of birds observed fluctuates annually with 400-500 being typical, but occasions where 900-1,200 birds have been recorded. The sites are generally used as sports pitches or amenity grassland. Some are surrounded by more open land by comparison with the appeal site, but a number are adjoined by residential or commercial development and located adjacent to roads. I viewed these sites at the time of my site visit and with the exception of G30C they are comparable in size to the brent goose foraging area and for the most part have a similar or greater proximity to development as the Bird Conservation Area proposed. Unlike the Bird Conservation Area proposed by the appeal, the primary use of these sites is generally for recreational sporting purposes and not as a dedicated conservation site. G30C differs from the other sites in that it is bisected by a road and the northern part is an area of woodland and therefore the available land is less than the 2.92ha suggested. It is notable that this is the only area that did not record a significant number of brent geese.
71. *Timing/Availability of habitat/Geographic location* The UU secures the provision of the Bird Conservation Area and requires it to be laid out prior to the commencement of any other development. The site forms part of the Primary Support Area for brent geese and therefore is suitable in terms of location.
72. Overall, I conclude that the proposed mitigation would be consistent with the requirements of the SWBGS Mitigation Strategy, and would, subject to the measures within the Bird Conservation Area UU mitigate the loss of the part of the Primary Support Area and would therefore comply with Policy DSP14.
73. The appellant also submits that the designation of the site as a Primary Support Area is not justified on the basis of the SWBGS which uses a metric methodology to categorise sites. The metrics are based on the survey results which took place over a three-year period from 2016/17. The records were collated along with the previous records from the 2010 Strategy, and supplemented with bird data from Hampshire Ornithological Society, Hampshire & Isle of Wight Wildlife Trust (HIWWT), the Solent Birds Studies bird surveys and Solent Birds Recording App, as well as additional surveys by Hampshire Biodiversity Information Centre surveys for the coastal local authorities.
74. The appeal site has not provided suitable foraging conditions for brent geese since 2014 when due to damage to winter crops due to Canada geese the farmer adopted a new farming regime. The ES confirms that prior to this change there are records of 300 brent geese on the site during 2012 and 2013

³ Core Areas are considered essential to the continued function of the Solent waders and brent goose ecological network and have the strongest functional-linkage to the designated Solent SPAs in terms of their frequency and continuity of use by SPA features.

⁴ Shadow HRA pages 30 -35

- when the management involved the management of a winter wheat crop rotation.
75. There is limited information available in relation to these records and the appellant questions the extent to which they can be relied upon. The SWBGS includes a mechanism for the re-classification of support sites, but these require 3 consecutive years of survey to the agreed survey methodology under appropriate habitat management conditions.
76. It is undisputed that the current management regime renders the site unsuitable for brent geese and the appellant states that the land will not return to winter crops. Whilst this may be the intention of the current tenant farmer the situation could change in the future. The loss of this land without mitigation would result in the permanent loss of foraging habitat for brent geese. Whilst the site has not fulfilled this function for a number of years, its loss without either mitigation, or clear evidence that under a suitable management regime it would not provide suitable foraging for brent geese, would be contrary to Policy DSP14 and DSP15 due to the potential effect on the integrity of the SPA.
77. Observations from local residents suggest that the birds may be disturbed by on-going construction noise. It is proposed that the Bird Conservation Area would be provided before construction commences and that a Construction and Environment Management Plan (CEMP) including an Ecological Avoidance and Mitigation During Construction Plan, identifying all sensitive habitats on-site. Notwithstanding this, disturbance during construction may deter some birds from using the site, however, they are a mobile species and the areas they occupy will vary from year to year.
78. Details of a sanctuary for brent geese in Southsea were submitted to the Inquiry. The evidence suggests that the area was not used and was removed for summer months when it is not required by the geese. Brent geese are a mobile species and their failure to use a site each year does not necessarily mean that mitigation is unsuccessful. On the basis of the available information I do not consider that the failure of the brent geese to use the Southsea site has implications for the mitigation proposed by this appeal.

Appropriate Assessment (AA)

79. The Solent Disturbance and Mitigation Project found that a significant effect on the SPA arising from new housing development around the Solent could not be ruled out. Therefore, avoidance and mitigation measures are required for all residential development within 5.6 km of the Solent SPAs to ensure there is no adverse effect on the integrity of the SPAs from the in-combination effects of new housing.
80. The Habitats Regulations (the Regulations) require that if likely significant effects on a European site cannot be excluded, permission may only be granted after having ascertained that it would not affect the integrity of the site either alone or in combination with other plans or projects. If adverse effects on the integrity of the protected site cannot be excluded on the basis of objective scientific evidence, then it must be assumed that they will occur. However, this is an outline application, and my assessment should be proportionate to the amount of evidence before me.

81. The appeal site lies within buffer zone or Zone of Influence for 8 Natura 2000 sites. These sites are recognised for the international importance of the Solent harbours and estuaries for wintering waterbird assemblages, and/or individually important populations of one or more species. Portsmouth Harbour SPA qualifies under Article 4.2 of the Birds Directive for supporting internationally important numbers of wintering dark-bellied brent geese and nationally important numbers of grey plover, dunlin and black-tailed godwit.
82. The proposed development has the potential for the following effects:
- Recreational pressure impacts from the proposals alone or in combination on Solent and Southampton Water SPA and Portsmouth Harbour SPA;
 - Potential air quality impacts on Portsmouth Harbour SPA;
 - Potential impacts of construction noise disturbance on Portsmouth Harbour SPA and supporting habitat loss impacts on Portsmouth SPA.
 - Potential for harm to water quality was screened out due to the submitted nitrogen budget.
83. The conservation objectives for the SPA areas are to ensure that, the integrity of the SPA is maintained or restored as appropriate, and that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring:
- the extent and distribution of the habitats of the qualifying features
 - the structure and function of the habitats of the qualifying features
 - the supporting processes on which the habitats of the qualifying features rely
 - the populations of each of the qualifying features
 - the distribution of qualifying features within the site.
84. Four out of ten condition features of the Solent and Southampton Water SPA are in poor condition and/or are currently impacted by anthropogenic activities. The remaining six features are in good condition and not impacted. For the Portsmouth SPA 3 out of the 4 condition features are in good condition, with the remaining one in poor condition.
- As part of the updated ES the appellant submitted a shadow Habitats Regulation Assessment. This was considered by Natural England prior to the Inquiry. Natural England is satisfied in terms of the recreational, air quality and disturbance during construction. I address Natural England's concerns with regard to the loss of supporting habitat below. *Recreational Disturbance*
85. Both the Local Plan and Natural England's condition assessment conclude that, in the absence of mitigation, any new residential development within 5.6 kilometres of the Solent SPA sites is likely to lead to a significant effect on the condition features of the sites through additional recreational disturbance either alone or in-combination.
86. Policy NE3 of the Fareham Borough Local Plan provides a financial mechanism through which the impacts of recreational disturbance from new residential developments can be mitigated. Policy NE3 is implemented through the Solent Bird Aware Solent Recreation Mitigation Strategy. The scale of developer

contributions was updated in April 2021 and the submitted UU makes provision for the appropriate sum.

87. The contribution would be used to fund a team of seven rangers who would engage with visitors, explaining the vulnerability of the birds, and advising people how they can avoid bird disturbance. The aim is to secure behavioural change through awareness raising, including through communications, marketing and education. Monitoring would help confirm that mitigation measures are working as anticipated, and whether refinements or adjustments are necessary. In the longer term, it would establish whether the mitigation strategy is being effective.
88. Natural England is satisfied that the proposed mitigation would be acceptable.

Air Quality

89. There are nine pinch point locations within 5km of the site where additional traffic from the proposed development would travel within 200m of the Solent SPA sites. The sensitive qualifying features of the sites could be exposed to emissions.
90. The changes in the Annual Average Daily Traffic (AADT) for these nine locations were under the threshold AADT for the development alone. However, seven of the locations exceeded the 1000 AADT when assessed cumulatively with other proposed developments.
91. Changes in key pollutants emitted by road traffic that are known to have negative impacts on the natural environment were calculated. The modelled figures show that the critical loads for NH₃ (Airborne ammonia) are not exceeded at any of the pinch points in relation to the qualifying feature species that the SPA is designated for (3µg/m³). Therefore there would be no adverse effects on the SPA site arising from increased ammonia associated with the development or in combination with other projects.
92. Critical loads for NO_x were exceeded slightly in relation to the qualifying feature species that the SPA is designated for (30µg/m³) at two pinch points. These are both located on the main roundabout that links the A27 west out of Portchester, with the A27 running north to south from the M27 with Fareham. This is immediately adjacent to the Portsmouth Harbour SPA at the northern tip of Salterns Lake/Fareham Creek. The habitats within this location of the SPA are largely tidal mudflats. This habitat type is inundated with sea water at least twice every 24 hours. Tidal mudflats are therefore not generally sensitive to increased deposition of airborne pollutants, as they are not able to accumulate.
93. A small section in the north-western part of the creek is not intertidal. In this location the total Predicted Environmental Concentration does not exceed the Critical Level either in combination with other projects.
94. The structure and function of the habitats of qualifying features would not be adversely affected by predicted airborne pollutants or deposition. There would be no significant impact on the qualifying features nor the conservation objectives of the Solent SPA sites through airborne pollution arising from the proposals alone, or in combination with other proposals in the Local Plan.

Construction Phase Noise Impacts

95. The proposed development site is about 200 metres from the closest boundary of the Portsmouth Harbour SPA. During the construction phase of the development, noise levels would significantly increase from the baseline, through groundworks, site preparation and the building phase. The qualifying features of the SPA (specifically brent geese) are sensitive to construction noise within 300 metres of the SPA. Any additional noise created within this zone is likely to disturb or prevent brent geese feeding within the SPA. Similar considerations apply to the proposed brent geese foraging area.
96. Mitigation will be required to limit the short-term impacts of noise generated by construction disturbing SPA bird species. Mitigation measures will be conditioned through a CEMP. This would limit what operations can take place on site during the sensitive period for brent geese and other SPA species. The construction schedule for the site would be configured to restrict disturbance noise level creating operations outside of the sensitive period for SPA birds, between October and February inclusive. A condition is proposed to secure this.
97. With the appropriate mitigation measure applied through a CEMP, there are unlikely to be significant effects from construction noise on the qualifying feature bird species for the Portsmouth Harbour SPA. There would be no effect on the conservation objectives and the integrity of the Solent SPAs would be maintained.

Loss of Supporting SPA Habitat

98. The appeal site is a Primary Support Area for brent geese and waders and when in suitable management has the potential to make an important contribution to the function of the ecological network for Solent waders and brent geese and is functionally important for the integrity of these internationally important sites.
99. Prior to the Inquiry Natural England acknowledged that the proposed bird mitigation land could be successful, but nonetheless consider that there is no certainty that the reserve would replicate the current ecological function of the appeal site due to the combined influence of a number of factors.
100. A number of documents were submitted during the course of the Inquiry including the Bird Conservation Area UU, the Framework Landscape and Environmental Management Plan, the Winter Bird Mitigation Technical Note and the Funding for Bird Conservation Area Proposals.⁵
101. Together these documents outline the design, management and costing of the Bird Conservation Area, the necessary financial contribution, the timing and provision of the Bird Conservation area and its transfer to an appropriate body such as the RSPB or the HIWWT. Subsequent to the Inquiry, these documents were submitted to Natural England for comment.
102. Natural England state that mitigation measures may be acceptable where, together with long term management, the habitat quality in the remainder of the Primary Support Area can be significantly improved so as to provide for a greater capacity for the target species than the original site.

⁵ INQ 39, INQ 25 & INQ 26

103. Its current position is that the suitability of the Bird Mitigation Reserve is still uncertain, and it is unable to advise with certainty that the Bird Mitigation Reserve would fulfil or exceed the same special contribution and particular function of the existing Primary Support Area and protect the integrity of the Portsmouth Harbour Special Protection Area.
104. In its present condition the appeal site does not provide suitable foraging for brent geese and has not done so since 2014. The current farming regime does not benefit brent geese, and this seems unlikely to change in the foreseeable future. Notwithstanding this, in the absence of suitable mitigation the permanent loss of part of the Primary Support Area as proposed would have the potential to harm the integrity of the SPA.
105. The proposed development would result in the loss of Solent Wader and Brent Goose habitat. Parcel F21 would be reduced in size by about 8.1 ha, with about 10 ha remaining including the Bird Mitigation Reserve (4.5ha). This would include 3.7 ha of improved grassland specifically managed as a lush sward which is the highest preference forage habitat for brent geese. There would be a central scrape providing a winter source of freshwater. The northern boundary between the development and mitigation area would have a perimeter fence of sufficient height to screen the area from human disturbance. The southern boundary would be retained as is, to maintain permeability between the brent goose reserve and southern field parcel of F21.
106. The mitigation area would be smaller in size than the existing Primary Support Area. The suitability of the grazing for brent geese would be significantly improved. There is clear evidence, based on the comparative sites submitted by the appellant, that in terms of size of the area proposed the Bird Conservation Area has the potential to accommodate a much greater number of birds than were previously recorded at the appeal site. Moreover, this area would form part of the remaining 10 ha Primary Support Area for brent geese. The quality of the habitat would be secured through the Bird Management and Monitoring Plan that would detail the exact specifications for establishment, fencing, management and monitoring of the site in perpetuity. The site would be managed by a conservation body, so the potential to remove suitable grazing habitat for several years, or even in the longer term, would be removed.
107. Unlike the present Primary Support Area, or the sites in the appellant's Shadow HRA, the site would not be subject to dual use or accessible to the public and any consequential disturbance. Unlike these other areas the Bird Conservation Area would be specifically managed to provide a high-quality foraging habitat for brent geese. The mitigation includes measures to screen the area from the effects of human disturbance, and in any event would be no closer to the proposed dwellings by comparison with the existing site. These measures would be secured by the UU. The level of openness would be reduced from the existing due to the proximity of the proposed development, but the area to the south, between the Bird Conservation Area and the SPA would remain unchanged. It would be significantly more open than many of the sites I visited, some of which were enclosed by built development or other urban features on three or more sides.
108. The Bird Mitigation Reserve proposed through the Romsey Avenue development would secure suitable brent goose and wader habitat linked to the

remainder of F21 in perpetuity and would greatly exceed the current ecological function of the appeal site as a Primary Support Area.

109. The appeal proposal would provide suitable habitat that would be secured for the foreseeable future and would be suitably managed and monitored. The proposed mitigation would provide enhanced suitability by preventing disturbance and ensuring the habitat within the site is suitable throughout the winter period in perpetuity. I therefore conclude that subject to the proposed mitigation the scheme would not harm the integrity of the SPA.
110. Taking all of these matters together, I find that there is certainty that the site would be managed for the benefit of brent geese in perpetuity, and that, and it would replicate or exceed the potential ecological function of the existing Primary Support Area in the event that it were to be returned to favourable management conditions for brent geese. I conclude that the proposal would not have an adverse effect on the integrity of the Portsmouth Harbour SPA either alone or in combination with other projects.

Development outside of the settlement boundary

111. The parties agree that due to an absence of a 5 year housing land supply Policy DSP40 is triggered. This states that where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy, additional housing sites, outside the urban area boundary, may be permitted where they meet the specified criteria. There is no dispute between the parties in relation to the first four criterion. These relate to the scale and location of the development, the character of the area and the deliverability of the proposal.
112. The Council submit that the proposal would fail to comply with the fifth criterion since it would give rise to environmental harm due to the adverse effect on the integrity of European sites, harm to on-site ecology and the loss of Best and Most Versatile Agricultural (BMV) land. It also considers that displacement of parking in Beaulieu Avenue and Romsey Avenue would be unacceptable in terms of highway safety and amenity.
113. As set out above the difference between the parties in terms of the impacts on on-site ecology have narrowed significantly since the application was determined. I have found above, that subject to the proposed mitigation the effect of the proposal on on-site biodiversity is acceptable.
114. I also conclude that subject to the mitigation measures secured by the UU the proposal would adequately mitigate the loss of part of the Primary Support Area and avoid harm to the integrity of the SPA. Whilst there would be a loss of BMV land, the Council and the appellant agree that it is a matter to be weighed in the overall balance and would not in itself justify the refusal of planning permission
115. The proposal would not have an adverse impact on highway safety and would perhaps provide some benefits. Whilst the displacement of parking may give rise to some inconvenience at times this would not be at an unacceptable level.
116. I therefore conclude that the proposal would comply with Policy DSP40 as a whole and the principle of the development outside of the settlement boundary is acceptable.

Other Matters

Highway Issues

117. A number of interested parties, including Councillors Nick and Sue Walker, raised concerns about the impact of the proposal on the safety of children walking and cycling to and from school.
118. The Transport Assessment assessed the effect of the proposed development on cyclists and pedestrians during the construction and operational phases. The addendum Transport Assessment included a detailed Pedestrian / Cycle Audit to consider the routes from the site to key destinations. As a consequence, a number of mitigation measures are proposed.
119. The appellant proposes a financial contribution towards improved footway provision along the routes towards Fareham town centre and the railway station and cycle safety improvement schemes at Cornerway Lane roundabout, as well as improvements to footpaths in the vicinity of the site. Other measures include a school travel plan for Wicor Primary School which is a 12-minute walk from the proposed site. Subject to these measures the Highway Authority confirm that the proposed development is acceptable in terms of highway safety and sustainability.
120. I visited the area at the beginning and end of the school day to observe traffic conditions in the vicinity of the Wicor Primary School. As is often the case with primary schools, congestion was greatest at the end of the school day when the immediate vicinity was subject to parking pressure. The proposal would not add significantly to school traffic and with the proposed School Travel Plan to encourage walking and cycling and the proposed mitigation measures I do not consider that the proposed development would have an adverse effect on the safety of children travelling to and from school by foot.
121. I also noted at the time of my visit a considerable number of Secondary School students cycling to and from school. The importance of maintaining a safe cycle route to and from school for these students cannot be under-stated. Whilst there would be a modest increase in the number of overall number of vehicles using Romsey Avenue and Beaulieu Avenue at the beginning and end of the school day, the visibility at the junctions would be improved due to the proposed parking restriction and there would also be a wider carriageway in Beaulieu Avenue and safety improvements for cyclists at Cornerway Lane roundabout. Therefore, having regard to the evidence submitted to the Inquiry I do not consider that the proposed development would have a significant effect on the safety of cyclists in the surrounding area.
122. The Transport Assessment and the Addendum Transport Assessment assessed the operational capacity of a number of junctions within the vicinity of the appeal site. It was agreed that the site access and Romsey Avenue operate with reserve capacity, as does Romsey Avenue and Beaulieu Avenue. The Beaulieu Avenue junction with the A27 would, with the proposed widening works and adjustments to the bellmouth radii, operate within capacity. The Cornerway Lane junction would operate with reserve capacity. The A27 Downend Road signalised junction is forecast to operate with negative practical reserve capacity in future years and the appellant has provided a financial contribution to mitigate against the effects of development. The A27 Delme

Arms roundabout is proposed to be improved and the appellant has agreed a financial contribution towards this improvement.

Housing Land Supply

123. The parties submitted a housing land supply Statement of Common Ground. It is agreed that the Council is unable to demonstrate a five year supply of housing land. Although the parties differ as to the extent of the shortfall, they agree that this matter should be afforded significant weight.
124. The housing requirement falls to be measured against the local housing need figure calculated using the standard method. Together with the Housing Delivery Test results published in February 2021, it is agreed that it is appropriate to apply a 20% buffer to the requirement.⁶ This results in a minimum five year requirement of 3,234 dwellings for the five year period 1 January 2021 to 31 December 2025.
125. The Council submits that it has a five year land supply sufficient for 2,310 dwellings. This results in a shortfall of 924 dwellings and a supply of 3.57 years. The Appellant considers the supply to be 600 dwellings. This results in a shortfall of 2,634 dwellings and a supply of only 0.93 years.
126. It is common ground between the Council and Appellant that the Council is not meeting paragraph 59 of the Framework, thus engaging the presumption in favour of sustainable development at paragraph 11(d) of the Framework unless disapplied by virtue of paragraph 177.
127. Whilst the Council and Appellant disagree as to the extent of the shortfall, it is nevertheless agreed, on either position, that the shortfall is considerable and the weight to be attached to the delivery of housing from the Appeal Scheme is significant. Therefore it is not necessary for me to conclude on the precise extent of the shortfall.
128. It was suggested by a local resident that Portchester has already accommodated considerably more than the 57 dwellings indicated within the Core Strategy. Core Strategy policy CS2 states that 3,729 dwellings would be provided within the Borough to meet the South Hampshire sub-regional strategy housing target between 2006 and 2026. The accompanying text suggests that about 57 of these dwellings would be provided within the Portchester area, this position is confirmed by Policy CS11 which expects about 60 dwellings to be provided in Portchester over the plan period.
129. At the date at which the Part 2 Local Plan was adopted there was a residual requirement for 872 dwellings over the remainder of the Plan period from April 2014. Since the adoption of the Core Strategy the National Planning Policy Framework was published in 2012, and the most recent iteration is dated July 2021. Amongst other matters it supports the Government's objective of significantly boosting the supply of homes and requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement. Where (as in the case of Fareham) the strategic policies are more than five years old local housing need should be calculated using the standard method as set out in National Planning Guidance. Where there has

⁶ The recently published 2021 Housing Delivery Test results indicate that 62% of the required homes have been delivered over the past three years.

been significant under delivery of housing over the previous three years a buffer of 20% should be applied, to improve the prospect of achieving the planned supply. Accordingly, the current housing need for Fareham considerably exceeds that within the Core Strategy.

Other Issues

130. An interested party referred to an appeal decision in Harrogate⁷ that also involved the loss of agricultural land. The Inspector's conclusions turned on a number of other factors, that when taken together did not justify allowing the appeal. The circumstances in this appeal differ from the Harrogate appeal, and whilst the loss of BMV land is a matter to be weighed in the overall planning balance, the parties are in agreement that the loss of such land would not in itself justify dismissing the appeal. Therefore the Harrogate decision does not alter my view above.
131. Each appeal is fact specific. I consider that the circumstances in this appeal differ from the Harrogate appeal in that even on the Council's figures the shortfall is greater than in Harrogate. It would also seem that in the Harrogate case the housing land supply was agreed to be 4.06 years, whereas in the context of this appeal the housing land supply is not agreed. Based on the submitted evidence, is likely to be between 3.57 years and 0.93 years and as such significantly lower than in the Harrogate case. Notwithstanding this, the loss of BMV land is a matter to be weighed in the overall planning balance.
132. A number of local residents referred to the importance of the natural environment in terms of recreation and their well-being. They consider the area to be unique and that the change to the view of the site would adversely impact on their well-being. Reference was also made to policies within the Framework, including the definitions of open space, Heritage Coast and Green Infrastructure.
133. The appeal site does not come within the definition of open space or Heritage Coast and there would be no loss of public open space. The proposal makes provision for green infrastructure in terms of the Bird Conservation Area and Public Open Space. The UU includes provision for open space, a neighbourhood equipped area of play (NEAP) and maintenance contributions. It also includes contributions towards the improvement of public footpaths and the Wicor Countryside Service.
134. The proposal would therefore accord with paragraph 92 of the Framework in so far as the layout would encourage walking and cycling.

School Places

135. Residents advise that there is a shortage of primary school places within the area. Hampshire County Council Children Service Department confirm that Wicor Primary School is full. The UU includes an education contribution calculated in accordance with the Council's formula for the provision of additional infrastructure at Wicor Primary School. This would mitigate the effect of the proposed dwellings on the primary education within the area.

AFC Portchester

⁷ APP/E2734/W/16/3160792

136. Local residents are concerned that if the appeal is allowed that the activities of Portchester AFC may be limited due to disturbance to new residents from noise. Evidence presented to the Inquiry indicates that social activities at the Club continue until 01:00 or later, and whilst existing residents may be tolerant of this, new residents may not be.
137. The clubhouse may also be used by other local sporting teams for evening meetings on weekdays. Together the lease and planning permission provide that the clubhouse shall not be let or hired out for use for private social functions or used outside of 09:00-23:00 Monday-Sunday. There are also requirements prohibiting nuisance to neighbours. Although there have been some complaints in recent years these have been low in number and would seem to be isolated incidents. The closest of the proposed dwellings would be a similar distance from the Club to the existing dwelling at Cranleigh Avenue. Therefore provided the Club complies with the terms of the lease and planning permission it should not give rise to any undue disturbance to future residents. Accordingly, subject to suitable acoustic mitigation the proposed development would not restrict the operation of the club.

Drainage

138. Dr Farrell, an interested party, submitted that visible algal mats indicate that the substrate beneath the top soils indicate that the soil has been saturated for a long period of time and may be unsuited to infiltration.
139. Dr Farrell believes that infiltration rates would be greatly reduced or eliminated if the water table was close to the surface and therefore total reliance upon soakaways on land known to remain saturated over the winter months is unsound, as the water table is likely to be close to the surface rendering the soakaways inoperable. For this reason, he considers the drainage plan to be unsound.
140. The soil investigations were carried out at an appropriate time of year and did not encounter groundwater within any of the twelve trial holes or in the updated 2019 infiltration testing. In order to satisfy the Lead Local Flood Authority (LLFA) the appellant undertook further infiltration tests. The updated report concluded that "given the observed infiltration over the test period, it is considered that some areas of the site would be suitable for the adoption of surface water soakaway systems". The LLFA was satisfied with this conclusion.
141. As explained in the appellant's technical note the algal mats referred to by Dr Farrell could be the result of compaction associated with the current farming activity on the existing soils.
142. Although the most recent infiltration testing was undertaken in May, the original testing was undertaken in January and February when no groundwater was encountered in trial pits at depths in excess of 2.5 metres. The suitability of the site for a drainage strategy based on infiltration was a specific concern of the LLFA. On the basis of additional information submitted in June 2021 the LLFA was satisfied in this matter and withdrew its objection.
143. I am satisfied that this matter has been considered in detail by the LLFA and it is satisfied with the proposed strategy. Taking account of all of the available information I have no reason to conclude otherwise.

Unilateral Undertakings

144. As set out above the appellant submitted two Unilateral Undertakings. The Framework states that planning obligations must only be sought where they 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. I shall consider the main UU first, followed by the Bird Conservation Area UU in the context of the guidance in the Framework, PPG and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The UU includes a mechanism (sometimes known as a 'blue pencil' clause) at 3.3 which provides that should the decision-maker conclude that any of the obligations do not pass the statutory tests such obligations shall have no effect and consequently the owner and/or other covenanters shall not have liability for payment or performance of that obligation.
145. Schedule One undertakes to provide 40% of the dwellings as affordable housing in accordance with a mix that has been agreed with the Council. The provision of affordable housing accords with Core Strategy Policy CS18. The Council's Affordable Housing Strategy (2019-36) states that there is a current need for around 3,000 affordable homes in the Borough, with around 1,000 households on the waiting list. I conclude that the affordable housing obligations meet the tests within the Framework.
146. Schedule Two includes obligations in relation to the provision of open space. It requires the provision of open space in accordance with the Council's minimum requirements and the payment of an open space maintenance contribution. It also requires the provision of a Neighbourhood Equipped Area for Play (NEAP) to be provided and transferred to the Council, or the transfer of land for the NEAP together with the NEAP contribution to allow the Council to layout and equip the NEAP. There is also a requirement for a NEAP maintenance contribution.
147. The provision of open space is necessary to comply with policy CS21 and to meet the recreational needs of the proposed development.
148. Schedule Three concerns environmental and habitat obligations. It requires the payment of the Bird Aware Solent contribution which is necessary to mitigate the recreational pressure arising from future residents on the Solent SPA. It is necessary to make the development acceptable and maintain the integrity of the SPA. It is also directly related to the development and fairly and reasonably related in scale and kind.
149. Schedule Four undertakes to make a financial contribution towards Primary Education. Wicor Primary School is at capacity and the contribution would be used to provide additional infrastructure at the school, including a School Travel Plan to meet the educational needs of the development. Therefore the contribution is necessary to make the development acceptable and I am satisfied that it is fairly and reasonably related in scale and kind.
150. Schedule Five relates to Countryside Services. It covenants to make a financial contribution towards re-surfacing footpaths 110 and 111a. It also includes a financial contribution towards the Wicor Countryside Service. The contributions are necessary to mitigate the increased use of the footpaths and countryside service by future residents. These contributions are directly related to the development and fairly and reasonably related in scale and kind.

151. Schedule Six includes a number of highway obligations. These include financial contributions towards highway improvements in the vicinity of Delme roundabout, Downend Road/A27, Cornerway Lane Roundabout cycle improvements, footway widening in the vicinity of the site, walking audit measures and a school travel plan. It also includes a contribution towards the Traffic Regulation Order for Beaulieu Avenue and Romsey Avenue and a Travel Plan and monitoring contribution.
152. The need for these measures were identified in the Transport Assessment and the Transport Assessment Addendum. They are necessary to make the development acceptable and fairly and reasonably related in scale and kind.

Bird Conservation UU

153. This requires the provision of the Bird Conservation Area and its future management. It requires the owners and the appellant to use their best endeavours to transfer the Bird Conservation Area to Hampshire and the Isle of Wight Wildlife Trust or the RSPB to be managed and maintained in accordance with the Bird Conservation Area Scheme. It also requires the Bird Conservation Area Commuted Sum to be paid to the management Company or the party that the Bird Conservation Area is transferred to, as well as a Bird Conservation Area monitoring fee. For the reasons discussed above these obligations would meet the tests with the Framework and the statutory tests.

Conditions

154. I have assessed the suggested conditions in light of the tests set out at paragraphs 55 and 56 of the Framework and the advice in the PPG. The reserved matters need to be submitted for approval. In some instances I have adjusted the suggested wording in the interests of precision. Given the urgent need for housing within the District the timeframe for the submission of reserved matters and commencement of development have been reduced to 12 months. in each case. In order to provide certainty in respect of the matters that would not be reserved for future consideration, a condition requiring the development to be carried out in accordance with the approved plans is necessary.
155. Although a drainage strategy has been submitted and the LLFA consider it to be acceptable in principle the application is in outline and further details are necessary. An assessment of the risks from any contamination on the site is necessary in order to safeguard human health and the environment, as well as a condition in the event that any unexpected contamination is encountered.
156. Details of finished floor levels are necessary in order to safeguard the amenity of surrounding residents and ensure that the development would harmonise with its context. In order to ensure that the living conditions of future occupants would not be unacceptably affected by noise from AFC Portchester, a noise survey in relation to noise emanating from AFC Portchester is necessary, together with details of any required noise mitigation measures.
157. A Construction Environmental Management Plan (CEMP) is necessary in order to safeguard the amenities of surrounding residents and minimise any harm to biodiversity. Although the condition references the Framework Construction Environmental Management Plan, it includes measures in relation to biodiversity on-site and I am satisfied that it would assist with informing the

CEMP. Due to the proximity of the site close to the Portsmouth Harbour SPA and the mitigation to be provided for the brent geese I agree that a programme of construction is necessary to avoid an adverse impact on the species that use the SPA. At the Inquiry the appellant confirmed that the proposed condition was acceptable. An Ecological Design Strategy in respect of the public open space and the boundary hedges is necessary in the interests of biodiversity. In the interest of safeguarding the ecological value of the site in the longer term, including the habitat for brent geese and other species, a Landscape Environmental Management Plan is also required.

158. Details of the Bird Conservation Area and the Bird Conservation Area monitoring scheme are necessary to ensure that the mitigation proposals for brent geese are satisfactory. The implementation of these measures are secured by the UU.
159. In the interests of sustainability an electric vehicle charging strategy is required. A condition to limit water consumption per resident per day would be necessary in the interests of biodiversity and sustainability. In order to safeguard residential amenity the hours of construction should be limited.
160. A lighting design strategy is necessary in the interests of biodiversity. The Council also suggested a condition requiring a review of the ecological measures secured through conditions in relation to the conditions in relation to the programme of construction (condition 11), the LEMP (condition 13) and the formation and layout of the Bird Conservation Area (condition 14) should works not commence within 2 years of the date of this decision.⁸ In summary the condition would require updated ecological surveys and the identification of any new ecological impacts.
161. Although the reserved matters need to be submitted within a year of this decision, it may take time for them to be approved, as such the suggested condition could require the measures secured by the relevant conditions to be reviewed a short time after they have been discharged. Condition 11 simply restricts construction work during winter months to safeguard the SPA. I can see no justification as to why the passage of time would require updated ecological surveys in relation to this matter. The LEMP set out management objectives for the site including areas of habitat creation and on-going ecological assessments. Whilst badgers are a mobile species and their distribution across the site may change prior to the commencement of works they are protected under the Protection of Badgers Act 1992, this makes it illegal to kill, injure or take a live badger or to interfere with badger setts. Any such activities would require a licence from Natural England. I therefore do not consider the suggested condition to be necessary, and consider that it could introduce uncertainty and delay in terms of ecological mitigation, I have therefore not imposed it.
162. Since I have decided to grant permission contrary to the advice of Natural England I have included a condition that prohibits commencement of development from 21 days of the date of that decision.

⁸ These are condition 9, 11 and 12 on the schedule submitted by the Council (INQ 27)

Planning Balance

163. I have found above that the proposal would not be harmful to highway safety or have a significant effect on amenity due to parking displacement. The proposed development would provide satisfactory mitigation in relation to on-site biodiversity. Subject to the mitigation measures proposed in terms of the Bird Conservation Area and the financial contribution to mitigate the recreational impacts on the Solent SPAs, the proposal would not harm the integrity of the SPAs.
164. The appeal site is situated in a sustainable location with access to a range of facilities by walking and cycling. The Council has a significant shortfall in housing land supply and a pressing need for affordable housing. The proposed development would contribute towards meeting this need thereby contributing to the social aspect of sustainability.
165. There would be some harm arising from the loss of BMV agricultural land, however, as agreed by the parties the loss of this land would not in itself warrant refusal of planning permission. I therefore find that the proposal would comply with Policy DSP40, and the development plan as a whole.

Conclusion

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

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

FOR THE APPELLANT:

Christopher Boyle QC
He called

David Wiseman
BA(Hons), MRTPI
Adam Day BSc(Hons),
MSc ACIEEM

Stuart Michael Associates(Highways)
Fpcr Environment and Design (On-Site Ecology)

Paul Whitby BSc(Hons),
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The Ecology Co-op (European Sites)

Tim Wood

Stuart Michael Associates (Drainage)

Nigel Burton
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Temple Group (Noise)
Wolf Bond Planning

FOR THE LOCAL PLANNING AUTHORITY:

Ned Helme of Counsel
He called

Alec Philpott BEng
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Mayer Brown (Highways)
The Landscape Partnership (Ecology)
Paris Smith (Planning)

INTERESTED PARTIES:

Councillor Nick Walker
Councillor Sue Walker
Councillor Roger Price
Fareham Society
Carol Puddicome
Dr Farrell
Gillian Marshall
Melanie Hefford
Mike Towson
Simon Brown
Claire Martin
Darren Jones

DOCUMENTS SUBMITTED AT THE INQUIRY

- INQ 1 - Opening Submissions on behalf of the Council
- INQ 2 - Opening Submission on behalf of the Appellant
- INQ 3 - Submission from Robert Tutton
- INQ 4 - Submission from Carol Puddicome
- INQ 5 - Submission from Cllr Nick Walker and Cllr Sue Walker
- INQ 6 - Submission from Dr Farrell
- INQ 7a - Submission from Gillian Marshall
- INQ 7b - Submission from Gillian Marshall
- INQ 8 - Submission from Mel Hefford
- INQ 9a - Submission from Mr M Towson
- INQ 9b - Submission from Mr M Towson
- INQ 9c - Submission from Mr M Towson
- INQ 10a - Submission from Mr Simon Brown
- INQ 10b - Submission from Mr Simon Brown
- INQ 10c - Submission from Mr Simon Brown
- INQ 10d - Submission from Mr Simon Brown
- INQ 10e - Submission from Mr Simon Brown
- INQ 10f - Submission from Mr Simon Brown
- INQ 10g - Submission from Mr Simon Brown
- INQ 10h - Submission from Mr Simon Brown
- INQ 11 - Existing Local Off Street Parking
- INQ 12 - Site Plan distance mark up
- INQ 13 - Newgate Lane East Appeal Decision
- INQ 14a - SMA Table 1 - Adjusted Parking Displacement
- INQ 14b - Table 2 - MB Scenario 1 Parking displacement
- INQ 14c - Table 3 - MB Scenario 2 Parking displacement
- INQ 14d - Table 4 - MB Scenario 3 Parking displacement
- INQ 15 - Submission from Claire Martin
- INQ 16 - AFC Portchester Lease
- INQ 17 - AFC Portchester Licence
- INQ 18 - AFC Portchester Planning Permission P_10_0453_FP (relating to use of clubhouse)
- INQ 19 - AFC Portchester Planning Permission P_12_0463_FP (relating to use of clubhouse)
- INQ 20 - AFC Portchester Noise Complaints to FBC
- INQ 21 - Submission from Mr Towson. Brent geese refuge on Castle Field, Southsea
- INQ 22 - Final Submission from Dr Farrell
- INQ 23 - Technical Note - Drainage
- INQ 24 - Acoustic Review of Additional Information Re. AFC Portchester - Technical Note - 17.08.21
- INQ 25 - Bird Mitigation Tech Note – 17.08.21
- INQ 26 - Foreman Bird Conservation Area Note – 17.08.21
- INQ 27 - Suggested Draft Conditions – 17.08.21
- INQ 28 - Email chain
- INQ 28a - S106 - UU (17.08.21)
- INQ 29 – Reply to Inspector on S106 points
- INQ 30 – Section 106 Unilateral Undertaking – Main – Final Draft 18.08.21
- INQ 31 – Section 106 Unilateral Undertaking – Bird Conservation Area – Final Draft 18.08.21
- INQ 32 - Comments from Mr Daren Jones

INQ 33 - Response to S106-UU queries by The Council
INQ 33a - Appendix A - HCC Cabinet Decision Report 29.09.2020 - Major Develop & Infrastructure Funding (s.106 Monitoring)
INQ 33b - Appendix B - Plan showing proximity of public rights of way network
INQ 34 - Romsey Ave - Suggested Site Visit Itinerary – 18.08.21
INQ 35 - Developer Contribution Guidance Document August 2018
INQ 36 - WoolfBond Romsey Ave Costs
INQ 37 - FINAL FBC Response to Costs App Romsey Avenue Inquiry
INQ 38 - S106-MAIN UU FINAL VERSION 19.08.21
INQ 38a - Main UU Plan 1
INQ 38b - Main UU Plan 2
INQ 38c - 5611.025C - Proposed Access Arrangements Offsite Junction Footway Cycleway and Parking Improvements
INQ 38d - 5611.002D - Proposed Site Access
INQ 39 - S106- Bird Conservation Area UU Final 19.08.21
INQ 39a - Bird Conservation Area UU Plan 1
INQ 39b - Bird Conservation Area UU Plan 2
INQ 39c - Bird Conservation Area UU Plan 3
INQ 40 - Email chain
INQ 41 - E21837 Portchester Ecology note for inspector 19.08.21
INQ 42 - WoolfBond Romsey Ave Costs Reply
INQ 43 - WoolfBond Romsey Ave Closing
INQ 44 - FINAL Closing Submissions for FBC in Romsey Avenue Inquiry

DOCUMENTS SUBMITTED FOLLOWING THE INQUIRY

INQ 45 - Email dated 13 January 2022 from Natural England commenting on additional evidence submitted during the Inquiry

Schedule of Conditions

Appeal Ref: APP/A1720/W/21/3271412

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of this permission, or before the expiration of one year from the date of the approval of the last of the reserved matters to be approved, whichever is later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - (i) Site Location Plan No. 16.140.01C
 - (ii) Site Areas Plan No. 16.140.28
 - (iii) Proposed Access Drawing No. 5611.002D (included in the Transport Addendum (Oct 2019))
 - (iv) Highway Works Plan No. 5611.025C (included in the Transport Addendum (Oct 2019)).
- 5) No development hereby permitted shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be based on the principles set out within the Updated Surface Water Drainage Technical Note dated 26/5/21 and shall include:
 - a) A technical summary highlighting any changes to the design from that within the approved documentation.
 - b) Infiltration test results undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed once further plot specific details are submitted.
 - c) Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
 - d) Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
 - e) Evidence that urban creep has been included within the calculations.
 - f) Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.
 - g) Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.
 - h) A timetable for its implementation.
 - i) A management and maintenance plan for the lifetime of the development.

The development shall be carried out and maintained strictly in accordance with the approved details.
- 6) No development shall commence until an intrusive site investigation and risk assessment has been carried out, including an assessment of the risks posed

to human health, the building fabric and the wider environment such as water resources. Where the site investigation and risk assessment reveal a risk to receptors, a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

- 7) The presence of any unsuspected contamination that becomes evident during the development of the site shall be immediately reported to the local planning authority. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme shall be submitted to and approved in writing the local planning authority. The approved remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, the developers and/or their approved agent shall confirm in writing that the works have been completed in full and in accordance with the approved scheme.

- 8) No development hereby permitted shall commence until details of the internal finished floor levels of all the proposed buildings and finished external ground levels in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
- 9) The reserved matters submitted pursuant condition 1 shall include the findings of a noise survey that captures noise levels from the current activities at AFC Portchester. If required by the survey findings, or as may be required by the local planning authority, the reserved matters shall include a scheme of noise mitigation to achieve an appropriate internal and external noise levels at the proposed dwellings in line with BS8233: 2014. Any mitigation measures shall be implemented prior to the first occupation of the dwellings.
- 10) No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall follow the principles of the Framework Construction Traffic Environmental Plan prepared by Stuart Michael Associates (Issue 2 dated June 2021) to include, but not limited to the following:
- a) The parking of vehicles of site operatives and visitors.
 - b) Loading and unloading of plant and materials.
 - c) The routing of lorries in accordance with Plan No. 6729.002.
 - d) Storage of plant and materials used in the construction of the development.
 - e) Measures to control the emission of dust and dirt during construction.
 - f) A risk assessment of potentially damaging construction activities.
 - g) identification of "biodiversity protection zones.

h) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including in relation to the protection of badgers.

i) the location and timing of sensitive works to avoid harm to biodiversity features including nesting birds.

j) the times during construction when specialist ecologists need to be present on site to oversee works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

11) No development shall take place until a programme of construction, including the restriction of construction works in the period of October to February in the following year (to avoid the sensitive period for birds of Portsmouth Harbour SPA), has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved programme of construction and no restricted construction works as identified in the approved programme shall be carried out in the period of October to February.

12) No development shall take place until an Ecological Design Strategy (EDS) addressing the Public Open Space and boundary hedgerows has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following:

a) A description and evaluation of ecological features to be retained, created and managed such as hedgerows, attenuation ponds and trees.

b) A planting scheme for the ecology mitigation and enhancement areas.

c) Purpose and conservation objectives for the proposed works.

d) Review of site potential and constraints.

e) Detailed design(s) and/or working method(s) to achieve stated objectives.

f) Extent and location/area of proposed works on appropriate scale maps and plans.

g) Type and source of materials to be used where appropriate, e.g. native species of local provenance.

h) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.

i) Persons responsible for implementing the works.

j) Details of initial after-care and long-term maintenance.

k) Details for monitoring and remedial measures.

l) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details including the timetable for implementation and all features shall be retained in that manner thereafter.

13) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall follow the principles of the Framework Landscape & Ecological Specification and

Management Plan prepared by FPCR (July 2021) to include, but not be limited to:

- a) A planting scheme for ecology mitigation and enhancement areas.
- b) A work schedule (including an annual work plan).
- c) The aims and objectives of landscape and ecological management and appropriate management options for achieving the stated aims and objectives.
- d) Details of the persons, body or organisation responsible for implementation of the plan.
- e) Details of a scheme for ongoing monitoring and remedial measures where appropriate.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 14) No reserved matters pursuant to condition 1 shall be submitted until a scheme of works to include the means for the formation, laying out and provision of the Bird Conservation Area (the "Bird Conservation Area Scheme"), has been submitted to the local planning authority. The submitted scheme must include, but shall not be limited to: -

- the design and layout of the Bird Conservation Area;
- the areas of wetland creation to provide shallow water conditions within the Bird Conservation Area;
- the boundary fencing, hedgerow planting and ditches to be provided within the Bird Conservation Area;
- the signage and educational interpretation boards to be provided within the Bird Conservation Area;
- the pond to be created in the Bird Conservation Area to provide suitable breeding and foraging opportunities for amphibians and reptile species; and
- a costed plan detailing how the Bird Conservation Area will be managed and maintained for the lifetime of the Development in accordance with the Bird Conservation Area Monitoring Scheme.

No development shall take place until the submitted Bird Conservation Area Scheme has been approved in writing by the local planning authority.

- 15) No reserved matters pursuant to condition 1 shall be submitted until a scheme detailing how the Bird Conservation Area will be monitored (the "Bird Conservation Area Monitoring Scheme") including a system of reporting to the Borough Council to record the details of such monitoring has been submitted to the local planning authority. Unless otherwise agreed with the Council the scheme shall follow the principles of the Brent Goose Mitigation Area and Bird Reserve Proposal (Lindsay Carrington Ecological Services) (Aug 2020) and the principles of the Framework Landscape & Ecological Specification and Management Plan prepared by FPCR (July 2021) to include, but not limited to, the following:

- Monthly monitoring visits of the Bird Conservation Area by a suitably qualified professional from October – March (inclusive) with such visits being undertaken within 2 hours of high tide.
- At least monthly inspection of the boundary fences at the Bird Conservation Area.
- Annual review meetings with the Borough Council to review the effectiveness of the Bird Conservation Area Monitoring Scheme and to allow any necessary revisions to ensure effectiveness; and
- Provision for the monitoring of newly created habitats to ensure long-term effectiveness for biodiversity mitigation and enhancement as stipulated in section 6 of the Framework Landscape & Ecological Specification and Management Plan(July 2021).

No development shall take place until the submitted Bird Conservation Area Monitoring Scheme has been approved in writing by the local planning authority.

- 16) No development hereby permitted shall proceed beyond damp proof course level until an Electric Vehicle Charging Strategy has been submitted to and approved by the local planning authority in writing. The strategy shall identify the nature, form and location of electric vehicle charging points that will be provided, including the level of provision for each of the dwellings hereby approved and the specification of the charging points to be provided. The development shall be carried out in accordance with the approved details.
- 17) No dwelling hereby permitted shall be occupied until details of water efficiency measures have been submitted to and approved in writing by the local planning authority. These water efficiency measures should be designed to ensure potable water consumption does not exceed a maximum of 110L per person per day. The development shall be implemented in accordance with the approved details.
- 18) No work relating to the construction of any development hereby permitted (including works of demolition or preparation prior to operations) shall take place before the hours of 08:00 or after 18:00 hours Monday to Friday, before the hours of 08:00 or after 13:00 on Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the local planning authority.
- 19) No dwelling hereby permitted shall be occupied until a lighting design strategy for biodiversity has been submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site to which bats, brent geese and waders are particularly sensitive and that are likely to cause disturbance in or around their breeding sites and resting places, or along important routes used to reach key areas of their territory, for example, for foraging, and;
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or

prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy, and these shall be maintained thereafter at all times in accordance with the approved strategy.

Unless expressly authorised under the approved strategy, no external lighting shall be installed on the development site unless otherwise first agreed in writing by the local planning authority.

20) The development hereby permitted shall not be commenced for a period of at least 21 days from the date of this decision.



Appeal Decision

Inquiry held on 7, 8, 9, 14 and 16 December 2021

Site visits made on 9 November 2021 and 17 December 2021

by Peter Rose BA MRTPI DMS MCMi

an Inspector appointed by the Secretary of State

Decision date: 25th February 2022

Appeal Ref: APP/A1720/W/20/3254389

Land east of Posbrook Lane, Titchfield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Foreman Homes against Fareham Borough Council.
 - The application Ref: P/19/1193/OA is dated 29 October 2019.
 - The development proposed is an outline planning application for the erection of up to 57 dwellings, together with associated parking, landscaping and access from Posbrook Lane, at Land east of Posbrook Lane, Titchfield.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 57 dwellings, together with associated parking, landscaping and access from Posbrook Lane, at Land east of Posbrook Lane, Titchfield, in accordance with the terms of the application Ref: P/19/1193/OA, dated 29 October 2019, and subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The appeal proposal relates to an outline application with all matters reserved for subsequent approval except access. Only three plans are submitted seeking formal approval: a Location Plan Ref: 16.092.01; a Proposed Site Access drawing Ref: 19-241/003B; and a Parameters Plan Ref: 16.092.21. The application also includes an 'Illustrative Site Plan' Ref: 16.092.02A and to which I have regard but only as a material consideration. The appeal is also supported by unilateral undertakings made by the appellant pursuant to section 106 of the Act and dated 22 December 2021 (the undertakings).

Main issues

3. Following further discussions between the parties, the Inquiry was advised that a number of the earlier objections set out in the Council's putative reasons for refusal had been resolved, either through the terms of the proposed undertakings and/or by conditions to be suggested should the appeal be allowed. These matters principally relate to the integrity of European protected sites; affordable housing; education; and public rights of way.

4. The main issues remaining in dispute are:
- possible implications for local character and appearance, and including the scheme's relationship to the settlement boundary;
 - possible implications for the significance of local heritage assets;
 - development of agricultural land; and
 - the possible need for further public open space.

Reasons

Character and appearance

5. The red line area of the appeal site comprises some 4.05 hectares of agricultural land. The site is used for grazing and the western part is crossed by two pedestrian rights of way, Footpaths 34 and 39.
6. The site forms countryside beyond, but immediately adjacent to, the settlement edge of Titchfield. It is formally defined in the development plan as an Area Outside of the Defined Urban Settlement Boundaries. Titchfield lies to the north and the settlement boundary comprises residential properties and incidental facilities at Bellfield, a post-war housing development.
7. The appeal site fronts Posbrook Lane to the west and extensive open land is to the east and south. Various buildings lie to the west of Posbrook Lane. A former farmstead is to the south of the site at Great Posbrook, and with further countryside beyond.
8. The scheme seeks to respond to an earlier appeal decision at the site and which dismissed a proposal for up to 150 dwellings and associated facilities.¹
9. The northern part of the appeal site is now proposed to accommodate up to 57 dwellings, the southern part an area of open land and landscaping. Some 1.65 hectares would physically accommodate dwellings.
10. To the north and south of the red line are areas of 'blue land' of some 8.74 hectares also under the control of the appellant and currently used for grazing. Much of the blue land is proposed as a Bird Conservation Area (BCA) of some 6.5 hectares, and which would also extend across the eastern part of the appeal site.
11. Although the appeal site is not designated for any formal landscape value or quality in the development plan, the previous decision acknowledged the site to form part of a 'valued' landscape for the purpose of paragraph 174a) of the National Planning Policy Framework (the Framework), and that status has not been disputed in this appeal. The status is further reflected in the appeal site's proposed allocation as part of a wider Area of Special Landscape Quality in the Council's emerging Local Plan² (the Emerging Plan), but that plan has yet to be adopted or be formally examined.
12. At the County level, the site forms part of Landscape Character Area 3e in the Hampshire Integrated Character Assessment³, and which recognises the

¹ Appeal Ref: APP/A1720/W/18/3199119 dated 12 April 2019

² Fareham Local Plan 2037 Revised, published June 2021

³ Hampshire County Integrated Character Assessment May 2012

- vulnerability of the landscape to urban expansion. Similar issues are raised by the Fareham Landscape Assessment 2017⁴ (the Landscape Assessment), in which the site is included within Local Landscape Character Area 6.1, the Lower Meon Valley, and specifically within Sub-Area 6.1b. The Emerging Plan designation is supported by a technical assessment made by the County and which scores the host Sub-Area 6.1b as a high match against all of the GLVIA3 Box 5.1 criteria.⁵ Although the Meon Valley is not a statutorily designated landscape, the evidence is of a landscape with significant undesignated value.
13. The previous decision found the characteristics of the site both consistent with those of the Meon Valley and representative of the Open Valley Side Landscape Type within the Landscape Assessment. It is clear the area south of Bellfield is characterised by an essentially unspoilt rural landscape largely comprising open farmland, sloping landform and views through and across the valley.
 14. Unlike the previous scheme, the proposal retains a wedge of open land of significant extent and to the south of a smaller area of built form. The retained strip would be free of housing to maintain physical separation between Titchfield and Great Posbrook. The scheme would incorporate significant buffer planting immediately south and east of the proposed dwellings. This is indicated to include woodland but its detailed form and design would remain subject to reserved matters. The buffers would, in turn, enclose areas of grassland.
 15. The site slopes away from its Posbrook Lane frontage, and exposure from the north, and west from beyond the road, is relatively limited. Built form would not extend eastwards beyond the south-eastern corner of Bellfield, and the scheme would effectively tuck into, and so make effective use of, the existing angular settlement edge running north-west/south-east. This would provide a significant opportunity for landscape and visual enhancement of the current boundary. Unlike the previous scheme, no development is proposed immediately to the east of Great Posbrook.
 16. In further contrast to the previous scheme, the wedge of landscaped open land would taper back into the site from a relatively wide and exposed frontage at Posbrook Lane and so afford views of the farmstead from the north and through and beyond the site to open countryside to the east. Whilst the scheme would increase the proximity of Titchfield to Great Posbrook, a substantively open rural character would thereby be retained.
 17. In views north from the appeal site, the existing settlement boundary comprises a characteristically urban and relatively ad-hoc arrangement of rear gardens, boundary fences, parking areas and playground. Recent softening of the urban edge through vegetation growth is at best marginal in the context of the character and exposure of the settlement boundary as a whole and the already long-established nature of the planting. As the previous decision found, there is a lack of screening and a harsh and readily visible urban edge prevails.
 18. Although there would be significant numbers of visual receptors affected by the proposal, including recreational users of the wider valley, the effect would not be wholly negative given the proposed benefits to the settlement edge. I also note the Council's assessment of only a 'moderate' impact upon visual

⁴ Fareham Landscape Assessment 2017

⁵ Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3)

- receptors at Year 15 from the significant and exposed Viewpoint 3 immediately adjacent to the development in Posbrook Lane, and also that no greater levels of impact elsewhere are at issue relative to the assessment presented in the appellants' Landscape and Visual Impact Assessment.
19. There would be some undeniable sense of new housing and urban influences (lighting, comings and goings etc.), but these would be limited and remain to be mitigated as part of the detailed design. In terms of the principle of an outline application as proposed, I do not consider those particular matters to be unduly harmful given the scale of the proposed development and the parameters of the scheme as indicated.
 20. The Council suggests that it would take at least 15 years (and possibly longer) for the mitigation planting to achieve the levels of screening indicated, and would also need to address planting constraints in connection with a sewer easement. Further, the proposed planting would unlikely to be impenetrable in its mitigation. Some residual and relatively marginal sky-lining would also be likely to persist in views from surrounding lower land.
 21. The character of the appeal site itself is undoubtedly closely shaped by the existing physical edge of Titchfield and, in particular, the southern and eastern boundary of Bellfield. Nonetheless, it is important for any assessment of the landscape value of a site to consider not just the site itself and its particular characteristics, but also its relationship to, and the role it plays within, the site's wider context.⁶
 22. The emerging Local Plan status of the Meon Valley relates to the area as a whole and, accordingly, all parts contribute in varying degrees. Notwithstanding the urban-influenced character of the appeal site relative to other more rural areas to the south and east, the underlying rural character of the site still contributes to the quality of the Meon Valley, and development would contribute to piecemeal erosion of that wider proposed designation.
 23. Significant visual and character benefits are integral to the scheme, but the proposal would still involve loss of countryside and loss of its accompanying existing openness, and loss of some views through and beyond the existing open land. In the terms of the previous decision, the scheme would still involve some, albeit significantly less, creeping urbanisation.
 24. There would be moderate net harm to local character and appearance in the short-to-medium term. That impact would reduce over time as the planting matures, but some harm would still persist long-term arising from the permanent loss of countryside and accompanying features, and with implications for the wider valley.
 25. Given the retained open relationship of the appeal site to Great Posbrook, and the proposed extent and treatment of that intervening area, allied to the other wider visual improvements arising elsewhere for the settlement edge, I assess the balance of overall net harm to local character and appearance to be limited.
 26. I therefore conclude that the proposal would be harmful to local character and appearance, and would thereby be contrary to Policies CS6 and CS14 of the

⁶ As per page 12, The Landscape Institute's Technical Guidance Note 02/21

Core Strategy⁷ and to Policy DSP6 of the Local Plan Part 2⁸. These policies provide a presumption against new residential development outside the defined urban settlement boundaries. They seek to ensure in identifying land for development that, amongst other things, priority is given to the re-use of previously developed land within the defined urban settlement boundaries. They intend for built development on land outside the defined settlements to be strictly controlled to protect the countryside from development which would adversely affect its landscape character, appearance and function.

27. I consider these policies to be consistent with the Framework insofar as it requires planning policies and decisions to contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

Implications for the significance of local heritage assets

28. The former farmstead at Great Posbrook contains two Grade II* listed buildings, the former farmhouse and the barn, and associated locally listed buildings. The farmstead is now predominantly in residential use and benefits from an enabling development approved in 2006 and which included further dwellings and other works.
29. The non-designated heritage assets which remain comprise a former stables, cartshed/piggery and small barn/granary. They are sited towards the centre of the farmstead and contribute to a group value in conjunction with the listed buildings. They have no direct relationship with the surrounding open fields and draw significance from their setting within the farmstead and their relationship to the listed buildings. As such, the locally listed assets would be unaffected by the scheme.
30. The appeal site is well to the south of Titchfield Conservation Area and neither its character nor appearance, and nor any other significance, would be affected by the scheme.
31. Great Posbrook remains a medieval farmstead of significance with a historic functional relationship to Titchfield Abbey. The Abbey is physically distant and not in any proximity to the appeal site. The significance of the Abbey itself, and which draws upon a full and wide range of heritage values, would also be unaffected.
32. The substantial aisled barn dates from the late sixteenth or early seventeenth centuries, and the farmhouse from the early seventeenth century. The significance of both listed buildings relates to a range of heritage values, including their architecture, fabric, and the wider historic relationship to their surroundings. An important part of this significance derives from their immediately open, rural setting, and this contributes positively to an appreciation and understanding and experience of the listed assets and of the wider farmstead of which they form an important part. This particularly reflects an historic and functional relationship between the farmstead and its surrounding land, including the appeal site, as one farmed estate.

⁷ Fareham Local Development Framework Shaping Fareham's Future Core Strategy Adopted August 2011

⁸ Fareham Local Plan Shaping Fareham's Future Local Plan Part 2: Development Sites and Policies June 2015 Adopted Version

33. The contribution of setting to the significance of the designated assets is not, however, uniform around the site.
34. Approaching the appeal site from Bellfield to the north, Great Posbrook, whilst evident as a relatively isolated and prominent feature largely surrounded by countryside, is not particularly discernible nor necessarily distinct in its immediate appearance as an historic farmstead. Along the northern and eastern boundary of the farmstead there is very mature and substantial planting. This impedes legibility and affords only relatively glimpsed views of the listed farmhouse from the appeal site.⁹ Appreciation of significance would be through prior awareness and research rather than through any immediate impression from the site itself. A significant physical awareness of a particular farmstead-type character becomes more evident at closer quarters and once approaching the west-facing entrance.
35. Approaching the appeal site from beyond the boundary of Great Posbrook to the south, the listed farmhouse and the barn and other non-listed buildings are more readily apparent, and the overall initial impression is clearly of a farmstead. Indeed, the barn is set in an exposed position against the southern boundary of the farmstead. The farmhouse and barn can be seen together as a group in views from both Footpath 34 to the east and from Posbrook Lane itself to the south. It is in such views from the south that the important relationship of the barn and the farmhouse to their wider historic setting are best and most readily seen and appreciated.¹⁰
36. Unlike the previous scheme, the substantial existing area of land immediately to the east of Great Posbrook, and which also contributes similarly to its setting, would remain open in character and devoid of built form.
37. Further, although the existing degree of separation would be very significantly reduced, unlike the previous scheme, the appeal proposal would not entirely remove the separation of Great Posbrook from Titchfield. The distance between the boundaries of the appeal site and the former farmstead would be some 56 metres at its narrowest, and some 78.8 metres at its widest.
38. Removal of the harsh urban edge at the southern boundary of Titchfield would be a significant improvement to the assets' rural setting. Albeit closer, the existing edge would be replaced by an area indicated to be part planted with woodland and separated from the farmstead by open grassland. This improvement would also enhance the experience and appreciation of the farmstead when travelling north, and particularly from Footpath 34 to the south.
39. I do not accept the retained gap would read as a public open space within a single settlement. Rather, its open, informal character as proposed, allied to its scale, would be consistent with the farmstead's historic open rural hinterland to its north, east and south, and would distinguish Great Posbrook from Titchfield. Great Posbrook would still appear as a detached and relatively isolated feature and the historically significant physical relationship between countryside and farmstead would not be lost. Importantly, a similar conclusion is also reached by Historic England which raises no objection and welcomes retention of the

⁹ See, for example, Ms Markham's View 5

¹⁰ See, for example, Mr Smith's Viewpoint 7

open land to mitigate the scheme's impact, allowing the farmstead to continue to be read as a distinct and separate feature.¹¹

40. In the terms of the previous decision, Great Posbrook would not be subsumed into Titchfield, and neither would a sense of physical dislocation would be lost.
41. Relatively glimpsed views of the farmhouse would remain from across the retained open land to the north. The open area to the north would also be seen adjacent to woodland planting and historical mapping shows the presence of previous woods in close proximity, albeit relatively isolated and freestanding.
42. There would be inevitably some detracting sense of new housing and urban influences as already identified, but not unacceptably so to the setting, and particularly once the landscaping matures.
43. Setting is only one aspect of the listed assets' significance; and, in turn, one aspect of the assets' setting lies in their relationship to open countryside to the north. Even so, I consider the heritage sensitivities of the site are such that the assets' setting does not offer sufficient capacity to accommodate the particular extent of change proposed without incurring some degree of harm through the loss of open land.
44. There would be less than substantial harm in the short-to-medium term to the setting as a whole. That impact would be offset over time by improvements to the character and appearance of the settlement edge as landscaping matures, but some residual harm would persist. Whilst Historic England raises no objection to the scheme, it still found a minor degree of harm. I concur with that assessment.
45. Given the relatively retained open relationship of the appeal site to Great Posbrook, and the proposed extent and treatment of that intervening area, allied to the other wider visual improvements arising elsewhere for the existing settlement edge, I consider that the balance of overall net harm to the setting of the designated assets would be limited.
46. I therefore conclude that the proposal would be harmful to the setting of the Grade II* listed farmhouse and barn and thereby to the assets' significance, and so contrary to Policy CS17 and to Policy DSP5. These seek, amongst other things, to respond positively to, and be respectful of, the key characteristics of the area, including heritage assets, and to ensure development does not harm setting.

Agricultural land

47. The scheme would involve loss of Best and Most Versatile Agricultural Land (BMVAL).¹² Although the appeal scheme has a smaller application site than the previous proposal, the proposal would still incur other loss of BMVAL within the associated blue line area. Including this wider area, the Council estimates the proposal would incur loss of some 7.9 hectares of Grade 3a 'good quality' BMVAL¹³, although some grazing is still indicated to be retained beyond the red line area.

¹¹ Letter dated 12 December 2019

¹² Best and Most Versatile Agricultural Land as defined by the Framework: Land in Grades 1, 2 and 3a of the Agricultural Land Classification.

¹³ Mr Jupp's proof at paragraph 9.31

48. Reflecting the conclusion reached in the previous appeal, it is common ground that the loss of BMVAL would not in itself be sufficient to warrant refusal of planning permission. I have little reason to disagree given the appellant's assessment of the grade of the land, and the small area which would be lost relative to overall availability in Fareham.¹⁴ Nevertheless, it remains a harm of limited weight in the overall planning balance.
49. I therefore conclude that the proposal would be contrary to Policy CS16. Whilst this policy seeks to prevent the loss of BMVL Grades 1, 2 or 3a, its application would appear to be more onerous in its restriction than the expectation of the Framework and this further reduces the weight to be afforded to that conflict and the harm arising. The Framework seeks to recognise the economic and other benefits of BMVAL. Whilst BMVAL would be lost, development as proposed would serve to generate alternative economic and other benefits.

Public open space

50. The scheme does not propose public open space in a form and of a type as required by the Council. Rather, there is a planning obligation which would provide, should I consider it necessary, for the intervening area of grassland and planting between the housing and Great Posbrook to be made publicly available.¹⁵
51. A previous local deficiency in parks and open space has been addressed by the recent availability of the Titchfield Meadows Country Park, although this facility is some distance from the appeal site and is estimated by the Council to involve a walk upwards of 23 minutes.
52. Even so, the Country Park lies within the same local authority Ward for the purposes of the assessment made by the Council's Fareham Local Plan Open Space Study 2018 (the Study), and is a very substantial and relatively accessible local facility. The Study is now able to point to a surplus of parks and amenity open space as well as natural greenspace in the Titchfield Ward. This is also similarly relevant to the terms of Emerging Local Plan Policy NE10.
53. The Study also draws attention to the quality of the existing Bellfield facility immediately to the north. This would not be improved by the proposal, but the scheme would include a further Local Equipped Area for Play (LEAP).
54. Dwellings are indicated to be provided with gardens, the LEAP and Titchfield Meadows Country Park would both be available and, as the Council rightly maintains in connection with matters of character and appearance, an important function of the Meon Valley itself is for recreation. The appeal site would also be well served by various footpath and cycleway connections to surrounding areas. All these factors taken together lead me to conclude that further open space would be unnecessary to mitigate the impact of the development.
55. I am also not satisfied use of the intervening area in some form as formal public open space would be appropriate. For other reasons already set out, there would be an overriding sensitivity between the character and appearance of that intervening space and both the surrounding landscape and the setting of Great Posbrook. Such use would serve to lose the informality of the

¹⁴ See Agricultural Land Quality Considerations, Kernon Countryside Consultants Limited, June 2020

¹⁵ As edged brown on the accompanying Open Space Plan

scheme's proposed treatment of that area relative to the adjacent farmstead, and serve to negate the necessary physical and functional distinction between Titchfield and Great Posbrook. It could also have implications for the environment of the BCA.

56. I therefore conclude that the proposal would not incur harm in relation to public open space. The needs of future residents would be met by the existing and proposed provision and there would be no conflict with either Policy CS17 or Policy CS21. These seek, amongst other things, for proposals for new residential development to include provision for further public open space where existing provision is insufficient to provide for the additional population, and, more generally, for development to be of a high quality of design.

Other matters

Housing land supply

57. It is common ground that the authority is unable to demonstrate a 5-year housing land supply (5YHLS). It is further agreed that available supply falls within a range of between 3.57 years, as maintained by the Council, and 0.93 years, as contended by the appellant.
58. It is undisputed there is a significant shortage of planned housing in Fareham. The Council's pressing need for housing is further underlined by the Government's publication of its most recent Housing Delivery Test results in January 2022. These identify a declining annual performance by the Borough from 79% to 62%.¹⁶
59. The Borough's housing performance now falls within the terms of Footnote 8 of the Framework as being substantially below (less than 75% of) its housing requirement over the previous three years, and the presumption in favour of sustainable development under paragraph 11d) is thereby engaged. A 20% buffer continues to be required.
60. Further, absent a 5YHLS, Policy DSP40 also becomes engaged and this is a matter to which I return in detail as part of my planning balances.
61. It is common ground that there is a significant unmet need for affordable housing within the Borough.
62. The development plan aspires to deliver new development to meet local housing need. Policies CS2, CS18 and DSP40, amongst other things, commit to generally meeting local housing need, and seek provision of affordable housing on all schemes that can deliver a net gain of 5 or more dwellings.
63. Provision of up to 57 dwellings, including a 40% policy-compliant element of affordable housing to be secured through the undertakings, would be a very significant benefit of the scheme, and would also support the social objective of the Framework and the Government's policy of significantly boosting the supply of homes.

Appropriate Assessments

64. The development is in proximity to a number of Special Protection Areas (SPA's), and Special Areas of Conservation (SAC's), and several Ramsar

¹⁶ These results were published post-Inquiry and comments were subsequently invited from both main parties

designations (all collectively referred to in this decision as 'the protected sites'). These include the Solent and Southampton Water SPA and Ramsar site, the Solent Maritime SAC, the Solent and Dorset Coast SPA, and the Portsmouth Harbour SPA and Ramsar site. The New Forest SAC, SPA and Ramsar site are also relevant.

65. Discounting any allowance for mitigation as proposed, it is clear that the scheme is likely to have a significant effect, whether alone or in combination, upon individual protected sites. Pathways for effect would variously relate to loss of functional land used by qualifying species of birds as supporting habitat, potential for increased nitrate pollution, and an accompanying increase in recreational pressure and disturbance. There would also be likely to be some temporary disturbance to qualifying species arising from adjacent construction works.
66. Accordingly, under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), I have undertaken Appropriate Assessments of the scheme with regard to implications for relevant sites' conservation objectives and associated matters. This included required consultation with the appropriate nature conservation body as part of that process.¹⁷ As competent authority, I may agree the scheme having regard to conditions or restrictions but only where the development would not adversely affect the integrity of European (SPA and SCA) sites. The same protection is also to be afforded to the Ramsar sites.¹⁸

Solent Brent Geese and Waders

67. The appeal site itself is designated in the development plan as an area that is uncertain in supporting Brent Geese and Waders. The site is identified in the Solent Waders and Brent Goose Strategy as being a Primary Support Area, and in the Emerging Local Plan as within a Brent Goose and Wader Classification 2 - Primary and Secondary Support Area.
68. The proposal would create a dedicated BCA, providing some 6.5 hectares of enhanced habitat suitable for Brent Geese and Waders and other birds, and suitably secured from human disturbance. It is proposed for an agreement to be reached with the Hampshire and Isle of Wight Wildlife Trust to manage the BCA in perpetuity. The creation and management of the BCA would be secured through the unilateral undertakings, and this includes a commitment to delivery in advance of other works. Access to the BCA would be for management and monitoring only.
69. The Council is satisfied the BCA provides acceptable and appropriate mitigation for the loss of a portion of a Primary Support Area and, subject to details, the proposal is welcomed by Natural England.
70. The undertakings also include contributions required pursuant to the Solent Recreation Mitigation Strategy to mitigate the effects of increased resident disturbance.

¹⁷ Natural England was formally consulted by letter dated 13 January 2022 and its response was received by email dated 31 January 2022. Natural England has confirmed it has no objections subject to various details of mitigation

¹⁸ See paragraph 181 of the Framework

Water quality

71. The proposal is for an overall reduction in nitrogen generation and for achievement of nutrient neutrality. This would be realised through a range of steps, including cessation of the existing grazing within the red line area, and through introduction of meadow management and low intensity grazing elsewhere with no supplementary feeding in the BCA. Delivery would be supported through the undertakings.
72. The submitted Flood Risk Assessment and Drainage Strategy incorporates commitments to Sustainable Drainage Systems and which would include further detailed matters relevant to water quality management.
73. Whilst Natural England has also referred to possible implications for the Chichester and Langstone Harbours SPA, I agree this is unlikely to alter the conclusions reached.

New Forest protected sites

74. Notwithstanding the parties' agreement to the overall proposed package of mitigation accompanying the appeal proposal, there remains a dispute relating to potential increased recreational impacts arising for the New Forest.
75. The appellant's contention is that cumulative recreational impact can be screened out drawing upon the evidence available. This relates to the geography of the actual journeys involved and a declining propensity to visit the New Forest with distance. In contrast, the Council considers there could still be a cumulative recreational impact arising from the appeal scheme. Natural England's position is that such impacts cannot be screened out and that mitigation would be required. The Council has also resolved to adopt the general approach to such assessments taken by Natural England.
76. Notwithstanding these differences, the appellant makes provision for such mitigation in its undertakings but only should be it be required by this decision.
77. The appellant and the Council further agree that, if impacts do apply, the mitigation as proposed by the appellant through its undertakings would adequately address such matters. This approach would also be consistent with other casework and accompanying advice from Natural England.
78. The available evidence suggests there is a reasonable possibility of some residents from Fareham placing additional recreational pressure upon the New Forest sites. Notwithstanding previous deliberations, post-code survey evidence indicates visitors do originate from areas of Fareham and are likely to contribute to an in-combination effect upon these protected sites. Accordingly, applying the precautionary principle, I consider proportionate mitigation is required as set out in the undertakings in order for the integrity of the New Forest sites not to be harmed.

Appropriate Assessments - conclusion

79. I have had due regard to the wide suite of relevant evidence submitted before, during and after the Inquiry, and note Natural England's general agreement to the various schemes of mitigation and approaches as proposed, and in the context of the relevant conservation objectives. Aspects of general conditions should I be mindful to allow this appeal, for example, in relation to drainage,

water efficiency and a Construction Environmental Management Plan (CEMP) to mitigate temporary construction disturbance and ensure an environmentally sensitive implementation, would also be relevant.

80. With the benefit of all those actions and provisions as proposed, I am satisfied, beyond all reasonable scientific doubt, that the scheme would not adversely affect the integrity of any of the protected sites identified, but only subject to inclusion of the proposed, but disputed, recreational mitigation in relation to the New Forest.
81. I further conclude that the proposal would not be contrary to Policy CS4, or to Policy DSP13. These seek, amongst other things, to protect habitats important to the biodiversity of the Borough, and for development to be permitted where it can be demonstrated that designated sites and sites of nature conservation value are protected and, where appropriate, enhanced. Policy DSP14 also permits development on uncertain sites supporting Brent Geese and/or Waders where the site has been assessed and it can be demonstrated that it is not of importance or, if of importance, that there would be no adverse impact, including considerations of mitigation.
82. My Appropriate Assessments and their conclusions are also consistent with the expectations of Policy DSP15 in relation to consideration of the protected sites.

Ecology (general)

83. The scheme includes a commitment to achieving at least 10% biodiversity net gain and which is broadly consistent with the Framework. National policy encourages opportunities to improve biodiversity in and around developments integrated as part of their design, and to secure measurable net gains. Further commitments relate to a Landscape and Ecological Management Plan (LEMP) for that part of the application site not within the BCA, and specific measures in relation to dormice, reptiles, badgers, and all nesting and over-wintering birds.

Strategic Gap

84. The appeal site is identified by the development plan as forming part of a Strategic Gap.
85. The previous decision, for a significantly larger extent of built form, did not identify any conflict with the site's Gap function and no objection is raised by the Council to the current proposal on those terms.
86. The Strategic Gap is a spatial designation and, particularly given the retained open elements of the scheme, I agree there would be no conflict with Policy CS22. This seeks, amongst other things, not to permit development where it significantly affects the integrity of the Gap and the physical and visual separation of settlements.

Alternative sites

87. Reference has been made to possible availability of other less sensitive sites for development. A plan-led approach identifying sufficient housing and other land to meet the Borough's needs is intended to materialise in due course through the Emerging Plan, but that strategy has not yet been subject to independent examination and there remain unresolved objections to be considered. Further, no specific details of currently available alternatives were offered in evidence.

88. The Framework sets out how arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both: the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new development that are central to an emerging plan; and any emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.¹⁹ Neither circumstance applies in this instance.

Location

89. Whilst outside the settlement boundary, the site occupies a reasonably accessible location within walking and cycle distance of local services and facilities. This is consistent with the Framework's recognition of the need for accessible services in the context of its social objective for achieving sustainable development.

Access and highway implications

90. There is no objection to the scheme by the highway authority, and I have little reason to suggest there would be adverse implications for the free and safe movement of vehicles and pedestrians in the vicinity.

91. The Framework requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. Neither circumstance applies in this instance.

92. I therefore conclude that the proposal would be comply with Policy CS5. This seeks, amongst other things, to permit development which does not adversely affect the safety and operation of the strategic and local road network and is designed and implemented to prioritise and encourage safe and reliable journeys by walking, cycling and public transport.

Other factors

93. I have regard to a number of other concerns identified by local interested parties, including issues of drainage, and aspects of living conditions. From the evidence before me, significant harm would not arise in those regards, but such matters will be reflected and safeguarded, as appropriate, in the details of subsequent planning conditions should I conclude that the appeal be allowed.

94. Other appeal decisions have been referred to throughout the evidence, and I am mindful of the importance of consistency in decision-making. Whilst I have regard to underlying principles and approaches as highlighted in the evidence, each case is necessarily fact and context sensitive. My decision turns on the specifics of this particular appeal scheme and site as identified and as presented in the parties' evidence.

Unilateral undertakings

95. The undertakings make various commitments to mitigation additional to those already indicated, including for education, and for rights of way.

¹⁹ Paragraph 49

96. The mitigations as proposed generally accord with relevant aspects of the Council's planning obligations supplementary guidance.²⁰ This seeks, amongst other things, for planning obligations from new development to deliver essential infrastructure, to address the effects of developments, and to control and/or enhance specific aspects of the scheme. This is similarly reflected in Policy CS20. The approach set out in the undertakings is also broadly consistent with the expectations of the Government's Planning Practice Guidance and Framework. The undertakings specific to affordable housing generally accord with Policy CS18.
97. I am satisfied with the form and content of the undertakings as deeds. I find the undertakings to be compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

Planning balances

Heritage and public benefits

98. The Framework advises that heritage assets are an irreplaceable resource, and requires them to be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, it requires great weight to be given to an asset's conservation, and irrespective of the scale of harm. It further requires that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the Framework requires such harm to be weighed against the public benefits of the proposal.
99. The setting of a listed building benefits from protection in its own right as a matter of statute. There follows a strong presumption against granting planning permission for development which would harm the setting of a listed building because the desirability of preserving the heritage asset is a consideration of considerable importance and weight.
100. Nevertheless, the weight to be attached to any specific harm in the overall balances remains a matter of planning judgement, reflecting both the scale of the harm itself and the particular significance of the asset.
101. There would be a range of benefits arising from the scheme. These would include additional market and affordable housing, and for which there is significant and continuing unmet need. Environmental improvements to the southern and eastern boundaries of the settlement would arise in the longer term. Whilst the BCA is proposed in the nature of mitigation, it would still formalise and safeguard the important ecological value of the surroundings over and above the existing status quo, and biodiversity net gain would be generated.
102. The economic benefits of development would include investment in construction and related employment for its duration. There would also be an

²⁰ Planning Obligations Supplementary Planning Document for the Borough of Fareham (excluding Welborne) Adopted April 2016

increase in subsequent local household expenditure and demand for services and which could be expected to benefit the local village and services.

103. The public benefits arising from the scheme as described would therefore be considerable and of a scale to out-weigh the collective but limited harm to the heritage significance of the assets.
104. Accordingly, policies in the Framework that protect areas or assets of particular importance, and which include listed buildings, do not provide a clear reason for refusing the development proposed in heritage terms.²¹

The development plan as a whole

105. I consider the development plan policies which are most important are those referred to and variously applied in my assessment of the main issues and other considerations.
106. I have found broad compliance with a range of development plan policies, but also conflict in relation to Core Policies CS6, CS14, CS16 and CS17 and with Local Plan Part 2 Policies DSP5 and DSP6.
107. The housing requirement underlying Policies CS6, CS14 and DSP6 as set out in Policy CS2 pre-dates the Framework and is agreed to be out-of-date. The restrictive settlement boundaries derived from that housing requirement and identified in those policies are thereby also out-of-date and, accordingly, the weight to be attached to any conflict with them is reduced.
108. Policies CS17 and DSP5 are in themselves up-to-date and attract full weight. Notwithstanding some conflict with DSP5, the policy further specifies that harm or loss to heritage assets will require clear and convincing justification in accordance with national guidance, and that requirement has now been fulfilled in the preceding heritage balance.
109. Policy DSP40 is an over-arching policy and which applies in circumstances such as this where the authority is unable to demonstrate a 5YHLS. It seeks to safeguard housing delivery by making provision for additional non-allocated housing sites to be permitted outside the urban area boundary, but subject to five criteria.
110. Policy DSP40 therefore serves to complement the other more restrictive policies in situations where some development in the countryside is inevitable in order to satisfy an up-to-date assessment of housing need. Through its criteria, it assists the decision-taker in determining the weight to be applied to the conflict with other restrictive policies, and it provides a mechanism for the controlled release of land through a plan-led approach. It also accords generally with the housing delivery expectations of Framework policy.
111. Of Policy DSP40's five criteria, compliance with only two is in dispute: whether the proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the countryside and, if relevant, the Strategic Gaps (criterion iii)); and whether the proposal would have any unacceptable environmental, amenity or traffic implications (criterion v)).

²¹ Paragraph 11d)i. refers

112. In respect of criterion iii), the policy does not require no harm to the countryside. Rather, it recognises there will be harm by developing outside settlement boundaries, but instead requires that such harm be 'minimised'. There is no harm to the integrity or function of the Strategic Gap.²²
113. I apply 'minimise' in the context of the scale of a housing shortfall which the policy is intended to serve as per criterion i). Taken at its highest in accordance with the Council's own, albeit disputed, figures, this shortfall is still substantial: a 5YHLS of 3.57 years set against an agreed minimum five-year requirement of 3,234 dwellings means the housing needs of significant numbers of people in Fareham remain unaddressed. Whilst the parties may disagree as to the precise extent of the shortfall, there is no dispute that it remains significant and that corresponding weight should be attached. I also apply minimise in the context of the specific site and scheme characteristics described, and in recognition of the fact that any built development upon open countryside will incur some degree of harm in terms of loss of open rural character. Any lesser application and the policy would be likely to become self-defeating.
114. In light of the reduced scale of development and its relatively sensitive relationship to its surroundings and seen in the above context, I consider that the adverse impact upon the countryside would be minimised and this aspect of criterion iii) to be met.
115. In respect of criterion v), Policy DSP40 similarly does not require no harm to the historic environment. Whilst there would be harm as identified, given that the scheme satisfies wider Framework policy in respect of conserving and enhancing the historic environment, there would, accordingly, be no resultant 'unacceptable' environmental impact in this regard under criterion v).
116. For the reasons identified, the loss of BMVAL would also not represent an unacceptable environmental implication in the terms of criterion v).
117. Policy DSP40 is fundamental and serves as the single most important policy for determination of this appeal.²³ It renders the development plan substantively up-to-date and I afford the policy full and overriding weight.
118. The scheme demonstrates compliance with Policy DSP40 and this offsets other areas of policy conflict predicated upon the existence of a 5YHLS. I therefore conclude the proposal would correspondingly accord with the development plan as a whole.

Other material considerations

119. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.²⁴ This is also not precluded in this instance by the conclusions of my Appropriate Assessments as the integrity of the habitats sites would not be adversely affected.²⁵

²² See also Statement of Common Ground at paragraph 3p)

²³ See also Statement of Common Ground at paragraph 4.6

²⁴ Paragraph 11c)

²⁵ See Framework paragraph 182

120. The scheme therefore benefits from the presumption in favour of sustainable development and which is a further material consideration. Securing sustainable development with minimum negative impact on the environment, in turn, would also be further consistent Policy CS15.

Final planning balance

121. The proposal would accord with the development plan as a whole, and other material considerations do not indicate a decision other than on those terms. Accordingly, planning permission should be granted, subject to conditions.

Conditions

122. I have considered as a starting point the suggested list of conditions put forward by both main parties to the Inquiry and the accompanying discussions. I have regard to the advice set out in the Guidance and in the Framework in terms of both the tests for individual conditions, and the need for clear, precise and enforceable wording.

123. Reflecting the appellant's commitment to early development of the site, the timescale for submission of reserved matters is one year as agreed. The development shall commence not later than the expiration of two years from the date of this permission, or one year from the date of approval of the last of the reserved matters to be agreed, whichever is later, and shall not commence until such time as all necessary matters have been approved.

124. For reasons of certainty, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings, including the Parameters Plan. Conditions are similarly attached specifying the number of dwellings, and addressing the need for a phasing plan. The phasing plan is also to include programming of areas to be considered for woodland and for semi-mature planting so as to ensure timely realisation of that important mitigation. A condition also makes clear the extent of approval as it relates to access and confirms that all details of internal circulation remain to be submitted and approved in conjunction with other reserved matters. For similar reasons of clarity, details are required of proposed floor levels.

125. Conditions are required to protect and promote the ecological interests of the site. These include the LEMP and provisions for existing wildlife. They also reflect the appellant's commitment to promote biodiversity net gain. Aspects of various conditions also refer to matters necessary to safeguard the integrity of the protected sites.

126. To safeguard the relationship between the character and appearance of the appeal site and surrounding countryside, and to safeguard the settings of the adjacent heritage assets, it is necessary to ensure the identified Landscape Areas remain unoccupied by built form.

127. Details of external lighting are to be agreed. This reflects important implications for safeguarding the future ecological value of the land, the general significance of views in and around the site during the hours of darkness, and concerns for public safety.

128. To safeguard any hitherto unrevealed heritage interest within the site, a scheme of archaeological investigation is necessary.

129. To ensure a satisfactory living environment for occupiers and neighbours, and to contribute to a sustainable development, conditions require details to be submitted and approved relating to surface water and foul water drainage. For similar reasons, a scheme of investigation and remediation is required in relation to any existing site contamination.
130. To further promote sustainable development, a scheme of mineral recovery is required. Arrangements are also necessary for vehicle charging and water efficiency. These requirements are also consistent with Policy CS16 which seeks to safeguard the use of natural resources.
131. To protect the living environment of neighbours during construction, and to protect important ecological interests, it is necessary for the works to be undertaken in accordance with a suitably robust CEMP. Similarly, it is necessary to restrict hours of operation of external works to reasonable times.
132. I agree that matters relating to the LEAP and BCA are fully addressed in the accompanying undertakings and further conditions are unnecessary. Building heights would fall to be considered as part of subsequent reserved matters.
133. Matters relating to contamination, drainage, archaeology, ecology, phasing, the CEMP, mineral recovery, and floor levels are all to be addressed before development commences. This is necessary given the importance of those matters to the sensitivities of the site and its development, and the implications which could otherwise arise should works proceed in the absence of their prior resolution.

Conclusion

134. For the reasons given above, I conclude that the appeal should be allowed, subject to the conditions identified.

Peter Rose
INSPECTOR

SCHEDULE OF CONDITIONS

Reserved matters and time limits

1. Details of the appearance, landscaping, layout, and scale, (hereinafter referred to as 'the reserved matters') shall be submitted to and be approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than one year from the date of this permission.
3. The development hereby permitted shall commence not later than the expiration of two years from the date of this permission, or one year from the date of approval of the last of the reserved matters to be approved, whichever is later.
4. No development shall take place until full details of all reserved matters have been submitted to and been approved in writing by the Local Planning Authority.

Details and drawings

5. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - a) Location Plan Ref: 16.092.01;
 - b) Proposed Site Access Ref: 19-241/003B; and
 - c) Parameters Plan Ref: 16.092.21.
6. The development hereby permitted shall comprise no more than fifty-seven (57) dwellings.
7. Submission of reserved matters shall reflect and be consistent with the principles set out in Parameters Plan Ref: 16.092.21.
8. The approval of access conferred by this decision relates solely to the proposed highway junction details set out on drawing Ref: 19-241/003B, and not to any proposed circulation and other arrangements within the site and which remain to be submitted and be approved. Such submissions shall be made to and be approved in writing by the Local Planning Authority prior to the commencement of any development, and the details shall be undertaken as approved and in accordance with an agreed programme.

Other pre-commencement

9. No works shall take place until a phasing plan for the development has been submitted to and been approved in writing by the Local Planning Authority. The plan shall include, amongst other details, an indicative programme for provision of areas to be subsequently considered in the reserved matters for woodland and for semi-mature planting. The development shall be implemented in accordance with the terms of the phasing plan as approved.
10. No development shall take place until detailed surface and foul water drainage schemes have been submitted to and been approved in writing by the Local Planning Authority. The schemes shall be based upon the principles

set out within the submitted Flood Risk Assessment and Drainage Strategy dated October 2019, and shall include confirmation of all detailed technical measures necessary to ensure protection and contingencies in any matters relevant to Special Protection Areas, Special Areas of Conservation, and Ramsar designations (the protected sites). The submissions shall include full technical and other relevant details of all aspects of the proposed schemes and accompanying arrangements, and shall include responsibilities for subsequent management and maintenance.

The schemes and arrangements shall be implemented and maintained in accordance with the approved details and an agreed programme.

11. No development shall take place until a Minerals Recovery Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The Statement shall include details of:

a) how minerals that can be viably recovered during the construction process will be safeguarded and put to beneficial use; and

b) how the quantity of recovered minerals to be re-used on-site or off-site will be recorded and how this data will be reported to the Mineral Planning Authority.

The development shall be undertaken in accordance with the Statement as approved.

12. No development shall take place until an investigation of the nature and extent of any existing contamination within the site has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority and a consequent remediation scheme and accompanying programme of works shall also have been submitted to and been approved in writing by the Local Planning Authority before any development begins.

The remediation scheme shall be carried out in accordance with the details and the programme as approved.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this further source of contamination shall be submitted to and be approved in writing by the Local Planning Authority. Works shall be immediately halted in the area/part of the development affected until such time as the further remediation works have been agreed and which shall be implemented as approved and in accordance with an agreed programme.

Following completion of all measures identified in the approved remediation schemes, verification reports demonstrating that full details and specifications of the approved measures have been implemented shall be prepared in accordance with an agreed timescale and be approved in writing by the Local Planning Authority.

13. No development shall take place until a scheme of archaeological investigation has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include:

- a) the programme and methodology for site investigation and recording;
- b) the programme and arrangements for post-investigation assessment;
- c) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
- d) the provision to be made for archive deposition of the analysis and records of the site investigation; and
- e) the nomination of a competent person or persons/organisation to undertake the works to be set out within the approved scheme.

The development shall be undertaken in accordance with the details as approved. The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow that person to observe the excavations and record items of interest and finds.

Any historic or archaeological features not previously identified which are revealed when carrying out the development shall be retained in-situ and be reported immediately in writing to the Local Planning Authority. Works shall be immediately halted in the area/part of the development affected until provision has been made for retention and/or recording in accordance with details that shall have been first submitted to and been approved in writing by the Local Planning Authority. Such further remedial works shall then be implemented as approved and in accordance with an agreed programme.

14. No development shall take place until details of the internal finished floor levels of all proposed buildings and of all finished external ground levels relative to existing ground levels within the site and relative to the adjacent land have been submitted to and been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details as approved.
15. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and been approved in writing by the Local Planning Authority. The CEMP shall include details and arrangements for the following:
- a) parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) route management and access supervision for lorries during the course of the works;
 - d) storage of plant, materials and chemicals used in the construction of the development;
 - e) measures to control the emission of dust and dirt during construction, including arrangements for wheel washing, and for site screening;
 - f) measures to prevent chemical and/or fuel run-off from construction into nearby watercourses;
 - g) measures to prevent or otherwise mitigate noise, visual, vibrational and any other impacts upon birds and any other features specifically associated

with the protected sites, and with particular regard to implications arising from percussive piling and works with heavy machinery;

h) a risk assessment of potentially damaging construction activities to all other wildlife and proposals for subsequent mitigation. This shall include identification of particular biodiversity protection zones, and arrangements for the location and timing of sensitive works to avoid harm to biodiversity features, including any other nesting and over-wintering birds. Consideration shall also be given to the timing and accompanying arrangements during construction when specialist ecologists will need to be present on site to monitor/oversee works; and

i) any such other practical measures, including sensitive working practices and method statements, necessary to generally avoid and/or reduce impacts during construction.

The approved CEMP shall be adhered to and implemented throughout the construction period and strictly in accordance with the approved details.

16. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and been approved in writing by the Local Planning Authority and relating to the scheme's proposals for all parts of the application site beyond the Bird Conservation Area.

The content of the LEMP shall include the following details:

a) a scheme of landscaping and ecology mitigation and enhancement, and reflecting accompanying stated conservation aims and objectives;

b) a programme of works;

c) details of the appropriate persons, body or organisation responsible for implementation of the plan;

d) details of a scheme for on-going monitoring; and

e) the proposed contribution of those parts of the application site to biodiversity net gain.

The LEMP shall also include details of the legal and funding arrangements by which the long-term delivery and management of the plan will be secured. The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the full ecological benefits of the originally approved scheme. The LEMP shall be implemented in accordance with the approved details and accompanying programme.

17. No development shall take place until full details of all necessary ecological mitigation, compensation and enhancement measures with particular regard to dormice, reptiles, badgers, and of all nesting and over-wintering birds, have been submitted to and been approved by the Local Planning Authority. This shall be in the form of a Wildlife Mitigation and Enhancement Strategy, and identify full details of each corresponding mitigation/enhancement provision and the programming of the proposed measures. Such details shall be in accordance with the outline ecological mitigation measures set out

within the submitted Reptile Mitigation Strategy, the Dormouse Mitigation Strategy, and the Outline Proposal for the Bird Conservation Area. The development shall be carried out in accordance with the approved details and an agreed programme, and all measures shall be maintained in perpetuity in accordance with an agreed management plan.

- 18.No development shall take place until full details of arrangements for the scheme to deliver at least 10% biodiversity net gain have been submitted to and been approved in writing by the Local Planning Authority. The arrangements shall be consistent with national guidance and methodologies, and be implemented and maintained in accordance with the approved details and an agreed programme.

Pre-occupation

- 19.No occupation of the development shall take place until full details of a scheme for external lighting within the site have been submitted to and been approved in writing by the Local Planning Authority.

The scheme shall identify details of how and where external lighting will be installed, and its form, so as not to disturb, impede or otherwise prevent wildlife presence or movement. The scheme shall also be designed to minimise general external light pollution and unnecessary illumination of the development in views from outside the site and in relation to the settings of nearby heritage assets.

All external lighting shall be installed in accordance with the approved details and an agreed programme.

- 20.No development shall proceed beyond damp proof course level until an Electric Vehicle Charging Strategy has been submitted to and been approved in writing by the Local Planning Authority. The Strategy shall identify the form, specification and location of all electric vehicle charging points to be provided. The development shall be carried out in accordance with the details as approved and in accordance with an agreed programme.

- 21.No dwelling shall be occupied until details of water efficiency measures have been submitted to and been approved in writing by the Local Planning Authority. The water efficiency measures shall be designed to ensure potable water consumption does not exceed a maximum of 110 litres per person per day. The measures shall be implemented in accordance with the details as approved and an agreed programme.

Other

- 22.No external works (and including all works of site preparation and clearance in advance of other operations) shall take place before the hours of 8am or after 6pm Monday to Friday, or before 8am or after 1pm on Saturdays, and not at all on Sundays or Public Holidays, unless otherwise first agreed in writing by the Local Planning Authority.
- 23.The areas identified as Landscape Areas within the submitted Parameters Plan shall be kept clear of all built form at all times and shall be retained and maintained as open land.

End of conditions 1-23.

APPEARANCES

For the local planning authority:

Ned Helme of Counsel, instructed by the Southampton and Fareham Legal Partnership

He called:

Ben Croot – Associate, LDA Design Consulting

Lucy Markham – Partner, Montagu Evans

Stephen Jupp – Planning Consultant

Richard Wright (Principal Planner), and Hilary Hudson (Solicitor) for the Council also contributed to round-table discussions

For the appellant:

Christopher Boyle of Queen’s Counsel, instructed by Woolf Bond Planning

He called:

Jeremy Smith – Director, SLR Consulting

Ignus Froneman – Director, Cogent Heritage

Steven Brown – Principal, Woolf Bond Planning

Paul Weeks (Solicitor, Moore Barlow) also contributed to round-table discussions

Interested parties:

Robert Marshall – The Fareham Society

INQUIRY DOCUMENTS

The following documents were submitted to and accepted by the Inquiry:²⁶

Reference	Title/subject
ID 1	List of appearances on behalf of the appellant
ID 2	List of appearances on behalf of the Council
ID 3	Opening submissions on behalf of the appellant
ID 4	Opening submissions on behalf of the Council
ID 5	Council's section 106 obligations justification statement
ID 5a	Appendix 1 to ID5
ID 5b	Appendix 2 to ID5
ID 6	Draft schedule of conditions
ID 7	Summary of obligations contained in the unilateral undertakings
ID 7a	Unilateral undertaking dealing with general provisions (draft)
ID 7b	Unilateral undertaking dealing with recreational disturbance upon the New Forest protected sites (draft)
ID 7c	Official copy of title plan
ID 7d	Official copy of register of title
ID 8	Email to Natural England from the Council dated 6 December 2021
ID 8a	Email attached to ID8 enclosing response from Natural England to appeal at Land East of Crofton Cemetery and West of Peak Lane, Stubbington
ID 9	Comments from Southern Water dated 6 December 2019
ID 9a	Plan 1 attaching to ID 9
ID 9b	Plan 2 attaching to ID 9
ID 10	Drawings PL-20, PL-21, and Nos. 22 and 23 submitted by the appellant on 6 December 2021
ID 11	Extract from heritage proof provided by Mr Brown
ID 12	Report to the Council's Executive for Decision on 7 December 2021 – Implications of Natural England Advice on New Forest Recreational Disturbance
ID 13	Email from Mr Wright confirming the decision made by the Council's Executive on 7 December 2021
ID 14	Parameters Plan Ref: 16.092.21
ID 15	Updated schedule of draft conditions dated 13 December 2021
ID 16	Council's updated section 106 obligations justification statement (v2 dated 13 December 2021)
ID 17	Ecology Addendum Statement of Common Ground (dated 13 December 2021)
ID 18	Summary of obligations contained in the unilateral undertakings
ID 19	Revised unilateral undertaking (general) issued 15 December 2021
ID 19b	Land ownership plan
ID 19c	Parameters Plan (duplicate)
ID 19d	Indicative Parks and Amenity Open Space Plan
ID 19e	LEAP transfer document
ID 19f	Tetra Tech technical note relating to the BCA

²⁶ This list reflects the content and referencing of the Council's web site library as maintained throughout the event, but is also inclusive of matters post-Inquiry

ID 20	Council's updated section 106 obligations justification statement (v3)
ID 21	Unilateral undertaking dealing with recreational disturbance upon the New Forest (draft)
ID 22	Biodiversity net gain calculation (dated 14 December 2021)
ID 23	Updated schedule of draft conditions (dated 15 December 2021)
ID 24	Closing submissions on behalf of the Council
ID 25	Closing submissions on behalf of the appellant
ID 26	Final set of draft conditions (dated 21 December 2021)
ID 27	Summary of ecology references relating to the New Forest protected sites as per point 7. of the Inspector's Post-Inquiry Note dated 20 December 2021
ID 28	Final (unsigned) unilateral undertaking relating to the New Forest protected sites (issued 21 December 2021)
ID 29	Signed and dated unilateral undertaking (New Forest) (dated 22 December 2021)
ID 29a	Signed and dated unilateral undertaking (general) (dated 22 December 2021)
ID 30	Comments from Natural England dated 22 December 2021
ID 31	Council's response dated 5 January 2022 to Natural England's comments dated 22 December 2021
ID 32	Appellant's response dated 7 January 2022 to Natural England's comments dated 22 December 2021
ID 33	Inspector's letter to Natural England dated 13 January 2022
ID 34	Natural England's email response dated 31 January 2022 to Inspector's letter dated 13 January 2022
ID 35	Council's response dated 11 February 2022 to Natural England's email dated 31 January 2022
ID 36	Appellant's response dated 11 February 2022 to Natural England's email dated 31 January 2022
ID 37	Inspector's request for comments dated 14 January 2022 related to publication of 2021 Housing Delivery Test results
ID 38	Appellant's response dated 21 January 2022 to Inspector's request dated 14 January 2022 related to 2021 Housing Delivery Test results
ID 39 ²⁷	Email from Mr Brown dated 15 December 2021 setting out information links for Titchfield Meadows Country Park

²⁷ Not originally included on the web site



Appeal Decision

Inquiry Held on 27-30 April, 4-7, 11 and 12 May 2021

Site visit made on 10 May 2021

by Harold Stephens BA MPhil Dip TP MRTPI FRSA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/Q3115/W/20/3265861

Little Sparrows, Sonning Common, Oxfordshire RG4 9NY

- 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 Senior Living (Sonning Common) Limited and Investfront Ltd against the decision of South Oxfordshire District Council.
 - The application Ref P19/S4576/O, dated 12 December 2019, was refused by notice dated 30 June 2020.
 - The development proposed is a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas.
-

Decision

1. The appeal is allowed and planning permission is granted for a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas at Little Sparrows, Sonning Common, in accordance with the terms of the application, Ref P19/S4576/O, dated 12 December 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. At the Inquiry an application for a partial award of costs was made by South Oxfordshire District Council (the Council) against the Appellant. This is the subject of a separate Decision.
3. The appeal follows the refusal of the Council to grant planning permission to a hybrid planning application for development at Blounts Court Road, Sonning Common. The planning application was determined under delegated powers

on 30 June 2020 and there were seven reasons for refusal (RfR) set out in the decision notice.¹

4. The application was supported by a number of plans, reports, and technical information. A full list of the plans on which the appeal is to be determined is set out at Appendix 4 of SoCG 4 Planning² which was agreed by the main parties. A full list of all documents forming part of the consideration of this appeal is set out at Appendix 3 of SoCG 4 which was agreed by the parties.³
5. I held a Case Management Conference (CMC) on 4 March 2021. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. In the weeks following the CMC the main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters was minimised at the Inquiry. The following Statements of Common Ground were submitted: SoCG 1 Landscape; SoCG 2 Transport; SoCG 3 Viability; SoCG 4 Planning and SoCG 5 Five Year Land Supply.
6. At the Inquiry a Planning Obligation was submitted.⁴ The Planning Obligation is made by an Agreement between Investfront Limited, Lloyds Bank PLC, Senior Living (Sonning Common) Limited, South Oxfordshire District Council and Oxfordshire County Council under s106 of the TCPA 1990. The Planning Obligation secures, amongst other matters, an off-site financial contribution in lieu of on-site affordable housing provision of £7,510,350. The s106 Agreement is signed and dated 26 May 2021 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement⁵ and an Addendum to the CIL Statement⁶ were also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.
7. In relation to RfR7 (affordable housing), following discussions on viability, the Appellant reached agreement with the Council on the payment of an off-site financial contribution towards affordable housing that is secured through a s106 Agreement. Therefore, it is agreed that having regard to development viability, the appeal proposal would provide an adequate level of affordable housing provision and this matter is no longer in dispute.
8. The application was screened for Environmental Impact Assessment (EIA) prior to submission of the application and the Council determined that EIA was not required on 6 November 2019. I agree with the negative screening that was undertaken by the Council.

Main Issues

9. In the light of the above I consider the main issues are:

(i) *Whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;*

¹ See Appendix A in CD H.1

² CD H.5

³ Ibid

⁴ INQ APP11

⁵ INQ LPA7

⁶ INQ LPA8

- (ii) *The impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common;*
- (iii) *The effect of the design of the proposed development on the character and appearance of the village;*
- (iv) *Whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.*
- (v) *Whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB.*

Reasons

Planning Policy context

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this appeal, the development plan comprises the following documents:
 - The South Oxfordshire Local Plan 2035 (Adopted 2020) (SOLP); and
 - The Sonning Common Neighbourhood Plan (2016) (SCNP).
11. The determination of the planning application, the subject of this appeal, took place against the background of a different development plan framework to that now in place. Although the SOLP has been subsequently adopted, the SCNP was based upon the Core Strategy which has been withdrawn, including the out of date housing requirements derived from the old Regional Strategy, significantly reducing the weight that can be afforded to it.
12. The development plan policies that are relevant to this appeal are agreed by the main parties and are set out in SoCG 4⁷ and INQ LPA6 provides an agreed schedule of the replacement policies for those cited in the decision notice.
13. The SCNP is currently under review. An initial public consultation was held between 29 February - 23 March 2020 but the Plan has not at this stage progressed further and there is as yet no agreed timetable. No weight can be given to that review.
14. SoCG 4 sets out the sections of the NPPF which are relevant in this case.⁸ It also sets out a list of Supplementary Planning Documents and Guidance⁹ which should be considered in this appeal and specific parts of the National Planning Practice Guidance (PPG)¹⁰ which are considered relevant.
15. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). The Chilterns AONB is a 'valued landscape' in respect of paragraph 170 of the NPPF. AONBs, along with National Parks and the Broads, benefit from the highest status of protection in relation to conserving and

⁷ Paragraph 3.3

⁸ Paragraph 3.5

⁹ Paragraph 3.6

¹⁰ Paragraph 3.7

enhancing landscape and scenic beauty. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB. Paragraph 172 of the NPPF requires “great weight” to be given to those matters in decision making. It is common ground that the appeal proposal involves major development within the AONB and as such should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

16. Paragraph 172 of the NPPF requires particular consideration to be given to:
(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and (c) any detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. I deal with these matters under the main issues but at the outset it is important to address whether or not the Council has a five year supply of housing.

Five Year Housing Land Supply

17. Paragraph 73 of the NPPF sets the requirement for Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old.
18. Since 2018, Oxfordshire only needed to demonstrate a three-year supply of housing. However, on 25 March 2021 the Minister of State for Housing confirmed that a five-year housing land supply was again required. The Council produced a Housing Land Supply Interim Statement (IHLS)¹¹ setting out their initial position for the period 1 April 2020 to the 1 April 2025 which asserts a 5.35-year supply. However, at the Inquiry, the Council conceded that the supply had fallen on its own case to 5.08 years. The five-year supply requirement is a minimum requirement and it needs to be deliverable. The definition of deliverable is contained in Annex 2 to the NPPF.
19. The most up-to-date position as regards the difference between the main parties is summarised in the agreed SoCG 5. There is no disagreement as to the housing need (900 dpa) or the time period for the assessment (2020/21 to 2024/25). The five-year requirement including an agreed shortfall of 922 dwellings and 5% buffer is 5,693. The difference between the main parties comes down to the Council’s position that there is a 5.08 year supply of deliverable housing sites and the Appellant’s assertion that it is instead a 4.21-year supply. Table 3 of SoCG 5 contains a schedule of 15 disputed sites. I have assessed these disputed sites in the context of the test of deliverability set out in Annex 2 of the NPPF. This specific guidance indicates which sites should be included within the five-year supply.
20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on

¹¹ CD: K.32 South Oxfordshire Local Plan Housing Land Supply Interim Statement 2021

‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

"In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions."

This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.
22. It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position. For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years.
23. Overall, I consider that the Appellant’s assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant’s approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times.
24. My conclusion on housing land supply is that there are a number of sites that together significantly reduce the Council’s five-year housing land supply. Many of the sites that the Council includes within the supply cannot be justified applying the current definition of deliverable. Following discussions between the main parties, deductions from the IHLS figure of 6,093 dwellings, have been identified and summarised at Table 1 of SoCG 5 and the impact which this has on the five year housing land supply is summarised at Table 2.

25. I consider that the Council's supply figure should be reduced to reflect the Appellant's position set out in Table 2 of SoCG 5. The Council's supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to **4.21** years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.

First Issue - whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;

The Need for Extra Care

26. The Council argues that the appeal proposal would be contrary to Policies H1 and H13 of the SOLP and due to its location in the AONB, outside but next to Sonning Common, brings into play Policies ENV1 and Policy H4 of the SOLP, and Policies ENV1, ENV2, H1, H2 and H2a of the SCNP. It is also claimed that the provision of 133 units of specialist housing for the elderly would be inconsistent with the proportionate growth in general housing planned for Sonning Common at both levels of the development plan.
27. Clearly the need for specialist accommodation for older people is recognised in the SOLP, which promotes the identification of suitable sites in the neighbourhood planning process and the inclusion of specialist accommodation on strategic sites,¹² and favours specialist housing for the elderly over conventional housing on unallocated sites.¹³ Although extra care housing is referred to in the supporting text,¹⁴ the SOLP does not prescribe particular levels of provision by type of accommodation, which allows flexibility in provision, adapting to what is an evolving sector. I note that no attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. No quantum for extra care accommodation is set out in the SOLP. Although Table 4f of the SOLP shows an outstanding requirement for 96 units over the plan period for Sonning Common it makes no reference to the needs arising from within existing households arising from their ageing.
28. Quantification of the need for open market extra care housing is not straightforward, in part because whether an owner-occupier moves to extra care housing is ultimately a matter of choice, in part because there is no prescribed or generally accepted methodology. The Government very clearly supports the identification and provision of extra care accommodation as a recognised form of specialist accommodation for the elderly.¹⁵ Moreover, it is important to bear in mind that the NPPF definition¹⁶ of 'older people' does not

¹² See CD: C.4 Policy H13(2), (3)

¹³ See CD: C.4 Policy H1(3)(ii)

¹⁴ See CD: C.4 paragraph 4.70

¹⁵ See paragraphs 59 and 61 of the NPPF

¹⁶ See Annex 2

exclusively mean the very frail elderly rather it embraces a wide range of people in that category both in terms of a very wide age range and significant variation in issues surrounding matters like mobility and general health.

29. Within the PPG on 'Housing for older and disabled people' it states that:¹⁷

"The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking"

30. The Government plainly recognises that the need is 'critical' and the importance of 'choice' and addressing 'changing needs'. Offering greater choice means a greater range of options being offered to people in later life and that the range of options should at the very least include the categories the Government recognises in its guidance. This includes extra care. The PPG also advises what 'range of needs should be addressed'. It recognises the diverse range of needs that exists and states that:¹⁸

"For plan-making purposes, strategic policy-making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people".

31. Plainly, when compared with Government guidance, the development plan is left wanting in terms of addressing a need for extra care. There is no reference in Policy STRAT 1 to the PPG insofar as assessing the needs of older people. There is no reference in Policy STRAT 2 to the accommodation needs of those local residents who will make up more than a quarter of the total population of South Oxfordshire by 2035. Policy H13 in the SOLP expressly deals with specialist housing for older people. It covers all forms of specialist housing for older people, but it is completely generic as to provision. No attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. The needs of all older people are simply lumped together. Nor is there any engagement with the market constraints and viability considerations relating to specialist accommodation for older people evidenced by Mr Garside during the Inquiry.
32. Paragraph 3 of Policy H13 suggests that provision be made within strategic allocations. The strategic sites are mostly focused around Oxford or in the more northern part of the District. Only one such strategic site has planning permission – Wheatley Campus but no extra care is proposed. The Council want to see it on Ladygrove East. That is not a strategic allocation in the SOLP. But in any event the Council is seeking affordable extra care there and the developer (Bloor Homes) is resisting it. The Council conceded that the strategic sites do not really feature at all in its five-year housing land supply calculations. The Council also accepted that landowners and developers would achieve a better return if they build market houses.

¹⁷ See paragraph 001 Reference ID: 63-001-20190626

¹⁸ See paragraph 003 Reference ID: 63-003-20190626

33. Reference is made to encouraging provision through the neighbourhood planning process.¹⁹ However, without a more definitive district wide requirement it would be difficult for neighbourhood plan groups to assess the levels of provision required, which will vary; and neighbourhood plan groups generally lack the expertise to fully appreciate the requirements and the different housing models available and their viability and practicality.²⁰
34. The Appellant's primary evidence on need is given by Mr Appleton, the principal author of two key publications in this area: *More Choice: Greater Voice (2008)*²¹ and *Housing in Later Life (2012)*.²² Both of these publications seek to address how best to quantify the need for specialist housing for the elderly. They advocate a method which is based on the population and other nationally available data to look at the characteristics of an LPA area.
35. The PPG highlights the need to begin with the age profile of the population. I note that the proportions of people aged 65 and over within South Oxfordshire District currently sits above the national average.²³ Furthermore, there is presently a population of 15,000 in South Oxfordshire District, who are aged 75 years or older which is forecast to increase to 21,100 by 2035.²⁴
36. In terms of care needs, 4,019 people in this population have difficulty managing at least one mobility activity on their own at present, set to rise to 6,046 by 2035.²⁵ They are overwhelmingly owner occupiers, with 81.23% of people aged 75-84 and 75.25% aged 85 and over owning their own home compared with 13.74% and 17.42% respectively Council or social rented.²⁶ Importantly, South Oxfordshire sits significantly above the national trend toward owner occupation as the dominant tenure for older people.
37. For the Appellant it is argued that there is a significant under-supply of retirement housing for leasehold sale to respond to the levels of owner-occupation among older people in the District.²⁷ There is a total of approximately 1,641 units of specialist accommodation for older people. However, there is a very marked disparity in the availability of specialised housing for older homeowners compared with the supply available to older people in other tenures.²⁸ The current rate of provision favours those in tenures other than home ownership with nearly four times as many units available to them in sheltered, retirement and extra care housing than are currently available for their peers who are homeowners.²⁹ At present, it is submitted that there are 120 units of affordable extra care housing and 113 units of market extra care housing.³⁰
38. Mr Appleton sets out a provision rate for private extra care of 30 per 1,000 of the 75 and over population in the District based on a total provision of 45 extra care units per 1,000 (4.5%) across both the affordable and private sectors, but split on a ratio of one third for social rented and two thirds for

¹⁹ See CD: C.4 Policy H13 paragraph 2

²⁰ POE of Simon James paragraph 5.1.11

²¹ CD: K.44

²² CD: K.45

²³ See APP 2.3 Nigel Appleton Section 6

²⁴ See APP 2.3 Nigel Appleton Table One

²⁵ See APP 2.3 Nigel Appleton Table Five

²⁶ See APP 2.3 Nigel Appleton Table Twelve

²⁷ See APP 2.3 Nigel Appleton paragraph 9.2

²⁸ See APP 2.3 Nigel Appleton Table Fourteen

²⁹ See APP 2.3 Nigel Appleton paragraphs 9.7-9.9

³⁰ See APP 2.3 Nigel Appleton Table Fourteen

sale. This takes into consideration the research in "*More Choice: Greater Voice*" and revisions in "*Housing in Later Life*". I note that the 45 units per 1,000 is to be divided as suggested in order to bring supply into closer alignment with tenure choice among older people.³¹ That is 450 units now. Projecting forward, an indicative provision of 633 units of market extra care would be required by 2035.³² The Council refers to the Oxfordshire's Market Position Statement³³ which assumes a lower need figure for extra care housing but the focus there appears to be on social rented extra care housing. The Council also suggests that the SHMA³⁴ evidence is to be preferred. However, I note that it does not identify figures for extra care, nor does it relate to the present PPG.³⁵ In my view, Mr Appleton's provision rate is preferred and the need for more private extra care is overwhelming.

39. At present even a very modest level of provision of 30 units per 1,000 in the 75 and over population seems unlikely in South Oxfordshire District, especially as the SOLP now requires affordable housing to be provided, when previously it was not required. No other extra care market proposals are coming forward. The Rectory Homes proposal at Thame, refused on appeal for not providing an affordable contribution has been resubmitted but the s106 Agreement is not signed. Nor is Rectory Homes Ltd a provider of care.
40. In my view, there is a strong case that Mr Appleton's 45 per 1,000 overall, with 30 per 1,000 to market extra care, should be far more ambitious given not only the true tenure split in the District but also what it could mean for the ability to contribute towards addressing the housing crisis. Mrs Smith conceded that the figure of 30 per 1,000 was hardly ambitious and, if anything, was underplaying the scale of the potential need.
41. Turning to supply, with only 113 units of market extra care units of extra care housing existing in South Oxfordshire and a current need of 450 units this leaves a shortfall of 337. As to the existing pipeline, Mr Appleton analysed the same at Figure Two of his Needs Report, which was updated at INQ APP12. The total 'pipeline' supply of extra care not already included in Mr Appleton's tabulation of current supply are the proposed 110 units in Didcot and Wallingford, and the 65 units proposed at Lower Shiplake. This gives a total gain of 175 units. However, both Wallingford and Didcot sites have been confirmed as affordable extra care. The Council did not dispute the 175 figure and Mrs Smith accepted that she did not know if the 110 units in Didcot and Wallingford would be affordable or market. I consider that only 65 units can reasonably be considered as pipeline.
42. The pipeline needs to be set against the current shortfall of 337 which still leaves 162 units even if Didcot and Wallingford are included and 272 if they are not. That is a substantial unmet need now which will only further climb and in respect of which there is nothing in the pipeline and no prospect of any strategic allocated site delivering in the five year housing land supply.
43. There is plainly a very limited supply of extra care housing for market sale (leasehold) in South Oxfordshire. Adding further concern, it is of note that

³¹ See APP 2.3 Nigel Appleton paragraph 11.6

³² See APP 2.3 Nigel Appleton Table Seventeen

³³ See CD: K.27 Market Position Statement for Oxfordshire in relation to Care Provision and Extra Care Housing Supplement assumes a need for 25 units of extra care housing for every 1,000 of the population aged 75+ page 9

³⁴ See CD: 14 HOUS5 Oxfordshire Strategic Housing Market Assessment April 2014

³⁵ Ibid

from 2012 to date just 133 units have been delivered despite there being in the same period permissions for a net gain of 447 additional Care Home beds. This runs completely contrary to the policy set out in the Market Position Statement of reducing reliance on Care Home beds and increasing capacity in extra care. The case for more market extra care provision now is very clear. Furthermore, the need is set only to grow.

44. The Council sought to undermine the Appellant's need case with reference to earlier data from Housing LIN and the @SHOP tool. This on-line tool is highlighted in the PPG as a basis for calculating need. But the fact is it only provides a figure based on existing prevalence and then seeks to project that forward with a proportion increase based on the increase in the 75+ age group in the District. This is not a measure of need.
45. The Council provided a list of specialist accommodation for older people³⁶ most of which is not market extra care, but mostly affordable extra care. Oxfordshire County Council has two sites with market extra care, but those schemes are in Banbury and Witney and not in the District.³⁷ In short, the pipeline adds up to very little. I consider there is hardly any market extra care housing in the District. The stark fact is that choice is largely unavailable.

Policy Compliance

46. Plainly the proposed development would make a substantial contribution toward the provision of a more adequate level of provision for older homeowners looking for an environment in which their changing needs could be met. The fact that the need is proposed to be met at Sonning Common seems entirely appropriate. Sonning Common is one of just 12 larger villages where a need for extra care provision has been identified in the SCNP, and where there is the oldest 65 and over population in the County. The SCNP expresses support for a small scale development of extra care housing in Policy H2a but no site is allocated for such use. The Sonning Common Parish Council (SCPC) accepted that SCNP policies referred to in the RfR are out of date due to a lack of five year housing land supply. That includes Policies ENV1, ENV2 and H1, which is only expressed as a minimum.
47. Policy H13 (1) in the SOLP gives support to extra care on unallocated sites. This adds to the weight that can be given to the need case. Policy H13 is the key policy in respect of specialist accommodation for older people. Though the appeal site is not a strategic site, nor allocated in the SCNP, Policy H13 does not itself require it to be. I have already discussed the difficulties associated with any of the strategic sites coming forward with market extra care either within the five year housing land supply period or at all.
48. Policy H13 (1) is clear that encouragement will be given to developments in locations "with good access to public transport and local facilities." The Council accepted that public transport for staff on the site would be more likely to take the form of bus services and they would perhaps have no difficulty walking. For residents there is a choice and it depends on their mobility. I saw that most of the site is flat. It does have a gradual gradient to the west then a steeper gradient close to Widmore Lane. The presence of a hairpin in the proposed design is to deal with the gradient which requires a

³⁶ See Nicola Smith's Appendix 1

³⁷ CD: K.27 page 5

longer path to accommodate people with disabilities. I note that a minibus service is proposed which would take residents to the local supermarket. With regard to other trips, for example to the post office or to other facilities, residents could walk or take the minibus. Importantly, the core building has all facilities centrally. Residents could cook in their premises and meals would be provided on site. There would also be a small convenience shop on site and staff would be on hand to not only care for but also to assist people. Garden maintenance would be provided and there would be a wellbeing centre to help people's health and fitness. Overall, the facilities would take care of a considerable amount of day-to-day needs. In my view all of this would comprise "good access to public transport and local facilities."

49. With regard to matters of principle I accept that Policies ENV1 and STRAT 1 (ix) of the SOLP affords protection to the AONB and in the case of major development, it will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest. I give these matters detailed consideration in other issues. The proposal fully accords with Policy H1 3ii) of the SOLP. With regard to Policy H4 of the SOLP, although the timeframe for review of the SCNP does not run out until December 2021 that does not bring the SCNP back into date. Whilst the review of the SCNP has commenced, it is at its earliest stage and no weight can be given to it. I conclude on the first issue that the appeal proposal would conflict with some but would comply with other elements of the Council's strategy for the delivery of older persons accommodation throughout the district.

Second issue - the impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common

50. SoCG 1 Landscape has been agreed between the parties and addresses landscape and visual matters. The appeal site is within the Chilterns AONB which is a 'valued landscape' in respect of paragraph 170 of the NPPF. The Chilterns AONB Management Plan 2019-2024³⁸ defines the 'special qualities' of the AONB and the most relevant to the appeal site and its context are summarised at paragraph 3.5 of SoCG 1.
51. In essence, the Council, supported by the SCPC, the Chilterns Conservation Board and others, consider that the proposed development would create a prominent and incongruous intrusion into Sonning Common's valued rural setting, relate poorly to the village, and cause material harm to the landscape character of the AONB. It is also claimed that the proposal would not conserve or enhance the landscape and scenic beauty of the AONB and would fail to protect its special qualities.³⁹ The policy context at the time of the decision notice referenced policies in the South Oxfordshire Local Plan 2011 which is now superseded by the adopted policies in the SOLP.⁴⁰ Policies ENV1 and ENV2 of the SCNP are also relevant. I note the illustrative Masterplan,⁴¹ the LVIA and the Landscape Appendix⁴² submitted by the Appellant.

³⁸ CD: F4 pages 10 and 11

³⁹ See RfR 2

⁴⁰ See LPA INQ6 which sets out the relevant SOLP policies including STRAT1 (ix), ENV1 and ENV5 and Design policies DES1, DES2, DES3 and DES5

⁴¹ See Appendix 4.3.1 of James Atkin Drawing reference 1618_L_01_01 Rev3

⁴² CD: A.9 and CD A.10 Landscape and Visual Impact Assessment and Landscape Appendix

52. To address these points, it is necessary to understand what the special qualities of the Chilterns AONB are and the extent to which those special qualities relate to the appeal site and its context. From the evidence that is before me and from my site visit, I do not consider the appeal site or its local landscape context to be representative of the special qualities as set out in the Chilterns AONB Management Plan. Where the appeal site does exhibit some such qualities, they are generic. In all other respects, they are entirely absent.
53. Planning policy and statute give equal protection to all parts of the AONB. However, it would be unrealistic to expect the appeal site and its immediate context to share all or even most of these special qualities. It is important to have a balanced interpretation of how such special qualities relate. To that end, Mr Atkin's Table 1⁴³ summarises that relationship, drawing together judgements on the landscape and the extent to which the appeal site is characteristic, or otherwise, of the AONB. In summary, Mr Atkin's analysis demonstrates that the appeal site does not reflect the majority of the special qualities and, where there is a connection, the association is limited. It seems to me that the appeal site is more typical of an agricultural landscape that is commonplace around many settlement fringes. Plainly the appeal site and its local landscape context is less sensitive than other parts of the AONB.
54. The core characteristic of the appeal site and its context, and the most relevant of the special qualities to it, is the extensive mosaic of farmland with tree and woodland cover. However, this is probably the broadest and most generic of the special qualities acting as a 'catch all' for the extensive areas of farmland across the area. Other parts of the AONB are more distinct. The ancient woodland of Slade's Wood is located off site, outside of the AONB designation, though it does form part of its setting. As to extensive common land, this is not representative of the appeal site. In its local landscape context, Widmore Pond is designated as common land but is not an 'extensive' area contrasting with other parts of the AONB.
55. At my site visit I saw that the appeal site, being directly adjacent to the relatively modern settlement fringe of Sonning Common, detracts from any potential tranquillity. This is particularly so due to the neighbouring JMTC complex and associated car parking. It is common ground that the JMTC is 'institutional in scale'. In terms of ancient routes, there is no formal access to the appeal site. In the local landscape context, the closest rights of way are the public footpaths to the north-west and east both of which give access to the wider landscape to the north and east of Sonning Common where the characteristics of the AONB are more readily apparent.
56. The Council agreed that new development can be accommodated in the AONB and as a matter of principle can be an integral component. Indeed, the SCNP allocates development within its boundaries. I saw that the AONB in this location already contains a significant amount of built development. That contrasts significantly with the deep, rural area of countryside within the AONB some of which is located to the north east of the appeal site where the road turns east down the valley bottom heading to Henley-on-Thames. There, there is no settlement or village, no industrial buildings or surface car parks

⁴³ See James Atkin's Appendix 4.1 pages 18-20

with 100 plus spaces. It is simply deep countryside with very limited urban development and is very attractive. That cannot be said about the appeal site.

57. Having considered how the special qualities of the AONB relate to the appeal site, I now consider the landscape character of it. The appeal site is partly located on an area of plateau between two valleys, within a landscape identified in the South Oxfordshire Landscape Character Assessment (2017)⁴⁴ as semi-enclosed dip slope, which in turn forms part of the broader Chilterns Plateau with Valleys Landscape Character Area (LCA10). The eastern part of the site is located above the 95m contour on the plateau area.⁴⁵ The southern and western parts of the site fall towards a shallow valley which contains neighbouring parts of Sonning Common. At a further distance to the north is a deeper valley which separates Sonning Common from Rotherfield Peppard.

58. The Landscape Assessment for the Local Plan 2033 for the semi enclosed dip slope LCT states:

"...this part of the Chilterns dip slope has a surprisingly uniform character, despite its irregular pattern of plateaux and valleys and its mosaic of farmland and woodland. This complexity is a consistent and distinctive feature of the area, and the most obvious differences in landscape character are between the very intimate, enclosed wooded landscapes and those which have a more open structure and character."

It is clear to me that there is a difference between the parts of the AONB in the dry valley and those on the plateaus.

59. What is distinctive about this part of the landscape and relevant to the landscape of the appeal site and its context is the uniformity across a larger scale area of the landscape characterised by a complex mosaic of farmland and woodland. It is this complex mosaic at the larger scale which is more closely aligned with the special qualities of the Chilterns AONB and not the appeal site itself. It isn't the loss of a part of this mosaic that is important, which in the case of the appeal site would be a relatively small agricultural piece of the mosaic; rather, it is the implications for the wider mosaic and whether that would be disrupted in terms of a reduction of its scale, or would result in the creation of a disbalance between particular parts of the mosaic.

60. SCPC referred to the Sonning Common Character Assessment and Design Statement 2013.⁴⁶ I accept that this formed part of the evidence base to the SCNP, but it appears to still be in draft form only many years later. Its main purpose was to provide comparative comment on sites identified for potential future development limited to only the shortlisted sites. It does not address the wider appeal site. I have also taken into account the Oxfordshire Historic Landscape Characterisation Project⁴⁷ and the various landscape capacity assessments cited by Mr Jeffcock that have looked at the appeal site.

61. As I perceive it, Sonning Common is very much part of the local landscape context, just as much as the adjacent agricultural land and the wider mosaic of the AONB. The appeal site performs a role of a brief transition and gateway between the suburban and rural environments. In its local context, the settlement fringes of Sonning Common, including the residential areas across the valley and on the plateau to the west and south are influential in terms of

⁴⁴ CD: D.23, section 15.

⁴⁵ See John Jeffcock's Appendix 1, Figs 2, 7, 8

⁴⁶ CD: C.7

⁴⁷ CD: I.5

the local landscape character, as is the prominent built form of the JMTC to the north. Adjacent to the appeal site is the JMTC car park which further erodes the sense of more 'remote' or rural countryside. To the south the settlement extends some distance along Peppard Road and there is a clear experience of entering the suburban character of the village, long before the appeal site is perceptible. There are specific locations where the settlement edge is less apparent notably along Blounts Court Road from the east and in this direction the more rural aspect of the site is more dominant.

62. The Council's LCA draws a very clear distinction between the character of development on the plateau and the character found in the dry valleys.⁴⁸ The landscape strategy set out there suggests that development on the plateau is in keeping whereas into the valley is a negative thing. It seems clear to me that Sonning Common has grown up developmentally on two plateaus either side of the dry valley.
63. It is common ground that, like any development anywhere, physical impacts on the landscape fabric will be limited to those which occur within the appeal site itself. However, landscape character impacts and the consequent effects would not be limited to the appeal site. It is agreed that there are not likely to be significant effects on the wider landscape or visual effects further afield than a localised area set out in the SoCG 1.⁴⁹
64. Although there would be localised losses of vegetation due to the access off Blounts Court Road and the proposed pedestrian connection to Widmore Lane, the proposed development would largely involve the loss of open agricultural land and the construction in its place the built development of the appeal proposals. On the most elevated part of the site, there would be a substantial, cruciform core building, 2.5 storeys (about 11.2m)⁵⁰ in height, with a footprint of approximately 3,900m², and four apartment blocks with ridge heights of between 10.3m and 11.2m, the largest two of which would have footprints of about 550m² each. However, the recent application submitted for the JMTC shows that the present buildings making up the complex are between 8.7m and 10.6m depending on ground levels with block 4 up to nearly 11m in height. I accept that there would be a physical loss to the mosaic, but in character terms, the appeal site is not essential to its character and the built elements of the scheme would be consistent with the settlement fringe.
65. There would be potential impacts arising from the 15m woodland belt along the southern and eastern edges of the appeal site. This would be beneficial in terms of moderating the effect of the development. It would also provide a green infrastructure link between Slade's Wood and the green infrastructure network in the surrounding landscape. This would have a positive impact on the 'wooded' aspects of the mosaic. The woodland belt would create a further 'layer' in the landscape which would physically and visually contain the site.
66. The overall consequence of this is that there will be a highly localised impact on the 'mosaic' in terms of agricultural land use, but not to a point where, given the scale of what makes this distinct, the mosaic is disrupted or undermined. At a local and wider scale, this would not constitute 'harm' to the Chilterns AONB. Only a small part of the mosaic would be impacted, and this

⁴⁸ CD: D18 page 572 which deals with Sonning Common at 9.10

⁴⁹ CD: H.02 SoCG 1 Landscape paragraphs 3.21-3.22

⁵⁰ See John Jeffcock's POE paragraph 4.3.3.

would not alter the overall character of the wider mosaic or the LCT. Plainly such limited impacts would not cause 'material harm' to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. The appeal site would, in being development on a plateau, be in keeping with the landscape character.

67. I accept that the appeal site and the immediate landscape context within the Chilterns AONB form part of a valued landscape⁵¹ this is primarily on the basis of the landscape designation and related less to the demonstrable physical attributes of the appeal site.⁵² Although the Appellant's LVIA determines landscape value to be 'high' with some localised variations, I consider that the appeal site in its local landscape context is of 'medium to high' value taking into consideration that it is in the AONB but also the site's own merits. There is, frankly, a considerable difference between this area and more typical, characteristic parts of the AONB.
68. As to landscape susceptibility, this can be appropriately described as 'low to medium' in the appeal site's local landscape. This is a medium scale enclosure that has capacity to accommodate some form of development across the majority of the site. The settlement of Sonning Common provides some reference and context for development and the presence of the JMTC in this part of the AONB reduces landscape susceptibility to new development. The landscape sensitivity is appropriately judged as 'medium' with the AONB designation having a high sensitivity. Mr Jeffcock considers that the appeal site has a high landscape value and high sensitivity to change. However, his assessment is overstated. In my view the appeal site has a medium to high value, and low to medium susceptibility with medium sensitivity overall.
69. The appeal site is located on the very fringe of the AONB, and Sonning Common is excluded from it. This is not a core part of the Chilterns AONB and its special qualities are largely absent. Of relevance is the mosaic of wooded farmland that characterises much of the plateau and dip slope. The appeal proposals would result in a change to this characteristic at a very localised level, with the loss of an open agricultural field to built development but balanced with the introduction of further woodland and green infrastructure. This would not disrupt, or unduly influence, the mosaic. I agree that the 'slight to moderate adverse' effect on landscape character would not represent a significant impact in respect of the Chilterns AONB.⁵³
70. As for visual effects, these would differ depending on the viewer and the viewpoint. The landscape witnesses provided a number of example viewpoints and I carried out an extensive site visit with the parties to see these and other views for myself. I have also taken into account the ZTV⁵⁴ and LVIA information provided by the Appellant.
71. SoCG 1 Landscape records that the physical impacts of the proposed development would be limited to the appeal site, and that consequent impacts on landscape character would be limited to a relatively small number of areas including viewpoints to the south (the route of the B481 Peppard Road); to the south west (Sonning Common village e.g. Grove Road); to the north

⁵¹ Within the meaning of paragraph 170(a) of the NPPF

⁵² See James Atkin's Table 2 POE pages 27-28

⁵³ See James Atkin's POE page 33 paragraph 6.48

⁵⁴ Zone of theoretical visibility

(footpath 331/16/20) close to the southern edge of Rotherfield Peppard); to the west (the settlement edge of Sonning Common) and to the east and north east (the routes of public right of way 350/11/20 and 350/10/10). Outside of these areas it was agreed there would not likely be any significant effects on the wider landscape or on visual receptors further afield.⁵⁵

72. In terms of visual amenity, the evidence demonstrates that potential views of the appeal proposals would be limited to a small envelope, largely related to the immediate context of the appeal site and not extending further into the Chilterns AONB landscape. This limited visibility reduces the perception of change to landscape character. The ZTV demonstrates that, aside from some locations very close to, or immediately adjacent to the appeal site, potential visibility from the wider landscape (and AONB) is limited. In my view this accords with the landscape character guidance which refers to the 'semi-enclosed dip slope' as having a 'strong structure of woods and hedgerows' which provide 'visual containment and results in moderate to low intervisibility'. This strong structure of woods and hedgerows provides containment in the landscape.
73. What is clear, is that only a small number of nearby locations would have direct views of the appeal proposals. This includes a very short section of Peppard Road, short sections of public footpaths to the east (350/11/20 and 350/11/40) and the approach to the settlement along Blounts Court Road. In each of these instances, impacts could be moderated by appropriate landscape works and particularly the inclusion of the woodland belt. The contained nature of the appeal site and the limited extent of landscape effects mean that the overall character of the semi-enclosed dip slope LCT would not be fundamentally altered and the effects on landscape character at this scale would not be significant. Plainly, the appeal proposals would not give rise to significant visual effects overall; either in the local landscape context of Sonning Common or in respect of the scenic quality of the Chilterns AONB.
74. The most relevant assessment is that of 'Year 15' once the tree planting proposals have had the opportunity to thrive. Those proposals are a specific and positive part of the proposed development which would deliver additional environmental functions to that of visual screening. It is common ground that the planting would be significant. It is reasonable to expect that the growth of native species would reach good heights in the medium term and mature heights that are comparable to the existing trees and woodland in the area. There would be glimpses of the built development through the perimeter planting. However, it would provide a substantial screen in the long term and help to integrate the appeal proposals into the landscape particularly when viewed from the east and from the south.
75. For the above reasons I conclude on this issue that the proposed development would have some localised landscape and visual effects, but these would not result in unacceptable impacts on the AONB or the landscape setting of Sonning Common. As such, in respect of this issue I consider the appeal proposal would conflict with Policies STRAT 1 (ix) and ENV1 of the SOLP together with Policy ENV1 of the SCNP. However, for the reasons set out above those adverse effects would be limited. I shall consider this further in the planning balance.

⁵⁵ CD: H.2 SoCG 1 Landscape paragraphs 3.21-3.22

Third Issue - the effect of the design of the proposed development on the character and appearance of the village

76. The Council's concerns about the design of the proposed development are based on RfR4 and are supported by the SCPC. In summary these are: (i) the development would not integrate with the village by reason of scale, massing, layout and character; (ii) it would result in a dominant and intrusive form of development having a significant urbanising effect on the settlement edge; and (iii) the layout and design would result in poor amenity for residents by virtue of the lack of access to private amenity space and publicly accessible green space, an overdominance of car parking and limited space for tree planting. I address each of these concerns in turn.
77. The main parties agreed a section on design within SoCG 4 Planning.⁵⁶ Amongst other matters it is agreed that: the detailed layout (Phase 1) is the proposed layout for that part of the site; the proposed masterplan is provided to demonstrate how the development could be laid out to respond to the physical and technical constraints and opportunities of the site; the layout for Phase 2 will be subject to future reserved matters (appearance, landscaping, layout and scale) and remain in the Council's control; the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed; and the extent of existing tree retention and the selection of proposed plant species, grass, hedge and shrub planting is agreed.
78. It is also noteworthy that policies within RfR4 relate in the main to the previous South Oxfordshire Core Strategy 2012 and South Oxfordshire Local Plan 2011. The corresponding policies are set out at INQ LPA6. Policy D1 of the SCNP 2016, the South Oxfordshire Design Guide⁵⁷ and the NPPF (in particular paragraphs 127, 130 and 131) also apply.
79. I turn first to integration with the village in terms of scale, massing, layout and character. The Council and the SCPC are concerned that the scale and layout of the proposed development are being driven by operational requirements and the business model of the Appellant. Reference is made to the large apartment blocks and the village core which it is claimed are at odds with the more modest scale of development in Sonning Common. However, I consider it is important at the outset to understand the existing context and character of Sonning Common. At my site visit I saw that Sonning Common is not the archetypal Chilterns Village, and it clearly lies outside the AONB. It was developed in a more planned manner with the character being 'plotlands' and later infill housing termed 'estates'.
80. The local vernacular consists of a mix of building types, but the immediate neighbouring existing development is comprised of the estates typology - Churchill Crescent, Pond End Road and the northern edge of Widmore Lane. The existing context has a range of design components that help create its character. In particular, I note that Sonning Common: is primarily 2 storeys but with elements of 2.5 storeys; is primarily domestic in scale; has predominantly traditional architecture; is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape; and has occasional larger built form such as the school or JMTC. Furthermore,

⁵⁶ CD: H.5 SoCG 4 Planning Section 6

⁵⁷ CD: C.8

Sonning Common has: brick walls; painted rendering on walls; clay roof tiles; chimneys; and a mix of gables, hipped roofs and porches.

81. The Design and Access Statement (DAS)⁵⁸ describes the appeal proposals as domestic in scale and character. I accept that the scheme is largely domestic in form and with detailing consistent with residential houses in the area.
82. In terms of *height*, the proposed buildings would reflect the heights of buildings within Sonning Common. Both plotlands and estate buildings include two storey buildings and two storey buildings with roof rooms. The proposed apartment buildings would be two storeys with the Village Core rising to two and a half storeys in places. The Village Core has accommodation in the roof space to keep the overall ridge height low. The height to the ridgeline from ground level of the Village Core Centre building is up to 2.5 storeys dropping to single storey on the eastern side. This must be seen in the context of the height of the adjacent JMTC, typically equivalent to 3 storeys, and groups of 2.5 storey dwellings on the northern side of Blounts Court Road to the west of the site. Most of the proposed development would be two storeys in height as is the overwhelming majority of built development in Sonning Common.
83. As to *massing*, the initial indicative sketch elevation demonstrates that the apartments and the Village Core would have the appearance of semi-detached buildings or groups of buildings combined into short terraces with a varying roofline which are reflective of the existing residential buildings in Sonning Common.⁵⁹ The massing of the apartments is derived from a variety of footprint depths which, when formed into larger blocks, allows for the scale and mass to be broken down into roof elements with simple breaks in the roofline. Appropriate equal roof pitches would give each apartment building an elegant scale. There would be elements of hipped roofs, and chimneys incorporated into the roof plane. The apartment buildings would have balconies, single and double gables further breaking down the overall mass. The Village Core would have accommodation in the roof space and the roof planes would be broken down with larger single gables, smaller double gables with a central gutter and small dormer windows.
84. In my view the *layout* of the proposed development would reflect the way existing 'plotlands' and 'estates' buildings in Sonning Common are orientated, with the arrangement of buildings fronting the main vehicular route with active frontages. A number of apartments would be arranged around the Village Core. Buildings fronting Blounts Court Road would be positioned so that they would replicate the linear street scenes typical of development within Sonning Common.⁶⁰ I note that the proposed building line would be setback some 15m-20m from the road edge to retain an element of openness along the streetscape allowing boundaries to be defined by planting and hard landscaping. This would reflect the layout of the 'plotlands' buildings within Sonning Common. Buildings along the main access route and internal streets would similarly front the street with setbacks from 6m-15m allowing boundaries to be defined by planting and hard landscaping. The setback for 'estate' residential buildings ranges from about 4m-14m. In my view, the proposals would be in a similar range.

⁵⁸ CD: A.31

⁵⁹ See Mr Carr's Appendix UD4

⁶⁰ See CD: C7 Sonning Common Character Assessment and Design Statement

85. The Council and SCPC argued that the appeal proposal could be smaller in scale. However, it was accepted that greater economies in scale could be achieved with larger retirement village developments with extensive communal facilities. It is noteworthy that the Appellant is proposing a development which is half the size of the optimum.⁶¹
86. With regard to *character* it is clear that the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed, as recorded in the SoCG 4. In any event, the proposed development would accord with the local vernacular which consists of a mix of building types found within the key character areas. In summary, Sonning Common has predominantly traditional architecture and the proposed development would have traditional architectural detailing; it is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape and the proposed development would have similarly substantial planting in the streetscape as well as proposed and existing large scale tree planting creating a tree lined backdrop. Sonning Common has also occasional larger built form such as the school or JMTC and the proposed development has a Village Core.
87. It is fair to say that Sonning Common has an eclectic architecture which is quite conventionally suburban. There is a significant amount of 1970s housing. It has a fairly bland architecture, evidenced by the images in the Sonning Common Character Assessment and Design Statement.⁶² Given that the site is within the Chilterns AONB, the design should not just duplicate Sonning Common, but use materials such as flint panels and dark stained boarding and design components that respond to the AONB setting.
88. In my view, the architecture would reflect a varied composition with gables, projections and porches. The proposed elevations would respect the traditional patterns, style and scale of buildings and the fenestration would be inspired by traditional Chiltern building with a solid wall area balanced with the window and door openings, relatively pitched roofs with a ridgeline, use of 'L' and 'T' building shapes, chimneys and prominent flint panels.
89. It is clear to me that the proposed new buildings would plainly add to the sense of place and local character and would 'belong' to the Chilterns. The proposed development would also create a soft edge to the countryside⁶³ and would not 'turn its back' on it; particularly given the lack of any rear garden fences defining the edge of the settlement.
90. I recognise that this is a hybrid application and there is therefore an outline element to the proposals. However, to demonstrate their commitment to provide the same level of detailing and materials as presently indicated, the Appellant has produced a Design Commitment Statement.⁶⁴ Importantly, this could be conditioned to provide reassurance and an additional way of ensuring that the future reserved matters keep to the quality required in this setting.
91. The Council contended that the proposal would be a dominant and intrusive form of development and it would have an urbanising effect on the settlement edge. I disagree. The apartments and cottages proposed as part of the appeal scheme would be largely consistent with a domestic form and would be very

⁶¹ See INQ LPA 2 page 13.

⁶² See CD: C7 page 16

⁶³ See CD: K4 Chilterns Building Design Guide principle item 3.16 page 25

⁶⁴ See Mr Carr's Appendix UD7

similar in size and form to houses in Sonning Common and the wider AONB. It is logical to site the Village Core building where it is, on a predominately level area, avoiding any large man-made cuttings and embankments to facilitate it. Plainly having the core building on a level area is appropriate for residents in their later years of life who would want facilities to be very easy to access.

92. The NPPF emphasises the importance of making efficient use of land.⁶⁵ Clearly where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. I accept that it is imperative that sites such as the appeal site are optimised when developed. However, optimising does not mean fitting in as much as you can regardless, but it does mean using land efficiently. As this would be an apartment based development then I accept that it would have a greater density than a conventional residential scheme.
93. The Council argued that the proposal would have an urbanising effect. However, the proposed development would be very different to an urban character. There would be a significant landscape setting breaking up the built form and the countryside edge, when read in the context of the proposed planting, would be assimilated in townscape terms. Much has been made of the AONB designation in which the appeal site falls; but this does not mean preservation without any change. The proposed development would in many ways be read as part of the evolution of the area's character.⁶⁶ In my view the proposed development would create an appropriate designed edge to the settlement and an appropriate robust transition with a managed landscape that is a better edge than the back gardens adjoining the settlement boundary that can be found at the settlement edge around parts of Sonning Common.
94. I turn now to the Council's concerns that the layout and design would result in poor amenity for residents by virtue of a lack of access to private amenity space. It is common ground that in policy terms, there is no private amenity requirement prescribed for a retirement community care village. Nonetheless, the proposed development would provide a total of 1,300 msq of private amenity space⁶⁷ comprising: private balconies totalling 0.03 hectare; and directly accessible private landscape and terraces totalling 0.1 hectare.
95. Over and above the private amenity space there would be an extensive amount of publicly accessible green space provided. Again, I note that there is no policy requirement for a retirement community care village yet there would be: landscaped space amongst and between the built form (including foot and cycleways) totalling 1.7 hectares; and a native tree belt and woodland buffer totalling 1 hectare. Combined with the private amenity space there would be 2.83 hectares of amenity land which would be ample given that the site totals 4.5 hectares. That is 62.8% of the appeal site and equivalent to 212.78 msq for each of the 133 units.
96. All of the above is in the context of extra care developments being very different to general housing. I accept that residents do not want the work of managing their own garden. In my view, the layout of the development would

⁶⁵ NPPF paragraph 123.

⁶⁶ See Michael Carr's POE paragraph 7.20

⁶⁷ See Appendix UD5 of Michael Carr's POE

be safe, attractive and inclusive with plenty of natural surveillance of the landscaped spaces which is important given the age restriction of the development and why people would choose to live there.

97. The appeal proposals include access to landscaped spaces and woodland opening up an area that would otherwise be inaccessible private land. This maximises the public benefit of the scheme and would positively contribute to the health and well-being of both residents and the community, to which weight is given in the NPPF as part of the social objective. The Council agreed that there may well be community integration and intergenerational activity through the facilities on site.
98. With regard to car parking, the appeal proposals have been designed to avoid what would otherwise be unplanned 'ad hoc' parking through a formal provision. This is not in one place, rather the design would disperse the necessary parking across the proposed development in a series of clusters. These would be set back and visibly screened from the main routes through the development and would avoid harsh urban parking courts. The proposed 15m woodland belt is a relevant consideration. The proposed planting would buffer and screen views of parked cars and both soften and integrate the parking areas so that they are read as designed landscaped courts. The Council raised concerns about the space available for tree planting. However, in my view there would be ample space on site to accommodate the tree planting the final details of which would be under the Council's control.
99. Overall, I consider the proposal would be in broad accordance with the SOLP policies including DES1, DES2, DES3, DES4 and DES5, SCNP policies D1 and D1a and other design guidance and the NPPF. I conclude on the third issue there would be no reason to dismiss the appeal due to the effect of the design of the proposed development on the character and appearance of the village.

Fourth Issue - whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development

100. This issue relates to the absence of a completed s106 Agreement to secure infrastructure to meet the needs of the development. At the time of the decision, agreement could not be reached with the Council on the requirements for a planning obligation. Since then, agreement has been reached and a s106 Agreement was submitted at the Inquiry. I have considered the s106 Agreement in the light of the CIL Regulations 2010, as amended, the advice in the NPPF and the PPG.
101. The NPPF indicates that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.⁶⁸ Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.

⁶⁸ NPPF paragraph 54

102. The Council's need for additional infrastructure and services is set out in relevant SOLP policies which include H9 Affordable housing; INF1 Infrastructure; DES 1 Delivering High Quality Development; TRANS2 Promoting Sustainable Transport and Accessibility; TRANS4: Transport Assessments, Transport Statements and Travel Plans; and TRANS5: Consideration of Development Proposals. The Council's SPD (2016) is also relevant. Based on the SPD and the relevant policies, the appeal proposal should provide: (i) a financial contribution towards local primary health care (£73,735); (ii) a recycling and waste contribution (£24,738); (iii) a street naming contribution (£2,977); (iv) a District S106 monitoring fee (£2,686); (v) an affordable housing contribution (£7,510,350); (vi) a public transport services contribution (£117,000); (vii) a travel plan monitoring contribution (£2,040); and (viii) a County S106 monitoring fee (£1,500).
103. The primary care contribution is directly related to the development because it results from the additional pressure on local health services as a result of the future residents. It is fair and reasonable as the amount has been calculated based on the number of future residents. The recycling and waste contribution is necessary for the development to be served by waste infrastructure and the calculation is directly related to the bins needed for this development. It is necessary for the development to be served by street naming plates and the calculation is directly related to the name plates needed for this development. The completion of a planning obligation requires the Council to administer and monitor those obligations. The monitoring fee contribution is necessary to cover the Council's costs and is directly related to the nature of the obligation.
104. The proposal will deliver affordable housing which is required under Policy H9 of the SOLP. It will do so via a contribution in lieu of on-site provision. The s106 Agreement secures the payment of £7,510,350 to be paid by the owners. A financial contribution towards off-site affordable housing is necessary to equate with a 40% affordable housing provision under Policy H9. It is directly related to the development and fairly and reasonably related in scale and kind. The financial contribution has been calculated based on the open market value of a unit to be delivered on the site.⁶⁹ The s106 Agreement requires the total affordable housing contribution to be used towards the provision of off-site affordable housing within the District.
105. The relevant policies which support the transport contributions are set out in the CIL Compliance Statement.⁷⁰ A contribution is required to provide an improved bus service (service 25) for residents, visitors and staff associated with the proposed development as an appropriate and viable alternative to the use of private cars and to promote travel by public transport. The contribution required would be used towards increasing the frequency of the existing service operating between Sonning Common and Reading to every 30 minutes between 0600 - 2030, Monday to Saturday and an hourly service in the evenings (up to 2300) and on Sundays (0800-1800). The contribution is directly related to the number of residential units but excludes the proposed 16 high care units, as these residents are unlikely to use public transport. A

⁶⁹ INQ LPA7 provides the methodology for the calculation of the commuted sums based on the open market value of a unit to be delivered on the site.

⁷⁰ INQ LPA7 NPPF paragraphs 102, 103, 108 and 111; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 1 Policy and Overall Strategy Updated 2016 Policy 3 and Policy 34; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 2 Bus & Rapid Transit Strategy (2016) paragraphs 91, 93-95.

travel plan monitoring fee is required to monitor the implementation of the travel plan and an administration and monitoring fee is required to monitor the planning obligation.

106. In my view, all of the obligations in the Planning Obligation 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. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision. I conclude on the fourth issue that the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.

Fifth Issue - whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB

107. There is no dispute that the appeal scheme would be a major development in the AONB. The tests relating to allowing such development are set out clearly in paragraph 172 of the NPPF. The relevant factors which must be considered are then listed in paragraph 172 a) to c) but it is not an exhaustive list. Great weight must be given to conserving and enhancing landscape and scenic beauty in AONBs and 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.

The need for the development and the impact on the local economy

108. I have already discussed the need for the development in detail under the first issue. That discussion is not repeated in detail here, but it is plainly relevant to paragraph 172 a) of the NPPF. There is an immediate unmet need for extra care market housing. This arises not from some ambitious target for extra care. The target for need suggested by Mr Appleton is in fact very modest. It is just 4.5% of the District's population of people 75 years of age and over. It arises because there is hardly any of it available. There are only two schemes which have been built offering 113 units. The only future supply which is available is the market extra care that would be provided at Lower Shiplake for 65 units. Retirement Villages has now sold that site and want a larger site. Whether the Lower Shiplake scheme gets built is therefore uncertain. But even with it the supply of extra care that is available is only 178 units.
109. This against a need, based on a modest aspiration of 4.5% - that is 450 units across the whole District for an overall population of 15,000 in this age category, gives rise to an immediate shortfall of 272. The figure is 337 if the Lower Shiplake proposal is excluded. The stark fact is there is hardly any choice or to put it another way choice is largely unavailable.
110. I am in no doubt that the development of 133 units is needed. Firstly, it is needed to address the immediate shortfall in the five year housing land supply in the District which is only equivalent to some 4.21 years. Secondly, it is needed in this District where at present a population of 15,000 who are aged 75 years or older is forecast to increase to 21,100 by 2035. The demographic evidence indicates a 'critical' need for extra care housing in the District. In this case, the proposed development should be of sufficient size to support the communal facilities that are necessary to ensure an effective operation.

111. Thirdly, it is important to recognise the fact that extra care accommodation, together with all other forms of specialist housing for older people can assist in `freeing up' existing family and other housing by allowing them to `right size' by moving to more appropriate accommodation. This type of specialist housing could significantly contribute towards the easing of the present housing crisis in this District where under occupancy amongst older households is greater than for England as a whole. The sale of the 133 units in the appeal proposals would release 133 family houses of three bedrooms or more.⁷¹ The appeal scheme would be likely to free up 39 family dwellings locally but it could be as high as 64.⁷² Significant weight can be given to this.
112. Fourthly, the health and well-being benefits of the appeal proposal should also be recognised and given significant weight. Such benefits to elderly people are entirely obvious. I accept that such health and care benefits apply and also that they are separate from housing delivery. The benefits specialist housing for older people can bring include addressing concerns about suitable supervision, frailty, care, assistance, recreation, loneliness and isolation.
113. I do not consider the impact of refusing the proposed development would be seriously damaging to the local economy, there is no clear evidence to that effect. There is no requirement that has to be demonstrated. However, I do accept that the proposal would deliver economic benefits to the local economy and jobs as well.⁷³ The Appellant has also proposed a local employment and procurement condition which I accept is plainly relevant.⁷⁴ I am satisfied that there is a need for the development and that it is in the public interest.

The cost and scope of developing elsewhere or meeting the need in another way

114. With regard to paragraph 172 b) of the NPPF, the Council's case is that with Policy H1 and H13 the need for specialised housing for the elderly can be met outside of the AONB. The Council refers to the Oxford County Council's Market Position Statement Extra Care Housing Supplement 2019-2022 and to the SHMA. However, the Council does not quantify a need for extra care, albeit the SHMA does recognize it as a category of need and distinguishes between market and affordable extra care housing.⁷⁵ The Council also suggests that the need can be met in people's homes and that needs can be met by 2035. In my view, there is a specific need for extra care provision and market extra care housing. The needs which have been identified are modest and the idea that they be met at home is misplaced. The most relevant need is the immediate need and Mr Appleton's evidence demonstrates what this is.
115. I note that at both the application and appeal stages the Appellant relied upon a sequential assessment of alternative sites to show a lack of suitable sites. The Council questioned this assessment but never really suggested any alternative sites. At the Inquiry reference was made to 8 extra care sites in Mrs Smith's Appendix 1. However, all of those sites have been addressed by Mr Appleton and that information was updated during the Inquiry to reveal that there were no sites with planning permission in the pipeline other than

⁷¹ Paragraph 6.24 of Roland Bolton's POE

⁷² Paragraph 6.27 of Roland Bolton's POE

⁷³ See CD: A.6 Economic Benefits Assessment Report, it is calculated that operation of the site would provide up to circa 70 jobs (FTE). This does not include construction jobs, which are assessed to be of the order of 108 over a period of 4 years, although in practice this maybe higher dependent upon individual project needs.

⁷⁴ See *Verdin v SSCLG* [2016] EWHC

⁷⁵ See CD: D.14 Table 6 page 25

Lower Shiplake which is now uncertain. Therefore, it seems to me that the Council's own evidence supports the Appellant on the lack of alternatives.

116. Moreover, when the Appellant persuaded the landowner to agree to pay the full affordable housing contribution, that significantly strengthened the Appellant's case in respect of paragraph 172 b). That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP now requires for C2 uses. Mrs Smith accepted that there are no other sites in the District with planning permission for extra care market housing. The problem is a combination of land economics and SOLP Policy H9 which requires affordable housing on extra care housing schemes. Given this context the appeal proposal does connote rarity and uniqueness.
117. Extra care housing undoubtedly operates in a very different market. Mr Garside provided detailed evidence to the Inquiry how the market for land operates to the detriment of extra care operators. Extra care housing providers cannot compete with house builders or with other providers of specialist housing for older people because of the build costs, the level of the communal facilities and the additional sale costs including vacant property costs. The communal facilities must be provided before any units can be sold and sales tend to be slower.⁷⁶ However, I accept that extra care schemes can charge a premium for the specialist accommodation provided and also benefit from an income from deferred management fees.
118. It seems to me that these factors, all mean that age restricted developments and in particular extra care communities are less viable than traditional housing schemes. Ultimately, age restricted developers are less able to pay the same price for land as residential developers and it is much harder for age restricted developers, and in particular those seeking to deliver extra care, to secure sites for development and meet the housing needs they aim to supply.⁷⁷ Viability is clearly a relevant factor which supports the case under paragraph 172 b) of the NPPF. There is also a strong case for the appeal scheme given the lack of alternative sites in the light of Policy H9 of the SOLP.
119. I note that the SOLP does not allocate any sites for extra care housing, unlike for example in Central Bedfordshire. I also note that the need for extra care housing is recognised in the SCNP, which supports, as was agreed, extra care housing on unallocated sites due to Policy H2a. I am satisfied that the Appellant's need could not be met elsewhere or in any other way and that it would be in the public interest for this to happen on the appeal site.

Detrimental effect on Environmental, Landscape and Recreation opportunities, and the extent to which they could be moderated.

120. This factor has been considered in the second issue above. That discussion is not repeated here but it is plainly relevant to paragraph 172 c). Suffice it to say that I have concluded that there would only be localised landscape and visual effects on the AONB. These limited impacts would not cause material harm to the landscape character of the AONB, nor would they conflict with the aims of protecting its special qualities. I have concluded there would be localised landscape and visual effects on the AONB that could be moderated.

⁷⁶ See section 4 of Richard Garside's POE

⁷⁷ See paragraph 4.65 of Richard Garside's POE

Other Benefits

121. The scheme would deliver other benefits. In my view, these can also form part of the exceptional circumstances and public interest. It is the collective benefits and harms which are relevant to paragraph 172 of the NPPF. Both Mr James and Mr Garnett gave evidence as to numerous other significant benefits, individually and cumulatively, which should be weighed in favour of the proposals. These include contributing to the overall supply of housing which is under five-years; savings in public expenditure (NHS and adult care);⁷⁸ creating new employment and other economic investment (construction and operation);⁷⁹ providing new facilities and services further reinforcing the role and function of Sonning Common; and additional net revenues from Council tax and new homes bonus receipt. Mrs Smith accepted the economic benefits and that bringing facilities to the area, particularly for the older population would be a benefit. It was also accepted that there could be benefits in supporting existing facilities in that residents of Inspired Village sites having the option to support those businesses if they wanted to. No good reason was provided by the Council for discounting the benefits evidence by Mr James or Mr Garnett. The social and economic benefits are matters to which I attribute significant weight. There is a very strong case on exceptional circumstances and public benefits here.

Conclusion

122. Section 85 of the CROW Act 2000 seeks to conserve and enhance the natural beauty of an AONB and paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB. This is not the same as requiring that every development proposal engenders enhancement. Indeed, if that were the case it is difficult to see how major development in an AONB could ever be permitted. It is clearly a matter of balance, but in undertaking that exercise the NPPF makes clear that conserving and enhancing the designated resource is a matter of great weight. In this case I have given great weight to conserving and enhancing landscape and natural beauty of the AONB. The need for the development and the conclusion that there are presently no alternatives outside the designated area are also matters of substantial importance in the public interest. The social and economic benefits attract significant weight. Overall, the benefits would outweigh the localised landscape and visual effects to the AONB. For these reasons I conclude on this issue that exceptional circumstances are demonstrated and that the development would be in the public interest.

Other Matters

123. I have taken into account all other matters raised including the concerns raised by the SCPC, the Rotherfield Peppard Parish Council, the representations made by interested persons including those who gave evidence at the Inquiry and those who provided written submissions. I have already dealt with many of the points raised in the main issues.

124. The SCPC and others objected to the proposed development in the context of the neighbourhood planning process. However, the review of the SCNP has

⁷⁸ See paragraphs 6.16 to 6.33, PoE of Stuart Garnett. See also CD: K7, CD: K8 (Appendix 1 at page 20 onwards), CD: K12 (pages 2-3), and CD: K30 (pages 6, 12, 13, 20 and 24-26 in particular).

⁷⁹ See paragraphs 6.10 to 6.15, PoE of Stuart Garnett

been ongoing since around 2018 but there are no concrete proposals. It is suggested that the proposal is not small scale. However, site SON2 is in fact 3.3 hectares and broadly of the same scale.⁸⁰ The SCNP expressly supports extra care housing at Policy H2a albeit no site is allocated. The SCNP policies are now out of date because of the lack of a five year housing land supply to which I attach significant weight. The concerns about the neighbouring planning process are not sufficient to warrant dismissing this appeal.

125. A number of interested persons cited concerns over impacts on local services in particular the doctor's surgery and parking capacity within the centre of Sonning Common. With respect to impacts on local health services, Mr Garnett's evidence provides details of both operational efficiencies and associated social benefits of extra care, which includes the financial benefits arising from savings to the NHS and social care. I consider that extra care housing benefits elderly people in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to assume that these factors would likely result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the NHS. This is borne out in the research submitted to the Inquiry.
126. A number of objectors raised concerns over parking capacity within the centre of Sonning Common. However, the appeal site lies within an acceptable walking distance of a number of the facilities within the village centre. Trip generation associated with the proposals would not have a materially negative impact on the road network. I note also that a Travel Plan has been submitted in relation to the proposals.⁸¹ I consider that this matter is capable of being secured by means of an appropriately worded planning condition. In addition to the 'supported transport provision' that would be provided for residents, it would be reasonable to expect that a number of residents would use the existing footpath links to access the village centre.
127. A number of objectors also raised concerns over transport safety and the sufficiency of parking on the appeal site. I note that a number of matters are agreed between the Council and the highway authority in SoCG2 Transport. A new vehicular access would be constructed to the east of the existing access on Blounts Court Road. The proposed scheme would provide for off-site highway improvements comprising works associated with the proposed site access, proposed works to pedestrian facilities along the site frontage either side of the site access, widening of the carriageway and a gateway feature along Blounts Court Road, and provision of a zebra crossing on Widmore Lane. Provision would also be made within the scheme for 93 car and 58 cycle parking spaces (12 visitor, 10 staff and 36 resident) that would be provided in relation to the full aspect of the development. Notwithstanding the original RfR5 the highway authority raises no objection to the proposal subject to the agreed conditions and the contributions contained within the s106 Agreement. In my view the concerns raised about transport issues would not provide a reason for rejection of this appeal.
128. A number of objections relate to the impact on local ecology. The appeal site contains habitats of a lower biodiversity value, which are common and

⁸⁰ See CD: K.18 page 580

⁸¹ See CD: A.8

widespread throughout the District. The appeal scheme provides for a net increase in biodiversity across the site, specifically an increase of 51% for the detailed element. The Ecological Impact Assessment⁸² was accepted by the Council as demonstrating net benefit⁸³ and I attach significant weight to this.

129. At the Inquiry reference was made to numerous appeal decisions. I have taken these into account as appropriate in coming to my decision in this case.

Planning Balance

130. I have concluded that the appeal proposals would be a major development in the AONB where exceptional circumstances apply, and which would be in the public interest. I have given great weight to conserving and enhancing landscape and scenic beauty in the AONB. In terms of paragraph 172 a) of the NPPF I am in no doubt that there is a need this development of 133 units to address the immediate shortfall in the five year housing land supply; to address the critical need for extra care housing in the District; to assist in the freeing up of family housing within South Oxfordshire and to provide the health and well-being benefits to elderly people.

131. The Council argued that with Policy H1 and Policy H13 the need for specialist housing for older people could be met outside the AONB; could be met in people's homes and that needs could be met by 2035. However, I have concluded that there is a specific and immediate need for extra care provision and market extra care housing. From the up-to-date evidence provided at the Inquiry it is clear to me that there are no sites with planning permission in the pipeline other than the Lower Shiplake site which is now uncertain. The case under paragraph 172 b) has been met. That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP Policy H9 now requires for C2 uses. In my view extra care housing cannot compete with housebuilders or even other forms of specialist housing for older people because of the build cost, the level of communal facilities and additional sale costs including vacant property costs.

132. In terms of paragraph 172 c) I have concluded there would be localised landscape and visual effects, but these would be relatively small. Only a limited part of the mosaic would be impacted, and this would not alter the overall character of the wider mosaic of the LCT. Plainly such limited impacts would not cause material harm to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. In terms of visual impact, only a small number of nearby locations would have direct views of the appeal proposals where glimpses of the development would be filtered and moderated by perimeter planting and particularly by the woodland belt. Overall, I have concluded under paragraph 172 of the NPPF that the circumstances in this case are exceptional and that the grant of planning permission would be in the public interest.

133. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case where the test in paragraph 172 of the NPPF

⁸² See CD: A32

⁸³ See PoE of Simon James Appendix 11

has been met it is difficult to see how a decision maker could nonetheless refuse to grant planning permission applying paragraph 11 of the NPPF. However, in terms of the development plan I accept that the proposal conflicts with some elements of the development plan, but it also complies with others. Policies in the SOLP are up-to-date and can be given full weight. The appeal proposal conflicts in part with the SOLP, in particular in terms of the overall strategy (STRAT1) and with relevant policies relating to the AONB (ENV1) However, there is partial accord with Policy H13 and full accordance with Policies H1 3ii, H4, H9, H11, DES1, DES2, DES3, DES4 and DES5.

134. With regard to the SCNP, this was made in 2016, against a different housing requirement albeit it is still within the grace period allowed by Policy H4(2) of the SOLP. The SCNP policies can only be given limited weight in the context of the NPPF as it was based on a Core Strategy which is now withdrawn, and it is out of date for that reason. Its policies reliant on the AONB are also out of date given the lack of a five year housing land supply. The proposal would conflict with Policy H1 in so far as the limitation of development is concerned but the policy is expressed as a minimum and the base target has been increased through the SOLP quantum of housing so the appeal scheme would contribute to that. There would be conflict with Policy ENV1 which aims to protect the AONB but there are exceptional circumstances here. There would be broad accordance with Policy H2a, D1 and D1a and ENV2 albeit that three storey development is an exception and must be justified. I conclude that the appeal proposal is in overall accordance with the development plan and there are no material considerations which indicate otherwise.
135. Even if I had decided that the proposal was in overall conflict with the development plan this is a case where there is no five year housing land supply and therefore the most important policies for determining the appeal are out of date.⁸⁴ As to which policies are out of date, it is agreed that the most important for determining the appeal are set out in the RfR. Thus, the tilted balance would be triggered by way of footnote 7 of the NPPF unless paragraph 11 d) i. is satisfied. In this case under paragraph 11 d) i. the adverse effects would not provide a clear reason for refusing the proposed development. It follows therefore that even if the appeal proposal was contrary to the development plan and the tilted balance under paragraph 11 d) ii. of the NPPF applied then the many and varied benefits of the proposals set out above would significantly and demonstrably outweigh any adverse effects. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

Planning Conditions

136. The Council submitted a list of conditions which I have considered in the light of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG on the Use of Planning Conditions. The Appellant has agreed to all of the suggested conditions except for Condition 27 which relates to a Procurement and Employment Strategy. The Appellant has also given consent in writing that Conditions 7-27 may be applied as pre-commencement conditions.⁸⁵ Conditions 1, 4 and 5 relate to required time limits and Conditions 2 and 3 are necessary to determine the scope of the application and for the avoidance of

⁸⁴ NPPF paragraph 11 d) footnote 7

⁸⁵ See INQ APP14

- doubt. Conditions 6, 7 and 29 are necessary to secure net gains for biodiversity and Condition 8 is required to minimise the impacts of the development on biodiversity. Condition 9 is necessary to limit the local impact of construction work and Condition 10 is required to ensure that electric vehicle charging is provided. Condition 11 is required in the interests of highway safety and Condition 12 is necessary to ensure adequate car parking.
137. Condition 13 is required in the interests of sustainability and to encourage the use of cycling. Condition 14 on sample materials and Condition 15 on ground levels are required in the interests of visual amenity. Condition 16 is required to ensure adequate provision for the management of waste. Condition 17 is necessary to ensure high standards of sustainable design and construction. Condition 18 is necessary to protect the appearance of the area, the environment and wildlife from light pollution. Conditions 19 and 20 are necessary to ensure that the development is assimilated into its surroundings. Condition 21 is necessary to safeguard the trees which are visually important on the site. Condition 22 is required to safeguard heritage assets of archaeological interest. Condition 23 is necessary to prevent pollution and flooding. Condition 24 is required to ensure the proper provision of foul water drainage. Condition 25 is required to prevent pollution and flooding. Condition 26 is necessary to ensure that the development is not unneighbourly.
138. Condition 27 relates to a procurement and employment strategy. The Council considers that the condition would fail the test of necessity as there is no policy support for this requirement and there would be problems about enforcement. However, it seems to me that a local employment and procurement condition is plainly relevant following the Verdin judgment.⁸⁶ Employing local people and using local produce, to save miles travelled seems to epitomize the principle of sustainable development. Moreover, the strategy would put in place arrangements to ensure that the information was regularly provided to the Council to demonstrate the performance and effectiveness of the initiatives. The condition would not impose unreasonable or unjustified demands on the Council. The condition would meet the tests in the NPPF.
139. Condition 28 is required to ensure the provision of adequate pedestrian and cycle access to the site in the interests of highway safety. Condition 30 is necessary to ensure that sustainable transport modes are taken up. Condition 31 is necessary to avoid sewage flooding and potential pollution incidents. Condition 32 is necessary to ensure that the development is not unneighbourly or detrimental to highway safety. Condition 33 is required to protect the occupants of nearby residential properties from noise disturbance. Condition 34 is required to mitigate any impacts on air pollution.

Overall conclusion

140. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

Harold Stephens

INSPECTOR

⁸⁶ See INQ APP15 Verdin v SSCLG [2016] EWHC

SCHEDULE OF PLANNING CONDITIONS (1-34)

Time limit and approved plans relating to the full planning permission

Commencement – Full

- 1) The development subject to full planning permission, comprising the areas shown as shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] must be begun not later than the expiration of three years beginning with the date of this permission.

Approved Plans

- 2) That the element of the development hereby approved full planning permission, as shown within the areas shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] shall be carried out in accordance with the details shown on the following approved plans, except as controlled or modified by conditions of this permission:

URB SC [08] 00 01 Rev D02 (Site Location Plan)
URB SC [08] 00 03 Rev D04 (Proposed Block Plan)
02 Rev 03 (Landscape Plan)
03 Rev 03 (Hard Landscaping)
04 Rev 03 (Soft Landscaping)
URB VC [08] 70 01 Rev D02 (Village Core Elevations)
URB VC [08] 70 02 Rev D01 (Village Core Elevations)
URB VC [08] 70 03 Rev D01 (Village Core Elevations)
URB VC [08] 70 04 Rev D01 (Village Core Elevations)
URB VC [08] 00 01 Rev D02 (Village Core Ground Floor Plan)
URB B01 [08] 70 01 Rev D01 (Block 1 Elevations)
URB B02 [08] 70 01 Rev D01 (Block 2 Elevations)
URB B03 [08] 70 01 Rev D01 (Block 3 Elevations)
URB B04 [08] 70 01 Rev D01 (Block 4 Elevations)
URB B01 [08] 00 01 Rev D00 (Block 1 Floor Plans)
URB B01 [08] 20 01 Rev D00 (Block 1 Roof Plan)
URB B02 [08] 00 01 Rev D00 (Block 2 Floor Plans and Roof Plan)
URB B03 [08] 10 01 Rev D00 (Block 3 Floor Plan)
URB B03 [08] 00 01 Rev D00 (Block 3 Floor Plan)
URB B03 [08] 20 01 Rev D00 (Block 3 Roof Plan)
URB B04 [08] 00 01 Rev D00 (block 4 Floor Plans)
URB B04 [08] 20 01 Rev D00 (block 4 Roof Plan)
URB SS [08] 00 01 Rev D00 (Substation)
OX5025-11PD-004 Rev H – Road Carriageway Widening
OX5025-16PD-006 Rev A - Cross Sections of Proposed Widening along Blounts Court Road
OX5025-16PD-004 Rev C - Proposed Off-Site Improvements
OX5025-16PD-002 Rev C - Proposed Site Access Arrangements
OX5025-16PD-003 Rev D - Proposed Internal Layout
OX5025-11PD-007 Rev F - Review of Revised Masterplan (6 Metres Internal Carriageway)
OX5025-11PD-009 Rev F Proposed Zebra Crossing at Widmore Lane

Outline Plans

- 3) That the element of the development hereby approved outline planning permission, as shown within the areas shaded blue on Drawing No. URB SC [08] 00 01 D02 (Site Location Plan) shall be carried out in general accordance with the details shown on the following documents:

Illustrative Masterplan PW.1618.L.01 Rev 03
Design and Access Statement May 2020
Design Commitment Statement URB-SC A3 90 02-D00 April 21

Reserved matters and time limit relating to the outline planning permission

Reserved Matters

- 4) Within a period of three years from the date of this permission all of the reserved matters shall have been submitted for approval in writing by the Local Planning Authority. The reserved matters shall comprise: details of the layout, scale, appearance and landscaping of the development. All reserved matters for any one phase shall be submitted concurrently. No development shall commence within any one phase until there is written approval of all of the reserved matters for that phase and the development shall be carried out in accordance with all of the approved reserved matters.

Commencement – Outline

- 5) The site subject to outline planning permission, comprising the area shown as shaded blue on Drawing No. URB SC [08]00 01 D02 (Site Location Plan) [Phase 2], shall be begun not later than whichever is the later of the following dates:
- (i) 3 years from the date of this permission: or
 - (ii) 2 years from the approval of the final reserved matters application.

Biodiversity Enhancement Plan – Outline

- 6) Concurrent with the submission of any reserved matters application related to this outline planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the outline details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
 - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
 - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.

- (d) Selection of specific techniques and practices for establishing vegetation.
- (e) Sources of habitat materials (e.g. plant stock) or species individuals.
- (f) Method statement for site preparation and establishment of target features.
- (g) Extent and location of proposed works.
- (h) Details of a biodiversity metric assessment

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

Pre-commencement conditions

Biodiversity Enhancement Plan – Full

- 7) Prior to the commencement of the development subject of full planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
 - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
 - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.
 - (d) Selection of specific techniques and practices for establishing vegetation.
 - (e) Sources of habitat materials (e.g. plant stock) or species individuals.
 - (f) Method statement for site preparation and establishment of target features.
 - (g) Extent and location of proposed works.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

Construction Environmental Management Plan for Biodiversity

- 8) Prior to the commencement of any development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- (a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines (badgers surveys shall be no older than 6 months).
 - (b) Risk assessment of potentially damaging construction activities.

- (c) Identification of biodiversity protection zones.
- (d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction.
- (e) The location and timing of sensitive works to avoid harm to biodiversity features.
- (f) The times during construction when specialist ecologists need to be present on site to oversee works.
- (g) Responsible persons and lines of communication.
- (h) Use of protective fences, exclusion barriers and warning signs.

Thereafter the approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Phasing

- 9) Prior to the commencement of any development subject to full planning permission or submission of the first Reserved Matters for the development subject to outline planning permission, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved phasing plan.

Electric Vehicle Charging

- 10) Prior to the commencement of each phase of development a scheme to provide that phase with Electric Vehicle Charging Points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Electric Vehicle Charging Points shall be implemented prior to the first occupation of that phase.

Estate Roads and Footpaths

- 11) Prior to the commencement of each phase of development, details of the estate roads and footpaths within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before first occupation of any unit within that phase, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained.

Car Parking Plan

- 12) Prior to the commencement of the reserved matters phase of the development plans showing car parking within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed car parking provision shall be provided before first occupation of that part of the site and be retained as such thereafter.

Cycle Parking

- 13) Prior to the commencement of each phase of development, details of cycle storage, for that phase shall be submitted to and approved in writing by the

Local Planning Authority. The agreed cycle parking shall be provided before first occupation of that part of the site and be retained as such thereafter.

Materials

- 14) Prior to the commencement of each phase of development, details of all materials, including samples where required, to be used in the external construction and finishes of the development within that phase shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved details.

Site Levels

- 15) Prior to the commencement of any development, detailed plans showing the existing and proposed ground levels of that phase, together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Refuse and Recycling

- 16) Prior to the commencement of each phase of development, details of refuse and recycling storage for that phase shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be implemented in accordance with the approved details prior to the occupation of the development in each phase and retained thereafter.

Energy Statement

- 17) Prior to the commencement of each phase of development, an Energy Statement demonstrating how the development within that phase will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations, and details of how this will be monitored, 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.

External Lighting

- 18) Prior to the commencement of each phase of the development approved in full, and accompanying the first Reserved Matters application for the development approved in outline, a detailed lighting scheme (including street and pathway lighting) for that phase, including a programme for its delivery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

Landscaping

- 19) Prior to the commencement of each phase of development, a scheme for the landscaping of that phase including the planting of trees and shrubs, the

treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

The 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 scheme shall be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

Landscape Management Plan

- 20) Prior to the commencement of the first phase of development, a maintenance schedule and a long term management plan for the soft landscaping works for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include those areas of the site which are to be available for communal use as open space. The schedule and plan shall be implemented in accordance with the agreed programme.

Tree Protection

- 21) Prior to the commencement of any site works or operations (including the removal of any vegetation or trees) required in relation with the full or outline planning permission, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The matters to be encompassed within the arboricultural method statement shall include the following:
- (a) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities.
 - (b) 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.
 - (c) 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.
 - (d) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby.

- (e) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees.
- (f) 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.
- (g) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area, 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.
- (h) Provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.
- (i) The details of the materials and method of construction of the pedestrian and cycle access to Widmore Lane, which is to in part 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 surface required in relation to its usage.
- (j) A specification of the foundation design for the pedestrian and cycle access to Widmore Lane demonstrating absolute minimal soil excavation, soil compaction or soil contamination within the root protection area of the adjacent trees.

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.

Implementation of Archaeological work

- 22) Prior to any earth works forming part of the development or the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Ground Investigation

- 23) Prior to the commencement of each phase of development the results of an intrusive ground investigation, analysing the potential for dissolution features and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The results shall then be implemented in accordance

with the approved programme and used to inform the surface water drainage design.

Foul Drainage

- 24) Prior to the commencement of each phase of development, a detailed foul water drainage scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the foul water drainage works to serve that phase have been completed.

Surface Water Drainage

- 25) Prior to the commencement of each phase of development, a detailed surface water drainage scheme relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. This should be based on the principles contained within Flood Risk Assessment and Drainage Strategy reference 3424 Dec 2019 by Scott Hughes Design, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

The scheme shall include:

- (a) Discharge rates.
- (b) Discharge volumes.
- (c) Catchment plans.
- (d) Maintenance and management of SUDS features.
- (e) Sizing of features – attenuation volume.
- (f) Site wide infiltration tests to be undertaken in accordance with BRE365.
- (g) Ground Investigation Report.
- (h) Detailed drainage layout with pipe/chamber/soakaway numbers & sizes.
- (i) Proposed site levels, floor levels and an exceedance plan.
- (j) Detailed network calculations to include the worst case 1:100 + 40% event.
- (k) SUDS features and sections.
- (l) Details of proposed Primary, Secondary and Tertiary treatment stages to ensure sufficient treatment of surface water prior to discharge.
- (m) Drainage construction details.
- (n) A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire."
- (o) A range of SuDS techniques throughout the site to manage water quantity and maintain water quality.

The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the surface water drainage works to serve that phase have been completed.

Construction Method Statement

- 26) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- (a) the parking of vehicles of site operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials used in constructing the development;
 - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (e) wheel washing facilities;
 - (f) measures to control the emission of dust and dirt during construction;
 - (g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (h) details of measures for the control of noise during construction works;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction methods.

Procurement and Employment Strategy

- 27) Prior to the commencement of development, a Local Employment and Procurement Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The Strategy shall include:
- (i) Details of recruitment within the development to achieve a minimum of 25% of village staff from within a 5 mile radius of Sonning Common;
 - (ii) Details of the use of local businesses, including purchase of food, beverage and other items to achieve a minimum of 50% of fresh produce (meat, bakery, dairy, fruit and vegetables) from within a 5 mile radius of Sonning Common;
 - (iii) The timing and arrangements for the implementation of these initiatives; and
 - (iv) Suitable mechanisms for monitoring the effectiveness of these initiatives.

All parts of the approved Local Employment and Procurement Strategy shall be implemented in full and retained thereafter.

Pre-occupancy conditions

Pedestrian and Cycle Access

- 28) Prior to occupation of any development subject to full or outline planning permission, details of the pedestrian/cycle access to the site from Widmore Lane, including a 3.5m wide combined pedestrian/cycle path through the site, associated street lighting facilities and a zebra crossing along Widmore Lane shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on those shown on plan OX5025-11PD-009 Rev F, subject to the tree protection measure shown in condition 21. The works shall

be carried out and completed in accordance with the approved details before occupation of any part of the site, and permanently retained as such thereafter.

Landscape and Ecology Management Plan

- 29) Prior to the first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- (a) Description and evaluation of features to be managed.
 - (b) Ecological trends and constraints on site that might influence management.
 - (c) Proposals for ecological enhancements for habitats and species as agreed in the Biodiversity Enhancement Plan.
 - (d) Aims and objectives of management.
 - (e) Appropriate management options for achieving aims and objectives.
 - (f) Prescriptions for management actions.
 - (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - (h) Details of the body or organization responsible for implementation of the plan.
 - (i) Ongoing monitoring and remedial measures.

The LEMP shall include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development shall be implemented in accordance with the approved details and management prescriptions implemented across the site for a timeframe to be agreed within the LEMP.

Green Travel Plans

- 30) Prior to the occupation of the first phase of the development hereby approved a full and detailed Travel Plan and Travel Information Packs shall be submitted to and approved in writing by the Local Planning Authority. These documents will be updated upon the submission of subsequent phases of the development. Thereafter, that part of the development shall be implemented in accordance with the approved documents and the associated Travel Information Packs issued to each resident upon first occupation.

Wastewater

- 31) No properties shall be occupied in any phase until confirmation has been provided that either:

- (i) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or-
- (ii) A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Service and Delivery Management Plan

- 32) No building shall be occupied until details of a comprehensive servicing and delivery management plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Deliveries and service areas shall be managed in accordance with the agreed scheme.

Compliance conditions

Construction Hours

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

Air Quality

- 34) The air quality mitigation measures outlined in the Air Quality Assessment (Ref REP-10111755A-20191212) shall be carried out in accordance with the recommendations and specifications in the report and implemented prior to occupation of each unit. Thereafter, the mitigation measures shall be retained as approved and in accordance with manufacturer's instructions.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robin Green of Counsel

Instructed by the Solicitor to South
Oxfordshire District Council

He called:

Mr John Jeffcock
BA (Hons) MA CMLI NZILA

Associate of Michelle Bolger Expert
Landscape Consultancy

Mr Julian Kashdan-Brown
B Arch (Hons) Dip Arch MSc MA RIBA

Architect and Urban Designer

Mrs Nicola Smith BSc (Hons) MSc

Principal Major Applications Officer

Mrs Emma Bowerman BA (Hons) MSc

Principal Major Applications Officer

FOR THE APPELLANT:

Mr Christopher Young QC
Ms Leanne Buckley Thompson of Counsel

Both instructed by the Appellant

They called

Mr Nigel Appleton MA (Cantab)

Executive Chairman of Contact
Consulting (Oxford) Ltd

Mr Stuart Garnett BSc Dip TP MRTPI

Planning Director Inspired Villages

Mr James Atkin BSc (Hons) Dip LM CMLI

Director (Landscape) Pegasus Group

Mr Michael Carr BA (Hons) Dip LA Dip UD
RUDP

Director (Design and Master
Planning) Pegasus Group

Mr Roland Bolton BSc (Hons) MRTPI

Senior Director, DLP Planning Ltd

Mr Richard Garside RICS

Director and Head of Development
Consultancy at Newsteer

Mr Simon James BA Dip TP MRTPI MIEMA

Managing Director DLP Planning Ltd

FOR SONNING COMMON PARISH COUNCIL:

Mr Ben Du Feu of Counsel

Instructed by the Parish Council

He called

Mrs Emily Temple BSc (Hons) MSc MRTPI

Director ET Planning Ltd

FOR OXFORDSHIRE COUNTY COUNCIL:

Mr Dave Harrison BSc (Hons) MSc CMILT Senior Public Transport Planner
M Inst TA

Ms Judith Coats LLB Infrastructure Funding Team
Leader

Interested Persons

Mr Tom Fort Chairman of Sonning Common
Parish Council

Ms Julia Whitelaw Local Resident

Dr Kim Emmerson General Practitioner

Ms Georgina Forbes Local Resident

Mr Jonathan Berger Acting Chair of the Rotherfield
Peppard Parish Council

Mrs Joanne Shanagher Local Resident

Dr Michael Stubbs PhD MSc MRICS MRTPI Planning Adviser, The Chilterns
Conservation Board

DOCUMENTS SUBMITTED AT THE INQUIRY:

Local Planning Authority Documents

INQ LPA1 Opening Statement
INQ LPA2 Factsheet 6 Design Principles for Extra Care Housing (3rd edition)
INQ LPA3 Proof of evidence Erratum sheet, Nicola Smith
INQ LPA4 Appendix 1 update, Nicola Smith
INQ LPA5 Five-year Housing Land Supply Erratum, Nicola Smith
INQ LPA6 Replacement Policies Schedule
INQ LPA7 CIL Compliance Statement
INQ LPA8 CIL Compliance Statement Addendum
INQ LPA9 Costs application
INQ LPA10 Conditions
INQ LPA11 Closing Submissions

Appellant Documents

INQ APP1 Opening Statement
INQ APP2 Summary and comparison of landscape and visual effects
INQ APP3 Correction sheet to JWA06
INQ APP4 Open letter to Boris Johnson
INQ APP5 Briefing Note Errata to Contextual Study of James Atkin
INQ APP6 Service Charges Note of Stuart Garnett
INQ APP7 References to height Johnson Matthey Planning Statement

INQ APP8 NPPF consultation document
INQ APP9 Mr Doyle email
INQ APP10 Extracts from Village News by Tom Fort
INQ APP11 s106 Agreement
INQ APP12 Nigel Appleton's Note
INQ APP13 Central Bedfordshire Policy H3 Main Modifications
INQ APP14 Pre commencement note
INQ APP15 Verdin Judgment
INQ APP16 Closing Submissions
INQ APP17 Appellant's response to the Costs application

R6 Party Documents

INQ PC1 Opening Statement
INQ PC2 Closing Submissions

Interested Persons Documents

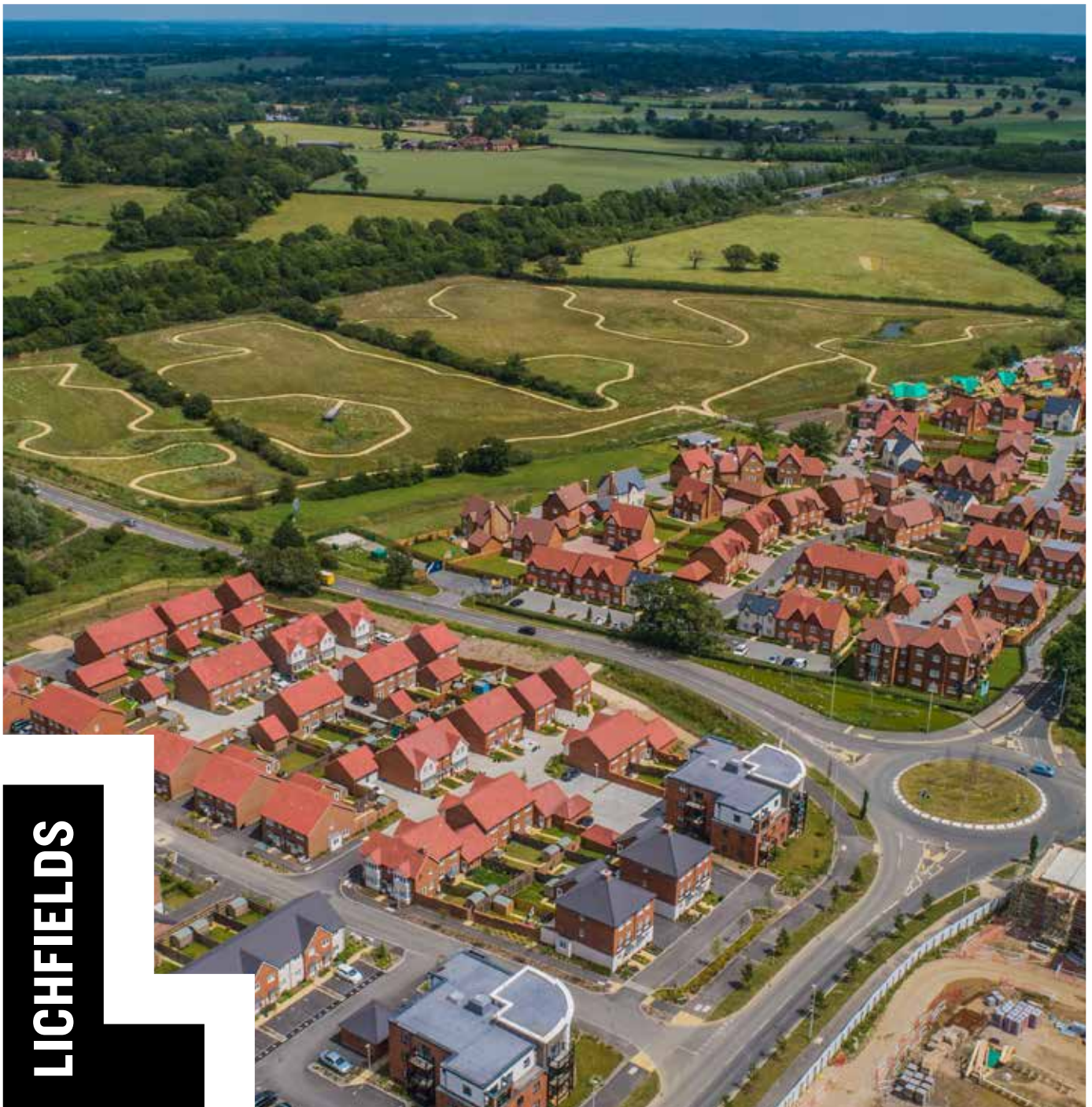
IP1 Statement by Mr Tom Fort
IP2 Statement by Ms Julia Whitelaw
IP3 Statement by Dr Kim Emmerson
IP4 Statement by Ms Georgina Forbes
IP5 Statement by Mr Jonathan Berger
IP6 Statement by Mrs Joanne Shanagher
IP7 Statement by Dr Michael Stubbs

INSIGHT
FEBRUARY 2020

Start to Finish

What factors affect the build-out rates of large scale housing sites?

SECOND EDITION



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Executive summary

Lichfields published the first edition of Start to Finish in November 2016. In undertaking the research, our purpose was to help inform the production of realistic housing trajectories for plan making and decision taking. The empirical evidence we produced has informed numerous local plan examinations, S.78 inquiries and five-year land supply position statements.

Meanwhile, planning for housing has continued to evolve: with a revised NPPF and PPG; the Housing Delivery Test and Homes England upscaling resources to support implementation of large sites. Net housing completions are also at 240,000 dwellings per annum. With this in mind, it is timely to refresh and revisit the evidence on the speed and rate of delivery of large scale housing sites, now looking at 97 sites over 500 dwellings. We consider a wide range of factors which might affect lead-in times and build-out rates and have drawn four key conclusions.

In too many local plans and five-year land supply cases, there is insufficient evidence for how large sites are treated in housing trajectories. Our research seeks to fill the gap by providing some benchmark figures - which can be of some assistance where there is limited or no local evidence - but the averages derived from our analysis are not intended to be definitive and are no alternative to having a robust, bottom-up justification for the delivery trajectory of any given site.

We have drawn four key conclusions:

<p>1 Large schemes can take 5+ years to start</p> <p>Our research shows that if a scheme of more than 500 dwellings has an outline permission, then on average it delivers its first home in c.3 years. However, from the date at which an outline application is validated, the average figures can be 5.0-8.4 years for the first home to be delivered; such sites would make no contribution to completions in the first five years.</p>	<p>2 Lead-in times jumped post recession</p> <p>Our research shows that the planning to delivery period for large sites completed since 2007/08 has jumped compared to those where the first completion came before 2007/08. This is a key area where improvements could be sought on timeliness and in streamlining pre-commencement conditions, but is also likely impacted by a number of macro factors.</p>
<p>3 Large greenfield sites deliver quicker</p> <p>Large sites seem to ramp up delivery beyond year five of the development on sites of 2,000+ units. Furthermore, large scale brownfield sites deliver at a slower rate than their greenfield equivalents: the average rate of build out for greenfield sites in our sample is 34% greater than the equivalent brownfield.</p>	<p>4 Outlets and tenure matter</p> <p>Our analysis suggests that having additional outlets on site has a positive impact on build-out rates. Interestingly, we also found that schemes with more affordable housing (more than 30%) built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all units on site. Local plans should reflect that - where viable - higher rates of affordable housing supports greater rates of delivery. This principle is also likely to apply to other sectors that complement market housing for sale.</p>

Key figures

180

sites assessed, with combined yield of 213k+ dwellings; 97 sites had 500+ homes

c.3yrs

average time taken from outline decision notice to first dwelling completions on sites of 500+ homes

8.4yrs

the average time from validation of the first planning application to the first dwelling being completed on schemes of 2,000+ dwellings

160 dpa

the average annual build-out rate for a scheme of 2,000+ dwellings (median: 137)

68 dpa

the average annual build rate of a scheme of 500-999 dwellings (median: 73)

+34%

higher average annual build-out rate on greenfield sites compared with brownfield sites

61 dpa

average completions per outlet on sites with one outlet, dropping to 51 for sites of two outlets, and 45 for sites with three outlets

O1 Introduction

This is the second edition of our review on the speed of delivery on large-scale housing development sites. The first edition was published in November 2016 and has provided the sector with an authoritative evidence base to inform discussions on housing trajectories and land supply at planning appeals, local plan examinations and wider public policy debates.

Over this period, housing delivery has remained at or near the top, of the domestic political agenda: the publication of the Housing White Paper, the new NPPF, an emboldened Homes England, a raft of consultations on measures intended to improve the effectiveness of the planning system and speed up delivery of housing. Of particular relevance to *Start to Finish* was the completion of Sir Oliver Letwin's independent review of build out ("the Letwin Review"), the inclusion within the revised NPPF of a tighter definition of 'deliverable' for the purposes of five-year housing land supply (5YHLS) assessment, and the new Housing Delivery Test which provides a backward looking measure of performance. The policy aim is to focus more attention on how to accelerate the rate of housing build out, in the context of the NPPF (para 72) message that the delivery of a large numbers of new homes can often be best achieved through larger scale development such as new settlements or significant extensions to existing villages and towns, but that these need a realistic assessment of build-out rates and lead in times of large-scale development.

This second edition of *Start to Finish* is our response to the latest policy emphasis. It provides the planning sector with real-world benchmarks to help assess the realism of housing trajectory assumptions, particularly for locations where there have been few contemporary examples of strategic-scale development. The first edition looked in detail at how the size of the site affected build-out rates and lead in times, as well as other factors such as the value of the land and whether land was greenfield or brownfield. We have updated these findings, as well as considering additional issues such as how the affordability of an area and the number of outlets on a site impacts on annual build-out rates.

We have also expanded the sample size (with an extra 27 large sites, taking our total to 97 large sites, equivalent to over 195,000 dwellings) and updated with more recent data to the latest monitoring year (all data was obtained at or before the 1st April 2019).



Our research complements, rather than supplants, the analysis undertaken by Sir Oliver Letwin in his Review. The most important differentiation is that we focus exclusively on what has been built, whereas each of the sites in the Letwin Review included forecasts of future delivery. Additionally, the Letwin Review looked at 15 sites of 1,500+ homes, of which many (including the three largest) were in London. By contrast, the examples in this research sample include 46 examples of sites over 1,500 homes across England and Wales, the majority of which are currently active. As with the first edition of our research, we have excluded London because of the distinct market and delivery factors in the capital.

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03	Timing is everything	5
04	How quickly do sites build out?	9
05	What factors influence build-out rates?	14
06	Conclusions	18

180

sites

97

large sites of 500
units or more

27

additional sites
compared with our
2016 research

8

sites also included
in Sir Oliver Letwin's
review

O2

Methodology

The evidence presented in this report analyses how large-scale housing sites emerge through the planning system, how quickly they build out, and identifies the factors which lead to faster or slower rates of delivery.

We look at the full extent of the planning and delivery period. To help structure the research and provide a basis for standardised measurement and comparison, the various stages of development have been codified. Figure 1 sets out the stages and the milestones used, which remain unchanged from the first edition of this research. The overall 'lead-in time' covers stages associated with gaining an allocation, going through the 'planning approval period' and 'planning to delivery period', finishing when the first dwelling is completed. The 'build period' commences when the first dwelling is completed, denoting the end of the lead-in time. The annualised build-out rates are also recorded for the development up until the latest year where data was available at April 2019 (2017/18 in most cases). Detailed definitions of each of these stages can be found in Appendix 1. Not every site assessed will necessarily have gone through each component of the identified stages as many of the sites we considered had not delivered all dwellings permitted at the time of assessment, some have not delivered any dwellings.

Information on the process of securing a development plan allocation (often the most significant step in the planning process for large-scale schemes, and which – due to the nature of the local plan process – can take decades) is not easy to obtain on a consistent basis across all examples, so is not a significant focus of our analysis. Therefore, for the purposes of this research the lead-in time reflects the start of the planning approval period up to the first housing completion.

The 'planning approval period' measures the validation date of the first planning application on the site (usually an outline application but sometimes hybrid), to the decision date of the first detailed application to permit dwellings in the scheme (either full, hybrid or reserved matters applications). It is worth noting that planning applications are typically preceded

by significant amounts of pre-application engagement and work, plus the timescale of the local plan process.

The 'planning to delivery' period follows immediately after the planning approval period and measures the period from the approval of the first detailed application to permit development of dwellings and the completion of the first dwelling.

Development and data

Whilst our analysis focuses on larger sites, we have also considered data from the smaller sites for comparison and to identify trends. The geographic distribution of the 97 large sites and comparator small sites is shown in Figure 2 and a full list can be found in Appendix 2 (large sites) and Appendix 3 (small sites).

Efforts were made to secure a range of locations and site sizes in the sample, but there is no way of ensuring it is representative of the housing market in England and Wales as a whole, and thus our conclusions may not be applicable in all areas or on all sites. In augmenting our sample with 27 additional large sites, new to this edition of our research, we sought to include examples in the Letwin Review that were outside of London, only excluding them

Box 1: Letwin Review sites

1. Arborfield Green (also known as Arborfield Garrison), Wokingham
2. Ledsham Garden Village, Cheshire West & Chester
3. Great Kneighton (also known as Clay Farm), Cambridge (included in the first edition of this research)
4. Trumpington Meadows, Cambridge
5. Graven Hill, Cherwell
6. South West Bicester, Cherwell
7. Great Western Park, South Oxfordshire
8. Ebbsfleet, Gravesham and Dartford (included in the first edition of this research)

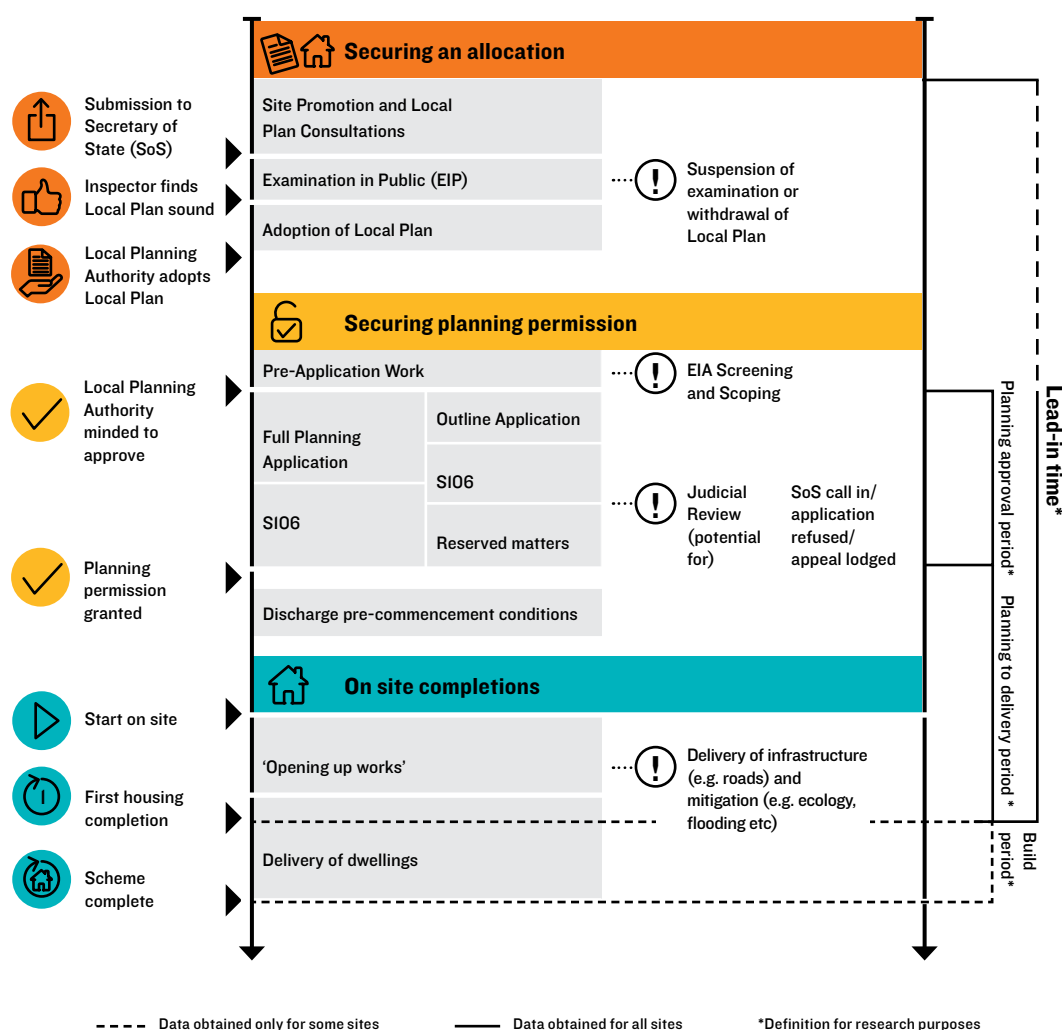
when it was difficult to obtain reliable data. The study therefore includes the Letwin Review's case studies listed in Box 1.

In most instances, we were unable to secure the precise completion figures for these sites that matched those cited in the Letwin Review. Sources for data Lichfields has obtained on completions for those sites that also appear in the Letwin Review are included at the end of Appendix 2.

The sources on which we have relied to secure delivery data on the relevant sites include:

1. Annual Monitoring Reports (AMRs) and other planning evidence base documents¹ produced by local authorities;
2. By contacting the relevant local planning authority, and in some instances the relevant County Council, to confirm the data or receive the most up to date figures from monitoring officers or planners; and
3. In a handful of instances obtaining/confirming the information from the relevant house builders.

Figure I: Timeline for the delivery of strategic housing sites



Source: Lichfields analysis

¹ Monitoring documents, five-year land supply reports, housing trajectories (some in land availability assessments), housing development reports and newsletters

196,714

units on large sites
of 500 or more
homes

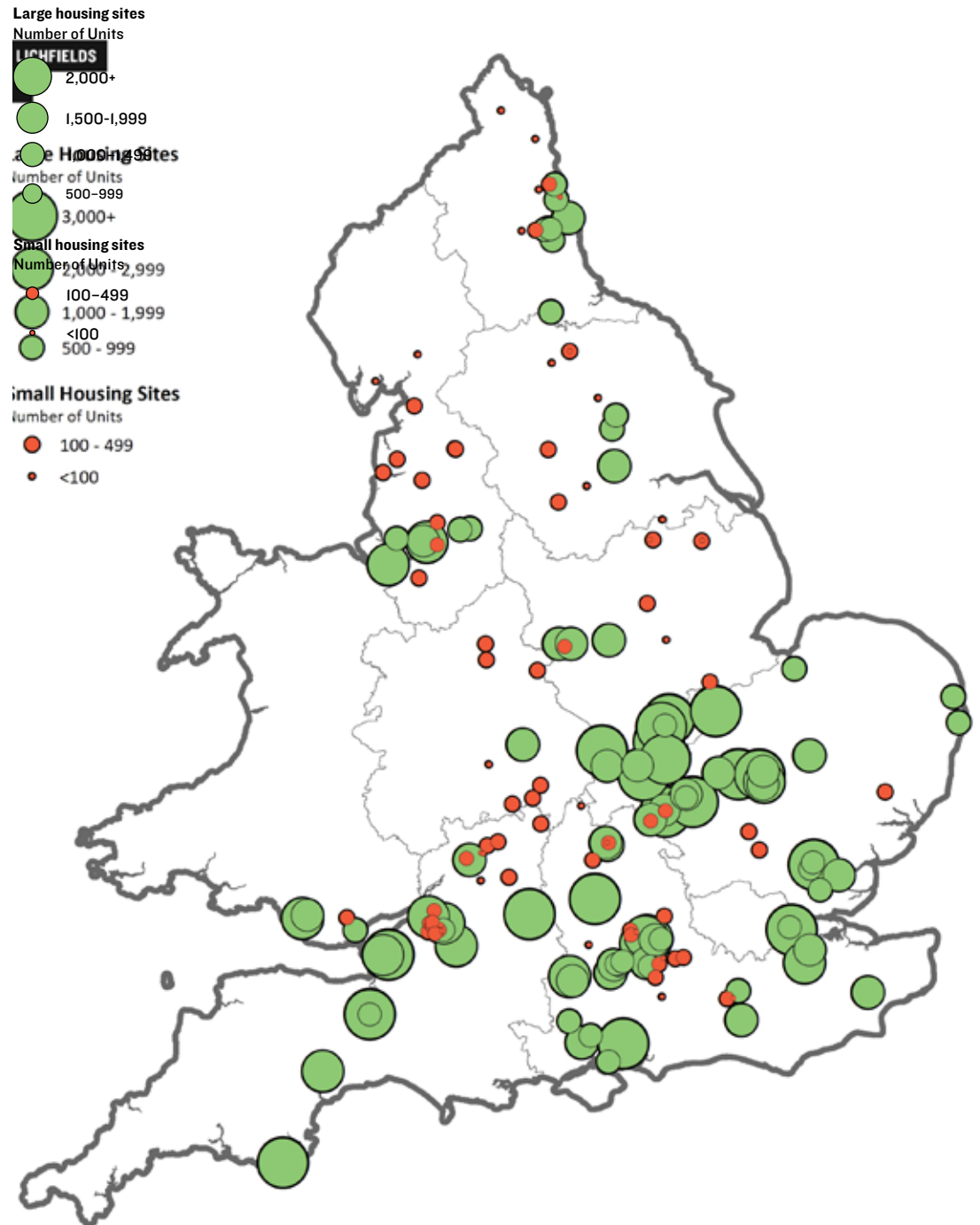
16,467

units on small sites
under 500 homes

35

sites of 2,000
homes or more

Figure 2: Map of site sample by size of site (total dwellings)



Source: Lichfields analysis

03 Timing is everything: how long does it take to get started?

In this section we look at lead-in times, based on the time it takes for large sites to get the necessary planning approvals, 'the planning approval period' and also the time to get the first homes completed including the 'planning to delivery' period – this measures the period from the approval of the first detailed application to permit development of dwellings and the completion of the first dwelling. It is this period during which pre-commencement planning conditions have to be discharged as well as other technical approvals and associated commercial agreements put in place.

The new definition of 'Deliverable'

The question of how quickly and how much housing a site can begin delivering once it has planning permission, or an allocation, has become more relevant since the publication of the new NPPF with its new definition of deliverable. Only sites which match the deliverability criteria (i.e. suitable now, available now and achievable with a realistic prospect that housing will be delivered on the site within five years) can be included in a calculation of a 5YHLS by a local authority. This definition was tightened in the revised NPPF which states that:

“sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”. (emphasis added)

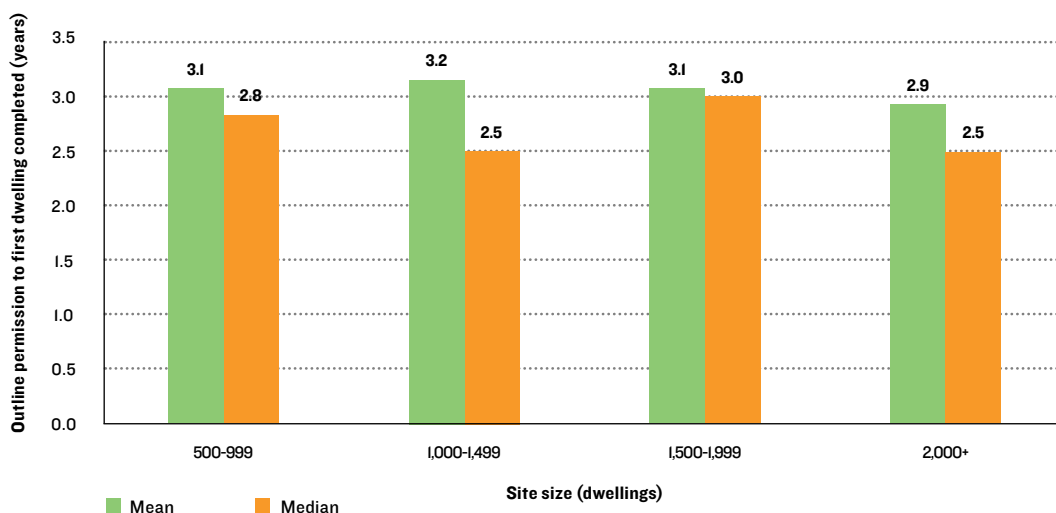
What constitutes 'clear evidence' was clarified in a number of early appeal decisions and in the Planning Practice Guidance² and can include information on progress being made towards submission of a reserved matters application, any progress on site assessment work and any relevant information about site viability, ownership constraints or infrastructure provision. In this context, it is relevant to look at how long it takes, on average, for a strategic housing site to progress from obtaining outline permission to delivering the first home (or how long it takes to obtain the first reserved matters approval, discharge pre-commencement conditions and open up the site), and then how much housing could be realistically expected to be completed in that same five-year period.

Based on our sample of large sites, the research shows that, upon granting of outline permission, the time taken to achieve the first dwelling is – on average c.3 years - regardless of site size. After this period an appropriate build-

c.3 years

average time from obtaining outline permission to first dwelling completion on sites of 500+ homes

Figure 3: Average time taken from gaining outline permission to completion of the first dwelling on site (years), compared to site size



Source: Lichfeilds analysis

² Planning Practice Guidance Reference ID: 68-007-20190722



Only sites of fewer than 499 dwellings are on average likely to deliver any homes within an immediate five year period.

out rate based on the size of the site should also be considered as part of the assessment of deliverability (see Section 4). Outline planning permissions for strategic development are not always obtained by the company that builds the houses, indeed master developers and other land promoters play a significant role in bringing forward large scale sites for housing development³. As such, some of these examples will include schemes where the land promoter or master developer will have to sell the site (or phases/parcels) to a housebuilder before the detailed planning application stage can commence, adding a step to the planning to delivery period.

Figure 4 considers the average timescales for delivery of the first dwelling from the validation of an outline planning application. This demonstrates that only sites comprising fewer than 499 dwellings are – on average – likely to deliver anything within an immediate five year period. The average time from validation of an outline application⁴ to the delivery of the first dwelling for large sites ranges from 5.0 to 8.4 years dependent on the size of the site, i.e. beyond an immediate five-year period for land supply calculations.

Comparison with our 2016 findings

Planning Approval Period

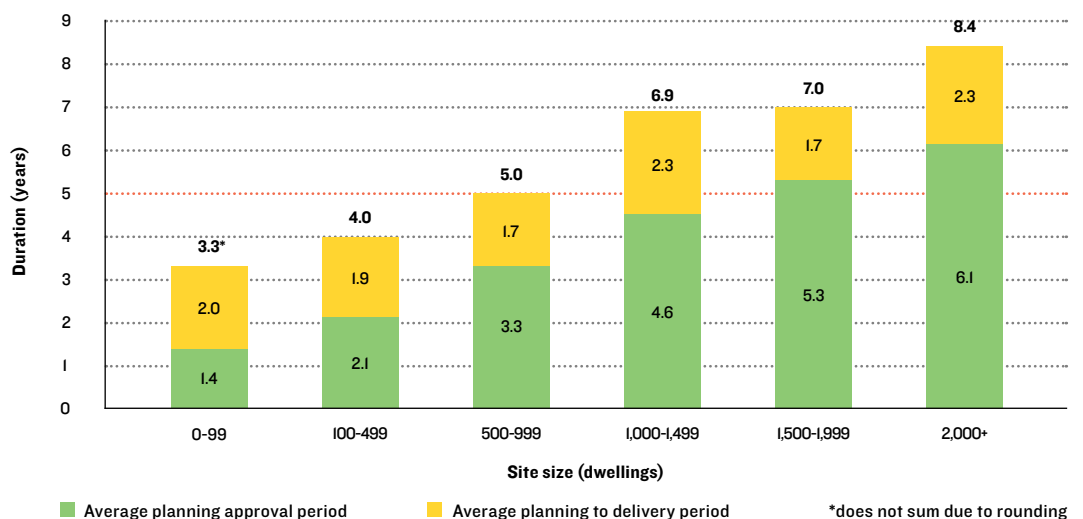
Our latest research reveals little difference between the average planning approval period by site size compared to the same analysis in the first edition (see Table 1). However, it is important to remember that these are average figures which come from a selection of large sites. There are significant variations within this average, with some sites progressing very slowly or quickly compared to the other examples. This is unsurprising as planning circumstances will vary between places and over time.

Table 1: Average planning approval period by size of site (years)

Site Size	1st edition research (years)	This research (years)
0-99	1.1	1.4
100-499	2.4	2.1
500-999	4.2	3.3
1,000-1,499	4.8	4.6
1,500-1,999	5.4	5.3
2,000+	6.1	6.1

Source: Lichfields analysis

Figure 4: Average timeframes from validation of first application to completion of the first dwelling



Source: Lichfields analysis

³ Realising Potential - our research for the Land Promoters and Developers Federation in 2017 - found that 41% of homes with outline planning permission were promoted by specialist land promoter and development companies, compared to 32% for volume house builders.

⁴ The planning approval period could also include a hybrid or full application, but on the basis of our examples this only impacts a small number of sites

Planning to Delivery Period

Although there is little difference between the average planning approval periods identified in this research compared to our first edition findings, the average lead-in time after securing of planning permission is higher in this edition of the research (Figure 5).

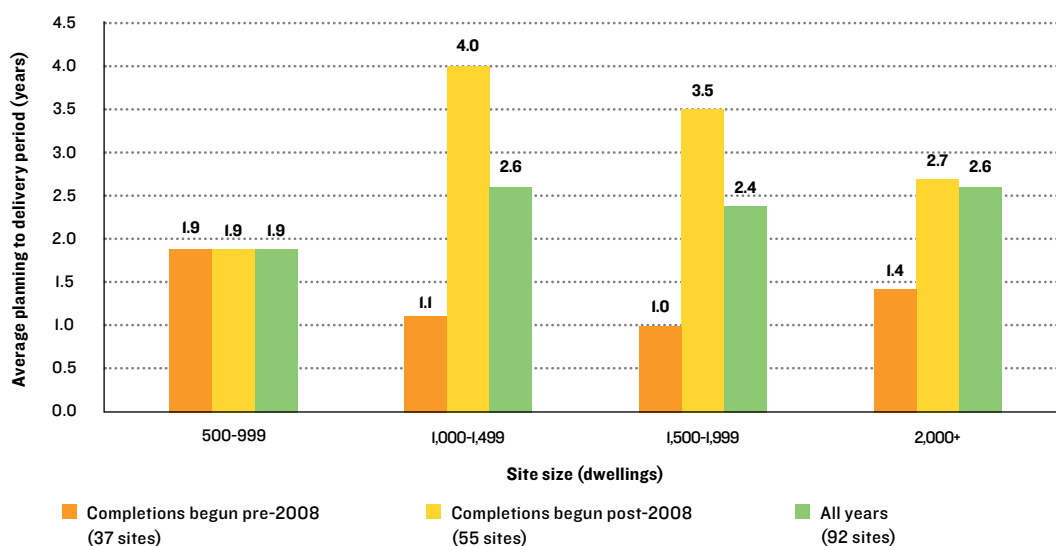
This is likely to be due to the inclusion of more recent proposed developments in this edition. Of the 27 new sites considered, 17 (63%) completed their first dwelling during or after 2012; this compares to just 14 (20%) out of 70 sites in the first edition of this research (albeit at the time of publication 8 of these sites had not delivered their first home but have subsequently). This implies that the introduction of more recent examples into the research, including existing examples which have now commenced delivery⁵, has seen the average for planning to delivery periods lengthening.

A similar trend is apparent considering the 55 sites that delivered their first completions after 2007/08. These have significantly longer planning to delivery periods than those where completions began prior to the recession. The precise reasons are not clear, but is perhaps to be expected given the slowdown in housing delivery during the recession, and the significant reductions in local authority planning resources which are necessary to support discharge of pre-commencement conditions. However, delays may lie outside the planning system; for example, delays in securing necessary technical approvals from other bodies and agencies, or market conditions.



Sites that delivered their first completion during or after the 2007/08 recession have significantly longer planning to delivery periods than sites which began before.

Figure 5: Planning to delivery period, total average, pre and post-2008



Source: Lichfeilds analysis

Figure 5: Five of the large sites examples do not have a first dwelling completion recorded in this research

⁵ Priors Hall has been amended since the first edition based on more recent data

In demand: how quickly do high pressure areas determine strategic applications for housing?

Using industry-standard affordability ratios, we found that areas with the least affordable places to purchase a home (i.e. the highest affordability ratios) tended to have longer planning to delivery times than areas that were more affordable. This is shown in Figure 6, which splits the large site sample into national affordability quartiles, with the national average equating to 8.72.

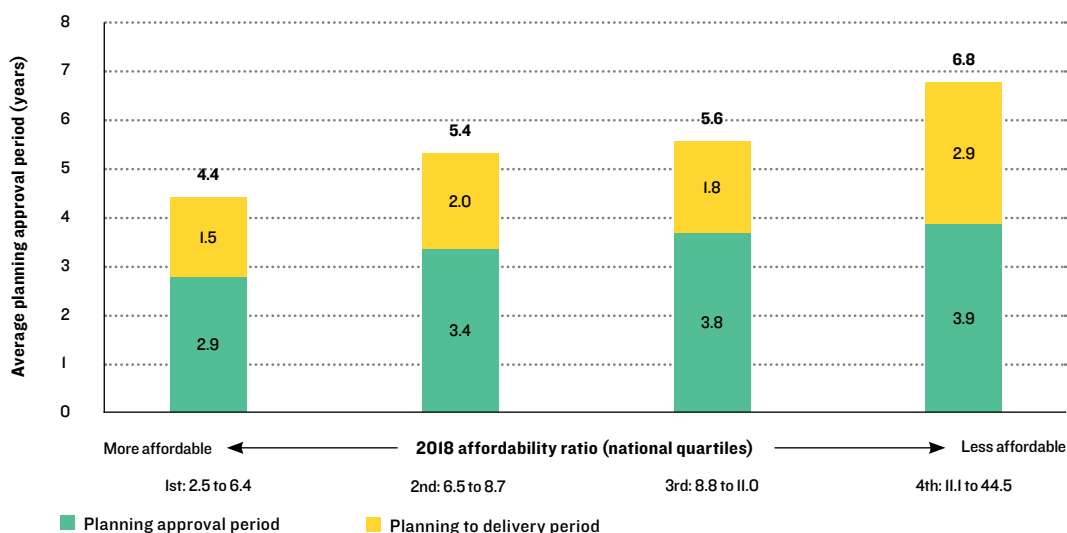
The above analysis coincides with the fact (Table 2) that sites in the most affordable locations (lowest quartile) tend to be smaller than those in less affordable locations (an average site size of c.1,150 compared to in excess of 2,000 dwellings for the three other quartiles). Even the least affordable LPAs (with the greatest gap between workplace earnings and house prices) have examples of large schemes with an average site size of 2,000+ dwellings. It may be that the more affordable markets do not support the scale of up-front infrastructure investment that is required for larger-scale developments and which lead to longer periods before new homes can be built. However, looking at the other three quartiles, the analysis does also suggest that planning and implementation becomes more challenging in less affordable locations.

Table 2: Site size by 2018 affordability ratio

Affordability ratio (workplace based)	Average site size
2.5 – 6.4	1,149
6.5 – 8.7	2,215
8.8 – 11.0	2,170
11.1 – 44.5	2,079

Source: Lichfields analysis

Figure 6: Planning approval period (years) by 2018 affordability ratio



Source: Lichfields analysis

04 How quickly do sites build out?

The rate at which new homes are built on sites is still one of the most contested matters at local plan examinations and planning inquiries which address 5YHLS and housing supply trajectories. The first edition of this research provided a range of 'real world' examples to illustrate what a typical large-scale site delivers annually. The research showed that even when some schemes were able to achieve very high annual build-out rates in a particular year (the top five annual figures were between 419-620 dwellings per annum), this rate of delivery was not always sustained. Indeed, for schemes of 2,000 or more dwellings the average annual completion rate across the delivery period was 160 dwellings per annum.

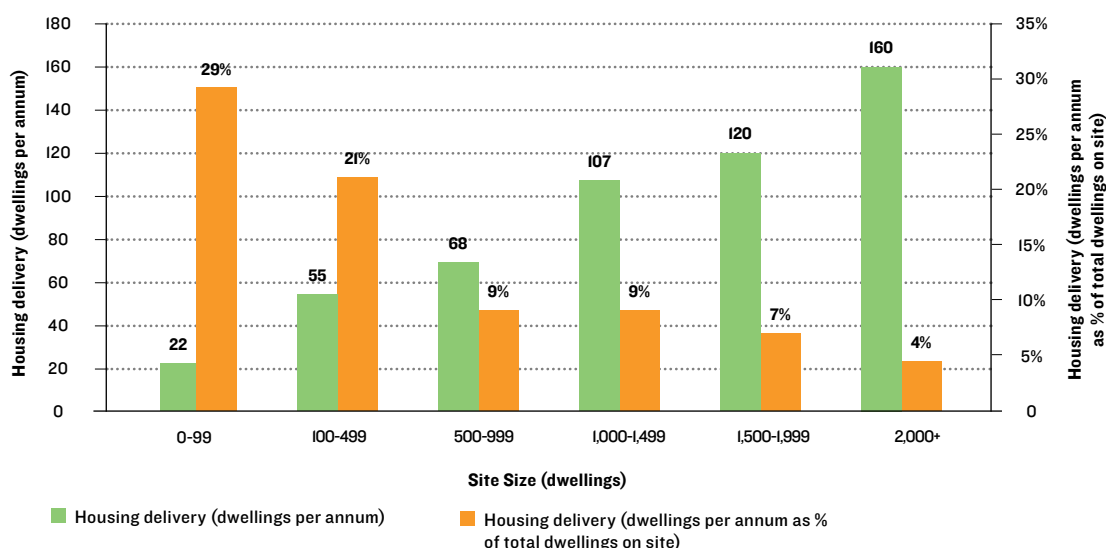
Average Annual Build-out rates

Figure 7 presents our updated results, with our additional 27 sites and the latest data for all sites considered. The analysis compares the size of site to its average annual build-out rate. Perhaps unsurprisingly, larger sites deliver on average more dwellings per year than smaller sites. The largest sites in our sample of over 2,000 dwellings, delivered on average more than twice as many dwellings per year than sites of 500-999 dwellings, which in turn delivered an average of three times as many units as sites of 1-99 units. To ensure the build-out rates averages are not unduly skewed, our analysis excludes any sites which have only just started delivering and have less than three years of data. This is because it is highly unlikely that the first annual completion figure would actually cover a whole monitoring year, and as such could distort the average when compared to only one other full year of delivery data.

160 dpa

the average annual build rate for schemes of 2,000+ dwellings

Figure 7: Build-out rate by size of site (dpa)



Source: Lichfields analysis

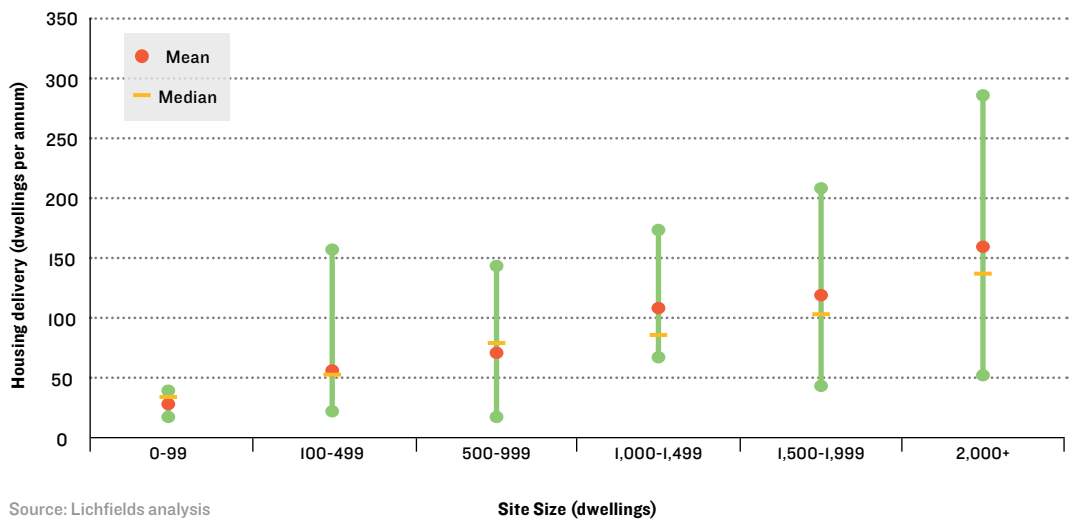


In most cases the median annual delivery rate is lower than the mean for larger sites.

We include the relevant percentage growth rates in this edition's analysis; this shows that the proportion of a site's total size that is build out each year reduces as site size increases.

Our use of averages refers to the arithmetic mean across the sample sites. In most cases the median of the rates seen on the larger sample sites is lower, as shown in Figure 8; this reflects the small number of sites which have higher delivery rates (the distribution is not equal around the average). The use of mean average in the analysis therefore already builds in a degree of optimism compared with the median or 'mid-point scheme'.

Figure 8: Minimum, mean, median and maximum build-out rates by size of site (dpa)



Source: Lichfields analysis

Table 3: Median and mean delivery rates by site size

Site Size	Number of sites	Median housing delivery (dwellings per annum)	Median delivery as % of total on site	Mean annual delivery (dwellings per annum)	Mean annual delivery as % of total units on site
0-99	29	27	33%	22	29%
100-499	54	54	24%	55	21%
500-999	24	73	9%	68	9%
1,000-1,499	17	88	8%	107	9%
1,500-1,999	9	104	7%	120	7%
2,000+	27	137	4%	160	4%

Source: Lichfields analysis

Comparison with our 2016 findings

Comparing these findings to those in the first edition of this research, there is very little difference between the averages observed (median was not presented) for different site sizes, as set out below. The largest difference is a decrease in average annual build-out rates for sites of 1,000-1,499 dwellings, but even then, this is only a reduction of 10 dpa or 9%.

As with the first edition of the research, these are averages and there are examples of sites which deliver significantly higher and lower than these averages, both overall and in individual years. Figure 8 shows the divergence from the average for different site size categories. This shows that whilst the average for the largest sites is 160 dpa and the median equivalent 137 dpa, the highest site average was 286 dpa and the lowest site average was 50 dpa for sites of 2,000+ dwellings. This shows the need for care in interpreting the findings of the research, there may well be specific factors that mean a specific site will build faster or slower than the average. We explore some of the factors later in this report.

Variations for individual schemes can be marked. For example, the 2,605 unit scheme South of the M4 in Wokingham delivered 419 homes in 2017/18, but this was more than double the completions in 2016/17 (174) and the average over all six years of delivery so far was just 147 dwellings per annum.

Even when sites have seen very high peak years of delivery, as Table 5 shows, no sites have been able to consistently delivery 300 dpa.



Site build-out rates for individual years are highly variable. For example, one scheme in Wokingham delivered more than twice as many homes in 2017/18 as it did in the year before.

Table 4: Mean delivery rates by site sizes, a comparison with first edition findings

Site size (dwellings)	2016 edition research (dpa)	2020 edition research (dpa)	Difference
0-99	27	22	-5 (-19%)
100-499	60	55	-5 (-8%)
500-999	70	68	-2 (-3%)
1,000-1,499	117	107	-10 (-9%)
1,500-1,999	129	120	-9 (-7%)
2,000+	161	160	-1 (-0.62%)

Source: Lichfields analysis

Table 5: Peak annual build-out rates compared against average annual delivery rates on those sites

Site	Site size (dwellings)	Peak annual build-out rate (dpa)	Average annual build-out rate (dpa)
Cambourne, South Cambridgeshire	4,343	620	223
Oakley Vale, Corby	3,100	520	180
Eastern Expansion Area, Milton Keynes	4,000	473	268
Clay Farm, Cambridge	2,169	467	260
South of M4, Wokingham	2,605	419	147
Cranbrook, East Devon	2,900	419	286

Source: Lichfields analysis

Table 5: Please note The Hamptons was included as an example of peak annual delivery in the first edition with one year reaching 520 completions. However, evidence for this figure is no longer available and as it was not possible to corroborate the figure it has been removed. The analysis has been updated to reflect the latest monitoring data from Peterborough City Council.

Longer term trends

This section considers the average build-out rates of sites which have been delivering over a long period of time. This is useful in terms of planning for housing trajectories in local plans when such trajectories may span an economic cycle.

In theory, sites of more than 2,000 dwellings will have the longest delivery periods. Therefore, to test long term averages we have calculated an average build-out rate for sites of 2,000+ dwellings that have ten years or more of completions data available.

For these sites, the average annual build-out rate is slightly higher than the average of all sites of that size (i.e. including those only part way through build out), at 165 dwellings per annum⁶. The median for these sites was also 165 dwellings per annum.

This indicates that higher rates of annual housing delivery on sites of this size are more likely to occur between years five and ten, i.e. after these sites have had time to ‘ramp up’.

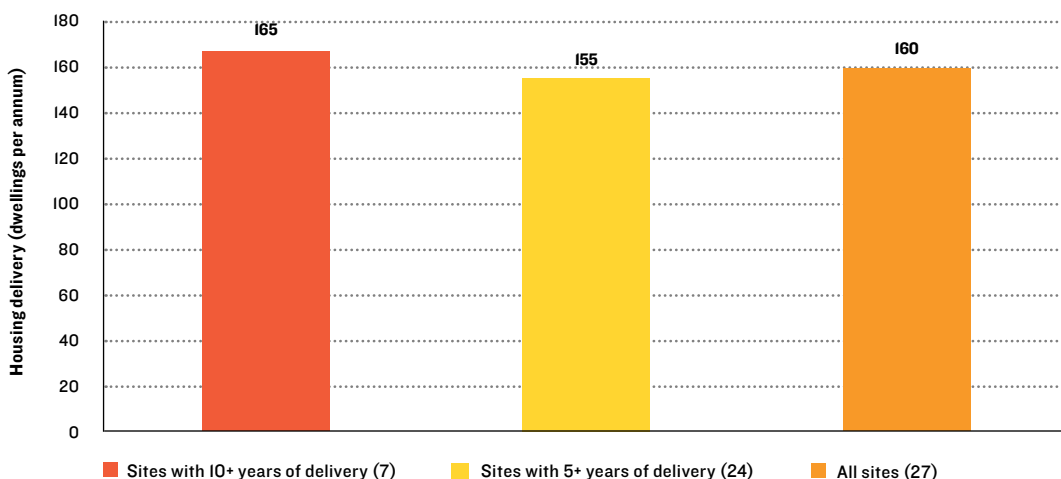
It might even relate to stages in delivery when multiple phases and therefore multiple outlets (including affordable housing) are operating at the same time. These factors are explored later in the report.

The impact of the recession on build-out rates

It is also helpful to consider the impact of market conditions on the build-out rate of large scale housing sites. Figure 10 overleaf shows the average delivery rate of sites of 2,000 or more dwellings in five-year tranches back to 1995/96. This shows that although annual build-out rates have improved slightly since the first half of the 2010’s, they remain 37% below the rates of the early 2000’s. The reasons for the difference are not clear and are worthy of further exploration – there could be wider market, industry structure, financial, planning or other factors at play.

In using evidence on rates of delivery for current/historic schemes, some planning authorities have suggested that one should adjust for the fact that rates of build out may have been affected by the impact of the recession. We have therefore considered how the average rates change with and without including the period of economic downturn (2008/09 – 2012/13). This is shown in Table 6 and it reveals that average build-out rates are only slightly depressed when one includes this period, but may not have fully recovered to their pre-recession peaks. We know that whilst the recession – with the crunch on mortgage

Figure 9: Average build-out rate for sites over 2,000 homes by length of delivery period (dpa)



Source: Lichfields analysis

⁶ This is based on the completions of seven examples, Chapelford Urban Village, Broadlands, Kings Hill, Oakley Vale, Cambourne, The Hamptons and Wixhams

availability – did have a big impact and led to the flow of new sites slowing, there were mechanisms put in place to help sustain the build out of existing sites.

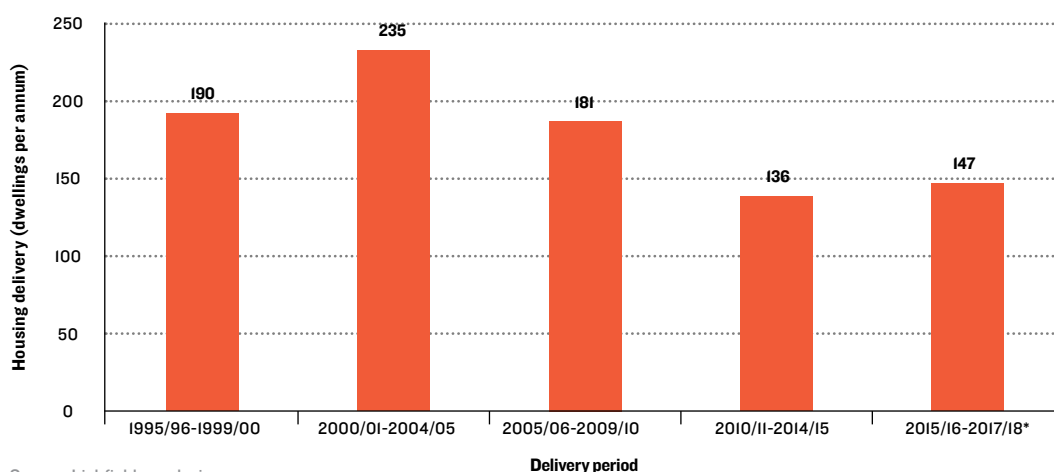
However, setting aside that stripping out the recession has a modest impact on the statistical averages for the sites in our sample, the more significant point is that – because of economic cycles - larger sites which build out over five or more years are inherently likely to coincide with a period of economic slowdown at some point during their build out. It therefore makes sense for housing trajectories for such sites to include an allowance for the prospect that, at some point, the rate of build out may slow due to a market downturn, albeit the effect may be smaller than one might suspect.

Table 6: Impact of recession on build-out rates

	All sites including recessionary period (2008/9-2012/13)		Excluding recession		Pre-recession only	
	Average rate	Sample size	Average rate	Sample size	Average rate	Sample size
All large sites 500+	115	77	126	68	130	21
All large sites 2,000+	160	27	171	25	242	6
Greenfield sites 2,000+	181	14	198	12	257	3

Source: Lichfields analysis

Figure 10: Average build-out rate by five year period for sites over (dpa)



Source: Lichfields analysis

05 What factors can influence build-out rates?

+34%

higher average annual build-out rates on greenfield land compared with brownfield

Having established some broad averages and how these have changed over time, we turn now to look at what factors might influence the speed at which individual sites build out. How does housing demand influence site build out? What is the impact of affordable housing? Does it matter whether the site is greenfield or brownfield? What about location and site configuration?

In demand: do homes get delivered faster in high pressure areas?

One theory regarding annual build-out rates is that the rate at which homes can be sold (the 'absorption rate') determines the build-out rate. This is likely to be driven by levels of market demand relative to supply for the product being supplied.

This analysis considers whether demand for housing at the local authority level affects delivery rates by using (industry-standard) affordability ratios. Higher demand areas are indicated by a higher ratio of house prices to earnings i.e. less affordable. Whilst this is a broad-brush measure, the affordability ratio is a key metric in the assessment of local housing need under the Government's standard methodology. Figure 11 shows the sample of 500+ unit schemes divided into those where the local authority in which they are located is above or below the national median affordability ratio (8.72) for sites which have

delivered for three years or more. This analysis shows that sites in areas of higher demand (i.e. less affordable) deliver on average more dwellings per annum.

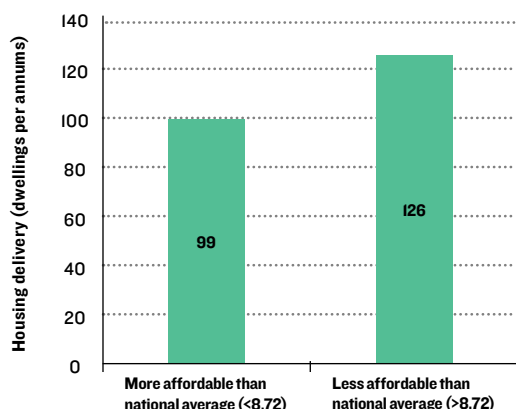
Our analysis also coincides with the fact that sites in less affordable areas are on average c.17% larger than those in more affordable areas. The average site size for schemes in areas where affordability is below the national average is 1,834 dwellings. For those delivered in areas where the affordability is greater than the national average, average site size is 2,145 dwellings. So, it is possible that the size of site – rather than affordability *per se* – is a factor here.

Do sites on greenfield land deliver more quickly?

The first edition of this research showed that greenfield sites on average delivered quicker than their brownfield counterparts. In our updated analysis this remains the case; large greenfield sites in our sample built out a third faster than large brownfield sites.

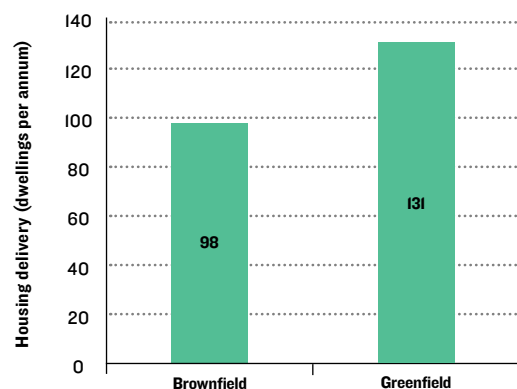
In the life cycle of a site, our data also shows that greenfield sites had shorter planning to delivery periods (2.0 years compared to 2.3 for brownfield sites), although on average, longer planning approval periods (5.1 years compared to 4.6 for brownfield sites).

Figure 11: Build-out rates by level of demand using national median 2018 workplace based affordability ratio (dpa)



Source: Lichfields analysis

Figure 12: Build-out rates on brownfield and greenfield sites (dpa)



Source: Lichfields analysis

Housing mix and variety

Among the more topical issues surrounding delivery rates on large-scale sites is the variety of housing on offer. The Letwin Review posited that increasing the diversity of dwellings on large sites in areas of high housing demand would help achieve a greater rate of build out. The report concluded that a variety of housing is likely to appeal to a wider, complementary range of potential customers which in turn would mean a greater absorption rate of housing by the local market.

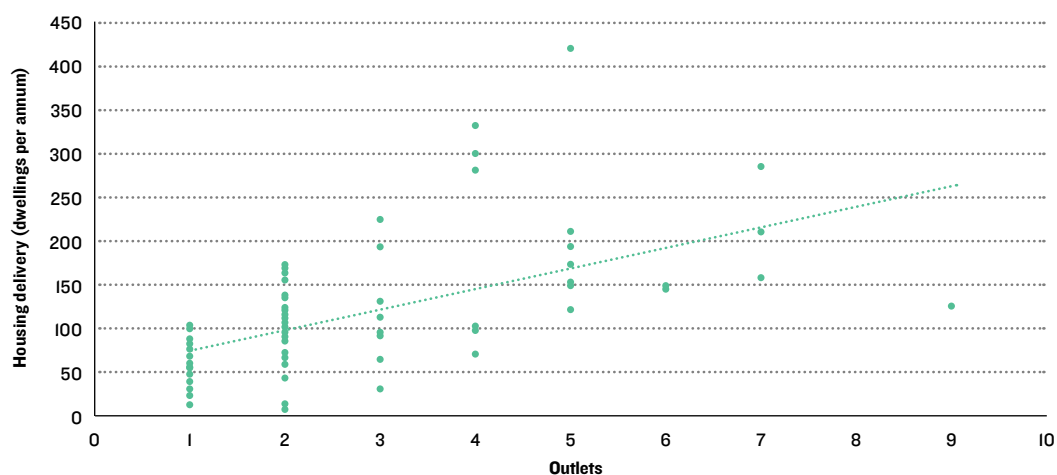
Consistent data on the mix of sizes, types and prices of homes built out on any given site is difficult to source, so we have used the number of sales outlets on a site as a proxy for variety of product. This gives the prospect of multiple house builders each seeking to build and sell homes for which there is demand in the face of 'competing' supply from other outlets (as revealed by the case study of Land South of the M4 in Wokingham). Letwin stated that "...it seems extraordinarily likely that the presence of more variety in these aesthetic characteristics would create more, separate markets"⁷. Clearly, it is likely that on many sites, competing builders may focus on a similar type of product, for example three or four bed family housing, but even across similar types of dwelling, there will be differences (in configuration, design, specification) that mean one product may be attractive to a purchaser in the way another might

not be. On this basis, we use the outlets metric as a proxy for variation. Based on the limited data available for this analysis, if two phases are being built out at the same time by the same housebuilder (e.g. two concurrent parcels by Bovis) this has been counted as one outlet with the assumption there is little variety (although it is clear that some builders may in reality differentiate their products on the same site). This data was derived from sites in a relatively small number of local planning authorities who publish information relating to outlets on site. It therefore represents a small sample of just 12 sites, albeit over many different years in which the number of outlets varied on the same site, giving a total of 80 data points i.e. individual delivery rates and number of outlets to compare.

Our analysis confirms that having more outlets operating at the same time will on average have a positive impact on build-out rates, as shown in Figure 13. However, there are limits to this, likely to be due to additional capacity from the outlets themselves as well as competition for buyers.

On a site-by-site basis, the average number of outlets open over the site's entire delivery lifetime had a fairly strong correlation with annual delivery, both as a percentage of total dwellings and in absolute terms, with a greater number of outlets contributing to higher levels of delivery. However, the completions per outlet did reduce with every additional outlet operating in that year.⁸

Figure 13: Build-out rates by number of outlets present (dpa)



Source: Lichfields analysis



Having more outlets operating at the same time will on average quicken build-out rates.

⁷ Letwin Review draft analysis report (June 2018) - final bullet of para 4.25

⁸ Average completions per outlet on site with one outlet was 61dpa, dropping to 51dpa for two outlets and 45dpa for three outlets.

Geography and Site Configuration

An under-explored aspect of large-scale site delivery is the physical opportunity on site. For example, some schemes lend themselves to simultaneous build out of phases which can have the impact of boosting delivery rates in that year, for example, by having access points from two alternative ends of the site. Other sites may be reliant on one key piece of infrastructure which make this opportunity less likely or impractical. In the first edition of this research we touched on this point in relation to Eastern Expansion Area (Broughton Gate & Brooklands) of Milton Keynes. As is widely recognised, the planning and delivery of housing in Milton Keynes is distinct from almost all the sites considered in this research as serviced parcels with the roads already provided were delivered as part of the Milton Keynes delivery model. Multiple house builders were able to proceed straight onto the site and commence delivery on different serviced parcels, with monitoring data from Milton

Keynes Council suggesting an average of c.12 parcels were active across the build period. In this second edition of this research the Milton Keynes examples remain some of the sites with the highest annual build-out rates.

Table 7: Parcels at Land South of M4, Wokingham

Parcel reference	Developers (active outlets)	Completions in 2017/18
SP1	Bellway (1)	59
SP2w	Bellway and Bovis (-)	None - parcel completed
SP3	Crest Nicholson (1)	47
SP4	Taylor Wimpey and David Wilson Homes (2)	140
SP9_I	Bloor, Bovis and Linden (3)	169
SPI0	Darcliffe Homes (-)	None - parcel completed
SPII	Taylor Wimpey (1)	4

Source: Lichfields analysis

Figure I4: Map of parcels at Land South of M4, Wokingham



Source: © Google Earth 2020/ Wokingham Local Plan

In this edition we look at the case study of Land South of the M4 in Wokingham. In 2017/18 the site achieved a significant 419 completions. Using the local authority's granular recording of delivery on the site to date, we have been able to consider where these completions were coming forward from within the wider 2,605 dwelling scheme. As shown in Figure 14, in that year new homes were completed on five separate parcels with completions ranging from 4 to 169 dwellings. On some of these parcels (SP9_1 and SP4) there were two or three separate housebuilders building out, and in total on the site there were seven different house building companies active (the impact of multiple outlets on build-out rates is explored later in this report). The parcels are located in separate parts of the site and each had their own road frontages and access arrangements which meant they are able to come forward in parallel. This can enable an increased build rate.

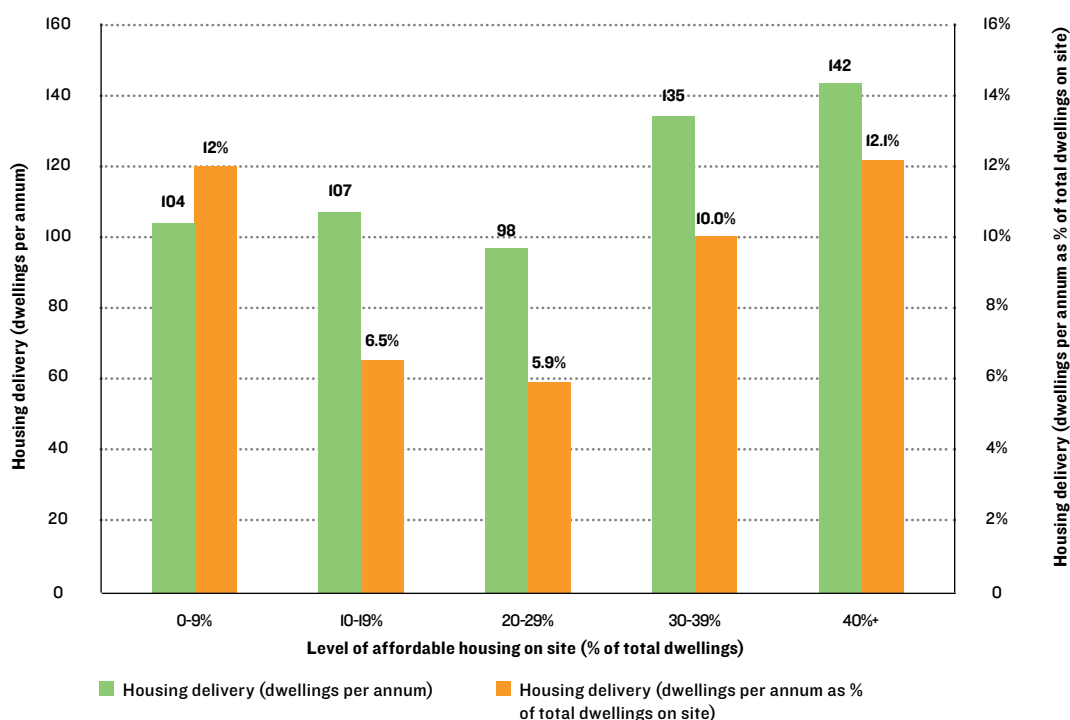
Affordable choices: do different tenures provide more demand?

Our findings on tenure, another form of 'variety' in terms of house building products, are informed by data that is available on about half the sites in our large site sample. From this the analysis shows schemes with more affordable housing built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all dwellings on site. However this is not always the case. Schemes with 20-29% affordable housing had the lowest build-out rates, both in terms of dwellings and proportionate to their size.



Schemes with more affordable housing built out at close to twice the rates as those with lower levels.

Figure 15: Build-out rates by level of affordable housing (dpa and percentage)



Source: Lichfields analysis

06

Conclusions

Recent changes to national planning policy emphasise the importance of having a realistic expectation of delivery on large-scale housing sites, whilst local authorities now find themselves subject to both forward and backward-looking housing delivery performance measures. A number of local plans have hit troubles because they over-estimated the yield from some of their proposed allocations. Meanwhile, it is no longer sufficient for a 5YHLS to look good on paper; the Housing Delivery Test means there are consequences if it fails to convert into homes built.

To ensure local authorities are prepared for these tests, plan making and the work involved in maintaining housing land supply must be driven by realistic and flexible housing trajectories, based on evidence and the specific characteristics of individual sites and local markets. For local authorities to deliver housing in a manner which is truly plan-led, this is likely to mean allocating more sites rather than less, with a good mix of types and sizes, and being realistic about how fast they will deliver so supply is maintained throughout the plan period. Equally, recognising the ambition and benefits of more rapid build out on large sites, it may mean a greater focus on how such sites are developed.

Our research provides those in the public and private sector with a series of real-world benchmarks in this complex area of planning for large scale housing, which can be particularly

helpful in locations where there is little recent experience of such strategic developments. Whilst we present some statistical averages, the real relevance of our findings is that there are likely to be many factors which affect lead-in times and build-out rates, and that these - alongside the characteristics of individual sites - need to be considered carefully by local authorities relying on large sites to deliver planned housing.

In too many local plans and 5YHLS cases, there is insufficient evidence for how large sites are treated in housing trajectories. This research seeks to fill the gap with some benchmark figures - which can be of some assistance where there is limited or no local evidence. But the average derived from our analysis are not intended to be definitive and are no alternative to having a robust, bottom-up justification for the delivery trajectory of any given site. It is clear from our analysis that some sites start and deliver more quickly than the average, whilst others have delivered much more slowly. Every site is different. Therefore, whilst the averages observed in this research may be a good starting point, there are a number of key questions to consider when estimating delivery on large housing sites, based around the three key elements in the three-tier analytical framework at Figure 16.

Key findings:

1 Large schemes can take 5+ years to start

In developing a local plan, but especially in calculating a 5YHLS position, it is important to factor in a realistic planning approval period dependent on the size of the site. Our research shows that if a scheme of more than 500 dwellings has an outline permission, then the average time to deliver its first home is two or three years. However, from the date at which an outline application is validated it can be 5.0 - 8.4 years for the first home to be delivered dependent on the size of the site. In these circumstances, such sites would make no contribution to completions in the first five years.

2 Lead-in times jumped post-recession

Whilst attention and evidence gathering is often focused on how long it takes to get planning permission, the planning to delivery period from gaining permission to building the first house has also been increasing. Our research shows that the planning to delivery period for large sites completed since 2007/08 has jumped compared to those where the first completion came before 2007/08. This is a key area where improvements could be sought on timeliness and in streamlining pre-commencement conditions, but is also likely impacted by a number of macro factors including the recession and reductions in local authority planning resources.

3 Large greenfield sites deliver quicker

Large sites can deliver more homes per year over a longer time period, with this seeming to ramp up beyond year five of the development on sites of 2,000+ units. However, on average these longer-term sites also have longer lead-in times. Therefore, short term boosts in supply, where needed, are likely to also require a good mix of smaller sites. Furthermore, large scale greenfield sites deliver at a quicker rate than their brownfield equivalents: the average rate of build out for greenfield sites in our sample was 34% greater than the equivalent figure for those on brownfield land. In most locations, a good mix of types of site will therefore be required.

4 Outlets and tenure matter

Our analysis suggests that having additional outlets on site has a positive impact on build out rates, although there is not a linear relationship. Interestingly, we also found that schemes with more affordable housing (more than 30%) built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all units on site, but those with 20-29% had the lowest rates of all. Local plans should reflect that – where viable – higher rates of affordable housing supports greater rates of delivery. This principle is also likely to apply to other sectors that complement market housing for sale, such as build to rent and self-build (where there is demand).

Figure I6: Key questions for assessing large site build-out rates and delivery timelines



Appendices

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Appendix 1: Definitions and notes

The 'lead in'

Measures the period up to first completion of a house on site from the validation date of the first planning application made for the scheme. The lead-in time covers both the planning approval period and planning to delivery periods set out below. The lead-in time does also include the date of the first formal identification of the site as a potential housing allocation (e.g. in a LPA policy document), but consistent data on this for the sample is not available.

The 'planning period'

Measured from the validation date of the first application for the proposed development (be that an outline, full or hybrid application). The end date is the decision date of the first detailed application which permits the development of dwellings on site (this may be a full or hybrid application or the first reserved matters approval which includes details for housing). A measurement based on a detailed 'consent' was considered reasonable and proportionate milestone for 'planning' in the context of this research.

The 'planning to delivery period'

Includes the discharge of any pre-commencement and any opening up works required to deliver the site. It finishes on completion of the first dwelling.

The date of the 'first housing completion'

On site (the month and year) is used where the data is available. However, in most instances the monitoring year of the first completion is all that is available and in these cases a mid-point of the monitoring period (1st October, falling halfway between 1st April and the following 31st March) is used.

The 'annual build-out rate'

Each site is taken or inferred from a number of sources. This includes Annual Monitoring Reports (AMR's) and other planning evidence base documents produced by local authorities (see footnote 1), contacting the local planning authority monitoring officers or planners and in a handful of instances obtaining the information from housebuilders.

Due to the varying ages of the assessed sites, the implementation of some schemes was more advanced than others and, as a function of the desk-based nature of the research and the age of some of the sites assessed, there have been some data limitations, which means there is not a complete data set for every assessed site. For example, lead-in time information prior to submission of planning applications is not available for the vast majority of sites. And because not all of the sites assessed have commenced housing delivery, build-out rate information is not universal. The results are presented accordingly.

Sources for sites also found in the Letwin Review

Arborfield Green (Arborfield Garrison)	Five Year Housing Land Supply Statement and appendix on Strategic Development Locations at 31st March 2018 published 9th October 2018 http://www.wokingham.gov.uk/planning-policy/planning-policy-information/evidence-topics/
Ledsham Garden Village	Various Housing Land Monitor Reports https://consult.cheshirewestandchester.gov.uk/portal/cwc_ldf/mon/
Great Kneighton (Clay Farm)	Partly provided by Cambridgeshire County Council and included in numerous AMR's https://www.cambridge.gov.uk/annual-monitoring-reports
Trumpington Meadows	Included in numerous AMR's for Cambridge and South Cambridgeshire (site crosses boundaries) https://www.cambridge.gov.uk/annual-monitoring-reports and https://www.scambs.gov.uk/planning/local-plan-and-neighbourhood-planning/annual-monitoring-report/
Graven Hill	Various Annual monitoring reports https://www.cherwell.gov.uk/info/33/planning-policy/370/monitoring-reports
South West Bicester (Kingsmere Phase I)	Various Annual monitoring reports https://www.cherwell.gov.uk/info/33/planning-policy/370/monitoring-reports
Great Western Park	Housing Land Supply Statement April 2018 http://www.southoxon.gov.uk/sites/default/files/30.04.2018%20Housing%20Land%20Supply%20Statement%20FINAL%20(2)%20combined.pdf
Ebbsfleet:	First phase at Springhead Park and Northfleet South from Gravesham AMR's 2009/10 to 2012/13
2009-10:	127 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/69823/AMR2010.pdf
2010-11:	79 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/69814/AMR2011.pdf
2011-12:	55 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0009/92448/Gravesham-Authority-Monitoring-Report-2011-12-May-2013.pdf
2012-13:	50 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/92449/Gravesham-Authority-Monitoring-Report-2012-13-interim-May-2013.pdf
2013/14:	87 dwellings, based on total completions from Gravesham to 2012/13 of 311 and total completions to the start of 2014/15 in the Ebbsfleet Garden City Latest Starts and Completion Figures totalling 398.
2014/15 to 2017/18:	Ebbsfleet Garden City Latest Starts and Completion Figures: https://ebbsfleetdc.org.uk/tracking-our-performance/

Appendix 3:

Small sites tables

Site Name	Local Planning Authority	Size
Cookridge Hospital	Leeds	495
Stenson Fields	South Derbyshire	487
Horfield Estate Phase I	Bristol City Council	485
Farnborough Business Park	Rushmoor	476
Bickershaw Colliery	Wigan	471
Farington Park, east of Wheelton Lane	South Ribble	468
Bleach Green	Gateshead	456
Kingsmead South	Milton Keynes Council	450
New Central	Woking Borough Council	445
Land at former Battle Hospital	Reading Borough Council	434
New World House	Warrington	426
Radyr Sidings	Cardiff	421
Luneside West	Lancaster	403
Woolley Edge Park	Wakefield	375
Former Masons Cerement Works and Adjoining Ministry of Defence Land	Mid Suffolk	365
Former NCB Workshops (Portland Park)	Northumberland	357
Chatham Street Car Park Complex	Reading	307
Kennet Island Phase I - H, M, T, U1, U2	Reading	303
Land at Dorian Road	Bristol, City of	300
Land at Fire Service College, London Road	Cotswold	299
Land at Badsey Road	Wychavon	298
Land at Brookwood Farm	Woking	297
Long Marston Storage Depot Phase I	Stratford-on-Avon	284
M & G Sports Ground, Golden Yolk and Middle Farm	Tewkesbury	273
Land at Canons Marsh	Bristol, City of	272
Land off Henthorn Road	Ribble Valley	270
Land Between A419 And A417	Cotswold	270
Hortham Hospital	South Gloucestershire	270

Site Name	Local Planning Authority	Size
GCHQ Oakley - Phase I	Cheltenham	262
Hewlett Packard (Land Adjacent To Romney House)	Bristol, City of	242
I28-134 Bridge Road And Nos 1 - 4 Oldfield Road	Windsor and Maidenhead	242
Hoval Ltd North Gate	Newark and Sherwood	196
Notcutts Nursery, I50 - I52 London Road	Cherwell	182
Sellars Farm	Stroud	176
Land South of Inervet Campus Off Brickhill Street, Walton, Milton Keynes	Milton Keynes	176
Queen Mary School	Fylde	169
London Road/ Adj. St Francis Close	East Hertfordshire	149
Land off Gallamore Lane	West Lindsey	149
Doxey Road	Stafford	145
Former York Trailers (two schemes - one Barratt, one DWH)	Hambleton	145
Bracken Park, Land At Corringham Road	West Lindsey	141
Land at Farnham Hospital	Waverley	134
North of Douglas Road	South Gloucestershire	131
Land to the east of Efflinch Lane	East Staffordshire	130
Land to the rear of Mount Pleasant	Cheshire West and Chester	127
Primrose Mill Site	Ribble Valley	126
Kennet Island Phase IB - E, F, O & Q	Reading	125
Land between Godsey Lane and Towngate East	South Kesteven	120
Bibby Scientific Ltd	Stafford	120
Land west of Birchwood Road	Bristol, City of	119
Former Bewbush Leisure Centre Site	Crawley	112
Land south of Station Road	East Hertfordshire	111
Poppy Meadow	Stratford-on-Avon	106
Weeton Road/Fleetwood Road	Fylde	106
Former York Trailers (two schemes - one Barratt, one DWH)	Hambleton	96
North East Sandylands	South Lakeland	94

Site Name	Local Planning Authority	Size
Auction Mart	South Lakeland	94
Parcel 4 Gloucester Business Park	Tewkesbury	94
York Road	Hambleton	93
Land At Green Road - Reading College	Reading	93
Caistor Road	West Lindsey	89
The Kylins	Northumberland	88
North East Area Professional Centre, Furnace Drive	Crawley	76
Land at Willoughbys Bank	Northumberland	76
Watermead, Land At Kennel Lane	Tewkesbury	72
Land to the North of Walk Mill Drive	Wychavon	71
Hawthorn Croft (Off Hawthorn Avenue Old Slaughterhouse Site)	West Lindsey	69
Land off Crown Lane	Wychavon	68
Former Wensleydale School	Northumberland	68
Land at Lintham Drive	South Gloucestershire	68
Springfield Road	South Kesteven	67
Land off Cirencester Rd	Stroud	66
Land south of Pinchington Lane	West Berkshire	64
Land at Prudhoe Hospital	Northumberland	60
Oxfordshire County Council Highways Depot	Cherwell	60
Clewborough House School	Cherwell	60
Land at the Beacon, Tilford Road	Waverley	59
Land to Rear Of 28 - 34 Bedale Road	Hambleton	59
Hanwell Fields Development	Cherwell	59
Fenton Grange	Northumberland	54
Former Downend Lower School	South Gloucestershire	52
Holme Farm, Carleton Road	Wakefield	50
Land off Elizabeth Close	West Lindsey	50

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Appeal Decision

Inquiry opened on 17 August 2021

Accompanied site visit made on 23 August 2021

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 15th September 2021

Appeal Ref: APP/Q3115/W/21/3272377

Land at Lady Grove, Didcot OX11 9BP

- 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 Manor Oak Homes against the decision of South Oxfordshire District Council.
 - The application Ref: P20/S1577/O, dated 4 May 2020, was refused by notice dated 6 October 2020.
 - The development proposed is the erection of up to 150 dwellings including public open space comprising a country park, a LEAP and additional green infrastructure provision with all matters reserved other than access.
-

Preliminary Matters

1. The original application was made for up to 176 dwellings. The change to no more than 150 dwellings was offered by the Appellant. I confirmed that this was a change which I was prepared to accept at the Case Management Conference held on 14 June 2021 since the change would not result in prejudice to any party.
2. In the period between the refusal of planning permission and the opening of the inquiry a number of matters have been agreed between the Appellant, South Oxfordshire District Council, and Oxfordshire County Council. This has helpfully resolved a number of issues and reduced the matters of disagreement. Statements of Common Ground on several matters set out the agreed positions and note the reasons for refusal which are no longer pursued.
3. The development plan includes the South Oxfordshire Local Plan 2035 (LP) which was adopted in December 2020. It is agreed that the most important policies within the development plan for the determination of this proposal are STRAT1, STRAT3, H1 and H2. I deal with those policies later in this decision.
4. Recent appeal decisions relating to land at Little Sparrows, Sonning Common¹, and land to the east of Sandringham Road, Didcot² have been referenced in this case. These cases differ materially from the case before me. At Sonning Common the appeal site was within the AONB. At Sandringham Road the topography is dissimilar, with an open boundary to the AONB. The latter was determined prior to the adoption of the Local Plan and both with different evidence relating to housing land supply. These differences mean that the

¹ APP/Q3115/W/20/3265861

² APP/Q3115/W/20/3255846

cases are of limited relevance in my overall deliberations. I have determined this case on the basis of the evidence before me.

Decision

5. The appeal is allowed and planning permission is granted for the erection of up to 150 dwellings, public open space comprising a country park, a LEAP and additional green infrastructure provision with all matters reserved except for access at land at Lady Grove, Didcot OX11 9BP in accordance with the terms of the application, Ref: P20/S1577/O, dated 4 May 2020, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

6. In light of the agreements reached on several matters as noted above the main issues in this case are now:
 - i) Whether the Council can demonstrate a 5 year supply of deliverable housing land;
 - ii) The effect of the proposal on the character and appearance of the landscape and the setting of the adjacent Area of Outstanding Natural Beauty (AONB);
 - iii) The relationship of the proposal with the spatial strategy for the area, and the planning balance.

Reasons

Housing Land Supply

7. In the latest monitoring report (of June 2021) the Council claims to have a 5 year housing land supply (5HLS) of some 5.33 years. The Appellant assesses supply at no more than about 4.2 years. The discussion at the inquiry took the form of a round table session in which disputed sites were closely examined. I will deal with the most important of those below, but it is worth emphasising that my consideration of this matter necessarily differs from that of the Inspector who determined the Sonning Common appeal noted above. That is largely because the evidence before me has been prepared in light of the latest monitoring report, which was not available to the Sonning Common Inspector. In addition further documentation has been provided in relation to some sites, and the list of disputed sites is different. Hence, although the Sonning Common decision is a material consideration here, I have reached my own assessment of the current situation relating to 5HLS. In this appeal there is a total of 16 disputed sites.
8. Much was made at the inquiry of the fact that to be included within a 5HLS a site should have a realistic prospect of housing delivery, and not a certainty of delivery. This is clearly explained in both the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). It is self-evidently logical to me that certainty would be too high a bar to set, and that the best expert assessment based on robust and up to date information and sound judgement will provide the most cogent evidence of likely delivery. With that in mind I turn to those sites which I regard as the most critical to an assessment of future housing delivery and where, in my judgement, delivery is likely to fall short.

Sites with no current planning permission

9. The Benson NDP Site 2 (Site No 1929) has an undetermined outline application at present. It is in due course expected to provide 80 units, and the Council expects a total of 60 units over years 4 and 5 of the current 5 year period. But as pointed out by the Appellant issues remain unresolved in relation to agreements with the County Council. Part of the site has now been sold, and this may well affect any subsequent applications for the approval of reserved matters. Although this is an allocated site in a Neighbourhood Development Plan (NP) it seems to me that there are significant imponderables which might affect future timings of permissions, applications, agreements and lead-in times. As a relatively small site delays might be expected to be shorter than for larger sites, but nevertheless I do not have sufficient information here to be confident (that is for me to reach a point of accepting a realistic prospect of delivery) that this site will deliver as quickly as predicted. The Council was unable to give any indication of when a reserved matters application might be submitted. I do not rule out some delivery within the 5 year period but the evidence is not strong enough to support the Council's case in its entirety. A more realistic viewpoint, in my judgement, is to expect perhaps half of the delivery predicted by the Council. I therefore deduct 30 dwellings from this site.
10. Newnham Manor (1561) has a resolution to grant outline planning permission, but is required to be referred back to the Planning Committee. It is a site which is expected to deliver 100 dwellings. A S106 agreement is expected in winter 2021. It therefore seems likely that the delays which have so far been acknowledged would bring the issuing of any planning permission close to the beginning of year 2 of the 5 year period. The application has been with the Council for a considerable period of time and although I accept that the Council is seeking to work with the developer I have too little in the way of firm evidence to persuade me of the realistic prospect of this entire site being built out in the 5 year period. There would inevitably be some time required after planning permission (outline or reserved matters) was granted before building could commence on site. Rather than delivery commencing in year 3 it seems to me that year 5 would be more likely. I therefore discount 80 dwellings.
11. Ladygrove East (1011) is a site which has planning applications outstanding and is expected in due course to provide upwards of 700 dwellings. It is an allocated site. There have been issues relating to the provision of the northern perimeter road, but it seems that at least 250 dwellings could be provided prior to that road being completed. The Appellant has conceded that in light of recent activity some delivery on site is possible within the 5 year period. But the Council's view that delivery is likely to commence in year 3 seems too optimistic. On a site of 250 plus dwellings which at present has no planning permission I consider that a more realistic timeframe would be year 4 onwards at least. I have noted the comments made on behalf of the prospective developer of that site, but those comments do not assist in predicting when delivery on site is likely. For the reasons above I discount 80 dwellings from the Council's assessment.
12. Didcot Gateway South (1010) is acknowledged to be a site with several interested parties involved (including Homes England). There is no planning permission and the latest intentions have been sent out for consultation. I acknowledge that the inclusion of Homes England is likely to give delivery some

fresh impetus, but there is little in the way of firm information which suggests when any delivery might commence. Total units over time are expected to number 300 and the Council has suggested delivery of 91 can be expected over years 4 and 5 of the 5 year period. However, it seems that the site has been beset by delays over the years and although Homes England will no doubt assist in bringing a scheme or schemes forward there is at present no indication of when that might be. A masterplan has been commissioned and some demolition has been authorised. But I have no tangible evidence of significant progress towards the preparation or submission of planning proposals. In my judgement this scheme is not likely to make any contribution to the delivery of dwellings over the 5 year period. I therefore discount the 91 suggested by the Council.

13. Watlington NDP B & C (1938 and 1939) do not have planning permission as yet and await a S106 agreement. Pre application discussion for reserved matters have been held, but it is clear that the outline permission has already been significantly delayed by the current lack of a S106 agreement. Given that developer trajectories were based on earlier dates for the S106 agreement it seems likely that there will be some delay. Each of these sites is expected to contribute 60 dwellings, with first deliveries in year 3 and full build out within the 5 year period. Given current delays and the evidence before me I consider that to be overly optimistic. However, I do accept that some delivery is likely on these sites and I therefore discount the Council's expectations by a total of 60 units (50%).
14. Bayswater Brook, Elsefield (1895) is an allocation made in the South Oxfordshire Local Plan 2035 (LP) for 1100 dwellings. A hybrid planning application is expected in early 2022. The difference between the parties relates to predicted trajectories. On a large site such as this evidence suggests that lead-in times are elongated (as reported in the document authored by NLP³ and submitted by the Appellant). That leads the Appellant to conclude that no delivery is likely on this site in the 5 year period. I agree with that position. Indeed the Council only predicts delivery commencing in year 5 and in my judgement that is overly optimistic (albeit that the Council is not as optimistic as the developers). I recognise that the trajectory before me formed part of the evidence base for the Local Plan Examination in 2020, but I must deal with the information now. From what I have read and heard I consider that the Appellant's evidence is more compelling in this case. I discount 50 dwellings from supply for this reason.
15. Northfield, Garsington (1894) is similar to the previous site in being an allocation of the LP, in this case for 1800 dwellings. My comments on this site mirror those on the previous site, but in this case I note that the rate of progress is reported as being slower, and this leads me to discount the 50 dwellings predicted by the Council.
16. On the basis of the above I discount a total of 431 dwellings from sites which currently have no planning permission. The Council's supply position therefore reduces from 6101 to 5670. With an agreed requirement of 5727 that equates to a supply of 4.95 years. I turn now to consider, briefly, one of the other disputed sites on which I am not satisfied delivery will take place at the pace predicted by the Council.

³ Start to Finish, How Quickly do Large-Scale Housing Sites Deliver? Nathaniel Lichfield & Partners (November 2016)

17. Wheatley Campus (1418) is still occupied by Oxford Brookes University. An outline planning permission has been granted. Although the University has indicated its intention to dispose of the site and vacate it over time, there is no firm evidence of the timescale for this other than an intention to fully exit the site by 2024. I accept that some facilities may well have moved already, but the information before me is that the site has not yet been marketed. Any timescales for reserved matters application(s) are therefore unknown. The trajectory suggested by the Council would see delivery begin in the year of 2024/25. That seems unlikely, certainly on the scale suggested, unless the University had moved out earlier than intended. On the balance of evidence before me I accept the evidence of the Appellant as being more persuasive here. This results in a further 168 dwellings being discounted from delivery. That would leave the supply position at about 4.8 years.
18. In light of this finding I do not need to consider in detail the other sites in dispute. Suffice to say that I do find the Appellant's evidence cogent in many respects, but not necessarily to the extent that all of the predicted shortfall in delivery would occur. Inevitably, as is often the case in situations such as this, the actual outturn is likely to be somewhere between the respective assessments of the Council and the Appellant. However, I lean towards the more cautious approach of the Appellant. For that reason it is my considered judgement that the Council is not in a position to demonstrate that it has a 5 year supply of deliverable housing land. In reality it is likely to be somewhat short of the, roughly, 4.8 years I have indicated above, but not as low as the 4.18 years calculated by the Appellant.
19. The lack of a 5 year supply is significant, of course, in that it triggers the 'tilted' balance as set out in paragraph 11 of the NPPF. The policies that are most important for determining the appeal are deemed to be out of date. That does not mean that they carry no weight, however, and I deal with that point in considering the other main issues.

Character and Appearance

20. The appeal site itself is made up of 5 fields. The southern 4 fields are relatively narrow and elongated, are currently pastureland, and have a strong east to west orientation. They are divided by vegetation consisting mainly of mature trees and significant hedgerows. The northernmost field is in arable use and is more open, being wider, although it is also surrounded by vegetation. Land immediately to the east of the site forms part of the North Wessex Downs AONB, albeit that Hadden Hill Golf Club adjoins much of the appeal site and is atypical of the character of the AONB. The site is well enclosed and there is little impression of the surrounding landscape from within it.
21. The area falls within the ambit of various landscape studies, the most relevant of which deal with the finer grain of this particular locality. Key characteristics of the area are described in terms such as gently rolling topography, medium to large fields bounded by hedgerows, predominantly rural and arable character but with intrusions of built form at Didcot, some tree cover and woodland blocks, comparatively strong landscape structure, extensive views from hilltops, and intervening transport corridors. These descriptions are applicable in large part to the wider landscape around the appeal site, and to the northernmost field. However, the 4 southern fields have a more intimate

- feel. They are strongly enclosed and, although clearly never part of a formal parkland composition, have something of the feel of parkland.
22. A landscape capacity study from 2017 assessing sites on the edge of towns, including Didcot, found the western part of the appeal site (with land further north) to have medium visual, landscape and wider landscape sensitivity. Overall landscape sensitivity of the study area is assessed as being medium/high partly as a result of being in the setting of the AONB. However, it is interesting to note that the study finds that the southern part of the site studied (which is the western part of the appeal site) has a distinct character. Potential impacts of development of the study area include some matters which would not result from the proposed development, such as the loss of views across open fields to Wittenham Clumps, and loss of views of the listed farmhouse to the north. Other impacts would result from the appeal proposal, including the loss of pasture and meadow.
23. The Appellant has assessed the landscape susceptibility and sensitivity of the appeal site as medium to high. This accords with the landscape capacity study noted above, albeit that the appeal site would extend further to the east. That seems to me to be a reasonable conclusion. I am less convinced that the appeal site warrants an assessment of high susceptibility and sensitivity. Similarly I do not agree that the landscape of the site should be afforded high value, rather than the medium value assessed by the Appellant. None of the site is within a designated landscape, and though the pastoral fields are not common hereabouts, they are not so distinctive that they could be said to bring the site into the category of a valued landscape in the terms set out in the NPPF. There is nothing in the assessment of the appeal site which suggests that it has any characteristics which take it beyond the ordinary and into the category of being valued. The presence of a large number of protected trees is of course a visual benefit, and adds to the attraction of the site, but it does not add sufficient to elevate the site to something which is atypical and more valuable than the general landscape hereabouts.
24. The adjacent AONB has little intervisibility with the appeal site. Any views to and from the AONB are limited to a narrow section in the north-east corner of the appeal site. Elsewhere topography, strong boundary vegetation and the planting on the golf course limit any visible interaction. The character of this part of the AONB is well set out in the Integrated Landscape Character Assessment. The section dealing with the Moreton Plain includes descriptors similar to those used in other studies, such as large arable fields, clumps of woodland, and the influence of Didcot. The assessment also notes that the scale of landform is not as dramatic as that to the south. A key issue is the potential for development to impinge on AONB boundaries, particularly at Didcot.
25. Drawing these various threads of study and evidence together I have little difficulty in accepting that the landscape character of the appeal site is of medium value and sensitivity. The value of the AONB immediately to the east is, of course, very high (by definition). Hence this proposed development, in the setting of the AONB, must pay due regard to that situation.
26. The appeal site has advantages in that it is well enclosed by topography and vegetation. The development proposed, as set out on the parameters plan, would not directly impinge on the AONB. Intervisibility would be minor in

- nature. Furthermore, that intervisibility would include the strong influence of Didcot itself, such that the appeal development would not add to that influence on character in any material way. The magnitude of change to the setting of the AONB would be small, and I agree with the Appellant's assessment that the effect on the character of the AONB and its setting would be at worst minimal. The Council's suggestion that the effect would be moderate and adverse is not borne out by the evidence or my site visits.
27. There is much agreement between the main parties in relation to landscape effect in the wider area, including land to the north, south and west which is not within the AONB. Landscape effects are assessed as being negligible, and I agree with those assessments. Of course the site itself would change and the landscape effect here would be greater. However, given the nature of the proposals and the retention of high levels vegetation I am satisfied that the effect would be no more than minor to moderate and adverse.
28. There is also a measure of agreement in relation to the visual impact of the proposal. Because of the limited extent of the intended built area on site, the retention and supplementing of vegetation, and the limited public access, from the majority of viewpoints effects are assessed as no more than minor to moderate adverse levels. The public footpath which crosses the north of the site and links into the AONB provides the most critical viewpoints. The sensitivity of receptors here is high to very high. When crossing into the AONB and venturing further to the east the tranquillity of the area becomes greater, and the sensitivity of the receptor to change increases. However I do not consider that this occurs immediately on leaving the appeal site since the influence of the urban area of Didcot (albeit that this is behind the receptor) is still important. The development of the dwellings in north-east Didcot will enhance this influence to a greater degree over time.
29. Those walking the public footpath in an easterly direction will be anticipating the AONB and would pass the proposed development quite quickly, its visual influence waning rapidly. In the alternative, walking towards the west, the eye is drawn to the built up area of Didcot, and the proposed development would appear as a minor and relatively unobtrusive element of the town. There would be a moderate and adverse impact on visual amenities in the short term, but over time as the proposed open space and landscaping matures the impact would reduce to a minimal level. Similarly I consider that the impact from the bridleway to the east of the golf course would be minor at any stage of development. My assessment therefore differs from that prepared by the Council, which in my judgement overstates any adverse impacts.
30. Taking this issue in the round it is my conclusion that the proposed development would have some short term adverse impact of a minor to moderate nature, but in the longer term the impact would be mainly restricted to the site itself. The overall effect on the character and appearance of the landscape generally, and the setting of the AONB in particular, would be small. I accept that the development has been designed to date, and could be further developed, in a manner which ensures the minimisation of impacts on the AONB setting, in accordance with the advice of the NPPF.
31. LP Policy ENV1 does not strictly follow the advice of the latest NPPF in that it sets a higher bar for development in the setting of an AONB. It is therefore inconsistent with the NPPF to a degree, and this lessens the weight I attach to

the policy. In any event the proposal would accord with part 2 of ENV1 as it would, amongst other matters, for example, make provision for the protection and enhancement of trees and vegetation, and would not materially impact on skylines or perceptual features. Given the inconsistency of Policy ENV1 with the NPPF the minor nature of the conflict with it (first bullet point of part 1 of the policy only) the conflict is of little weight in this appeal. I do not subscribe to the suggestion that part ix) of Policy STRAT 1 (which has an overall objective of protecting and enhancing countryside and areas within the AONB) can be read separately. ENV1 is logically a more detailed development of STRAT1 and in my judgement should be read as the primary policy dealing with landscape matters in this case.

Spatial Strategy and Planning Balance

32. As noted above the most important policies for determining the appeal are out of date. This is notwithstanding the relatively recent adoption of the Local Plan. The overarching objectives of the LP are set out in Policy STRAT1. This includes that major new development should be focussed in the Science Vale, including sustainable growth at Didcot Garden Town (DGT). Policy STRAT 3 deals with DGT itself. This policy sets out detailed objectives for development within the DGT masterplan area. The masterplan area is identified clearly and the boundary is uncontentious. The appeal site falls within it and is shown as an undesignated area in the DGT delivery plan, though with various aspirations for some woodland on the land. It was described as 'white land' at the inquiry but I have not seen any suggestion that this is a formal status. The DGT delivery plan is not intended to be prescriptive and indicates that it is not a rigid blueprint, and that flexibility is critical given the delivery period expected of some 15 years. The delivery plan has no formal status and its aspirations therefore carry limited weight. Nonetheless it identifies the area of north-east Didcot to the west of the site (where housing delivery is underway) and Ladygrove East, which is an allocated site, a short distance to the south of the appeal site.
33. Policy STRAT3 (part 2) indicates that housing allocations in Didcot are made in Policy H2 (to which I refer below) and that development in the masterplan area will be expected to follow the masterplan principles (part 6). I am satisfied that the proposal would be capable of following those principles, which largely deal with the physical form of development. Furthermore I consider that there is nothing in the appeal proposals which conflicts with any part of the policy as a whole save for the potential to be in breach of part 2.
34. LP Policies H1 and H2 are most important. H1 is permissive of housing on allocated sites (some carried forward from previous plans). If not allocated the policy sets out a number of criteria which any proposed development should meet. The appeal proposal does not satisfy any of the criteria. Furthermore it is not encompassed by any other part of the policy; the proposal therefore conflicts with Policy H1. That conflict is acknowledged by the Appellant. Policy H2 seeks to make provision for new housing in Didcot. The appeal site is not one of the allocated sites and gains no support from that policy. But in any event Policy H2, although providing for the delivery of 6339 homes on named sites, does not deal specifically with other sites (those are dealt with by Policy H1). The weight attaching to those policies is reduced as they are out of date.

35. There is nothing in the LP which specifically rules out development on non-allocated or not currently committed sites albeit that the most important policies are clearly seeking to direct housing delivery to certain locations. I note that the Inspector who found the LP sound indicated that it would not be appropriate to indicate that housing would be permissible anywhere within the DGT area as it is necessary to maintain control over the spatial and phasing aspects of the DGT growth. But that was against the background of the then expected delivery rates and maintenance of a 5HLS, which has not been shown to be occurring. So whilst there is no housing provision policy support for the proposals, they must nevertheless be considered on the basis of their own merits against a shortfall in the 5HLS. An indisputable element of any determination of a planning proposal is that other material considerations are, depending on the facts, capable of outweighing conflict with the development plan.
36. In essence it seems to me that the judgement which has to be made in this case is quite simple. If the proposed development is in conflict with the development plan, and there is no 5HLS so triggering the tilted balance, it is necessary to make a judgement on whether the adverse impact of the development plan conflict, and any other identified harms, significantly and demonstrably outweigh any benefits of the proposal. I have taken account of the judgement in *Crane*⁴ when the lack of a 5HLS was not sufficient in itself to justify development on a non allocated site adjacent to a village. This proposal seems to me to differ in that it relates to a site within the DGT masterplan area and the Science Vale, where development is to be concentrated. It has marked differences to *Crane*, which was considered in the context of a recently made Neighbourhood Plan. In any event the judgement and balance made in the *Crane* case decision was made on the facts of that case. That is the procedure I follow here – the case before me has its own specific considerations.
37. To summarise here on the most important policies and their impact on the proposal, I accept in part the case put by the Appellant. The essential reason for the refusal of permission in relation to the spatial strategy is that the site is not allocated. However in this regard it does not offend Policies STRAT1, STRAT3 or H2 in any different way to the conflict with H1. The point of conflict, if accepted for all those policies, is the same point of non-allocation and that it has not been intended for development. However, any conflict with STRAT1 is in my judgement of limited weight since one of its objectives is to concentrate development in the Science Vale and DGT, which this development would achieve. Similarly, any conflict with STRAT 3 is essentially the same as conflict with H1. I therefore agree that conflict with the development plan is quite narrow but is nevertheless important in my consideration of this proposal. The development plan is the starting point for any decision, and in my judgement the development plan retains a significant degree of weight despite the most important policies being out of date.
38. I note here that with regard the aspirations of the DGT masterplan, which are to be treated flexibly, that these are being addressed in just such a manner to the west of the appeal site. Here, an area of land at Ladygrove Farm, shown as retained open land on the masterplan, is being treated as an opportunity to provide housing. I do not accept that it was mistakenly shown on the masterplan as open land since this occurred on multiple different iterations of

⁴ Crane v SoS For Communities and Local Government and Harborough DC [2015] EWHC 425

the illustrations. The DGT delivery team has not objected to the development of this land and it indicates that the masterplan is indeed being treated with the intended flexibility. Although no decision has been made on that proposal it is included in future housing supply (at least in part) in the Council's 2021 monitoring report. Thus, in accepting a site for development previously being put forward as open space in the DGT masterplan it is clear that other material considerations are legitimately being taken into consideration. Whether or not the Ladygrove Farm site was or was not always intended as part of the housing provision of North-East Didcot (which seems unlikely given the evidence available) it is apparent that it has now been brought into play as a housing site to assist with delivery. A balanced judgement to reach that position must have been taken. In contrast, the Council's planning evidence in the case before me concentrated on the conflict with the development plan and failed to adequately address other material considerations in any meaningful way. In any case the development at Ladygrove Farm is not determinative in my consideration of this case.

39. I therefore turn to deal with those the other considerations which are put forward as benefits of the scheme. The need for housing in South Oxfordshire is not disputed. This proposal would bring a significant number of homes into the supply in a mix which accords with the aspirations of the development plan. The unmet need for housing remains nationally, and the NPPF retains in its latest iteration the desire to significantly boost the supply of housing. In this particular locality the need for housing to support the local economy in the Science Vale is not challenged and delivery has not so far been achieved at the rate required. I am not persuaded that sites will come forward at a sufficiently rapid rate in the future to make up for the initial lack of delivery. As a result I afford significant weight to the delivery of up to 150 homes.
40. In addition, the appeal site would deliver up to 60 affordable homes. This was a matter which was afforded substantial weight in a recent decision by the Secretary of State relating to a site in South Oxfordshire⁵. In that case the levels of affordability (or lack of) were described as 'eye-watering'. There is nothing before me which suggests that affordability has become any easier in the intervening period. Indeed, the Council accepts that the need is acute and has grown since that appeal decision. Lack of affordable housing also has an impact on the local economy. I agree that the provision of affordable housing here in accordance with the development plan should be afforded substantial weight.
41. As I have noted above the DGT delivery plan aspires to provide woodland on at least a part of the appeal site. There is, though, no identified mechanism by which to deliver that aspiration. In the event that planning permission for development is not granted it seems unlikely that any woodland would be provided in the foreseeable future. The scheme before me, however, would provide extensive areas of open space and the potential for significant tree planting. This would go some way towards meeting the DGT delivery plan aspirations. The scheme itself has been described as landscape led, and to a large extent I accept that description. The retention of trees and hedgerows, and the integration of housing into the landscape, would lead to a largely green edge to this part of Didcot. This ability to assist with the aspiration for creating a green buffer for the town incorporated within over 8 hectares of public open

⁵ APP/Q3115/W/19/3230827

space carries significant benefit. It also accords with the advice of the NPPF, which seeks to support the provision of high quality open spaces.

42. Alongside the provision of open space and the opportunity for extensive landscaping the Appellant has calculated a biodiversity gain in excess of 50% using current metrics (V2), and almost 30% using likely future metrics (V3). That far exceeds the current target of 10% and is a further consideration which weighs moderately in favour of the scheme.
43. It is axiomatic that the provision of new homes on the land would bring some economic benefits, but this would be true of any development on any site in South Oxfordshire. This is therefore a benefit of limited weight in relation to this specific site.
44. The appeal site is itself locationally acceptable. It is about a 20 minute walk from Didcot railway station (a little more from the farthest reach of the site) and the town centre. It is an easy walking route and would be made more so by the provision of highway crossings (which is covered by the S106 Agreement I deal with later). Similarly access by cycle would be readily achieved. I afford this locational suitability moderate weight.
45. That the homes proposed would be deliverable, at least in part, within 5 years, is not contentious. In order to facilitate that the Appellant has offered to accept a condition reducing the time available to make reserved matters applications. I am not aware of any technical impediments to an expeditious implementation of the scheme, and this is a matter in its favour to which I afford additional weight.

Overall Balance

46. The proposed development is in conflict with the development plan. The most important policies of the development plan are of reduced, but still significant, weight because of the lack of a 5HLS. There would be minor harm in respect of the impact on character and appearance. On the other hand the material considerations weighing in favour of the proposed development are of greater weight. The weight to the provision of market housing is significant, whilst affordable housing provision is a substantial benefit. The provision of a large area of open space is also of significant weight, and sits alongside other benefits including biodiversity gain and economic benefits. In my judgement the adverse impacts of granting planning permission (conflict with the development plan and limited landscape harm) do not significantly and demonstrably outweigh the benefits of the proposal. For that reason the proposal is sustainable development and the appeal succeeds.

Conditions

47. A list of conditions was provided at the inquiry which was largely agreed in the event of planning permission being granted.
48. In order that the development would have the greatest impact on housing delivery I agree that a reduced timeframe for the submission of reserved matters would be reasonable in this case. It is also reasonable that the reserved matters application(s) should be accompanied by a design code in order to ensure a high quality development. Further details required at reserved matters stage can be ensured by necessary conditions.

49. Conditions to ensure biodiversity enhancement, landscape management, bat mitigation measures and construction management are necessary and reasonable to ensure the development is satisfactorily assimilated into the local environment.
50. A number of pre-commencement conditions are necessary to ensure that the development can be delivered to a suitable standard and in order to mitigate any potential harmful effects. Other conditions are necessary to ensure that prior to first occupation of the dwellings they have suitable access, adequate services, suitable energy efficiency and electric vehicle charging points. Additional conditions are reasonable in order to protect the living conditions of occupants of the development and those surrounding. Conditions specifying the maximum number of dwellings on site and the mix of market dwellings are reasonable and necessary in order to ensure the development is satisfactory.

Planning Obligation

51. An agreement pursuant to S106 of the 1990 Act has been submitted which deals with a number of matters. Contributions would be paid to the District Council to enable the provision of refuse containers and for street naming and numbering. Further contributions would be made to the County Council to facilitate the provision of education provision, public rights of way improvement, improvement to public transport, highway improvements and a travel plan monitoring contribution. In addition the obligation requires the provision of highways improvements and crossings, affordable housing to meet development plan requirements, and the establishment of a management company to provide for the maintenance of the open space and equipped play area. All associated drawings and plans are specified in the obligation.
52. I have been provided with comprehensive compliance statements detailing how the various strands of the obligation meet the tests of the community infrastructure regulations. Based on those statements I am satisfied that the obligation meets those tests and can therefore be fully taken into account by me in reaching my decision.

Other Matters

53. I understand the position of the DGT delivery team, and the Didcot Town Council. Each is concerned that housing growth, though necessary, should be managed in a structured way. Nevertheless, the lack of a demonstrable 5 year supply of deliverable housing land is a significant situation. It does not mean that housing could, or should, be provided anywhere, but it does mean that suitable sites should be given proper consideration. In this case it is my judgement that in order to enhance delivery of much needed housing this site is acceptable and would not cause unacceptable harm to the objectives of the development plan or the delivery of the wider DGT.

Overall Conclusion

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

Philip Major

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 takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall comprise no more than 150 dwellings.
- 5) The development hereby approved shall be carried out in accordance with the following approved plans:
 - Site Location plan SLP-01 Rev P1
 - Parameter Plan MANO190729 PP-01 P7
 - Site Access Option 195072 A03 Rev A
 - Proposed Toucan Crossing 196072-A2-01
- 6) The reserved matters application shall be accompanied by a Design Code, which shall have previously been approved in writing by the local planning authority in advance of the submission of the reserved matters. The Design Code shall include illustrations, sections and block testing to demonstrate the development principles of the development and shall follow the overarching principles set out in the North East Didcot Design Code. The reserved matters application shall demonstrate how it accords with the Design Code.
- 7) The reserved matters for the scheme shall be designed to secure the following mix of market dwellings:
 - 1 bed - 6%
 - 2 bed - 27%
 - 3 bed - 43%
 - 4 bed - 24%or in accordance with a mix that shall be set out for approval as part of the reserved matters submission to reflect the latest housing needs assessment.
- 8) The following additional details shall be submitted with the reserved matters application:
 - Details of vehicle and cycle parking for all dwellings;
 - Details of recycling/waste storage for all dwellings;
 - Details of all boundary treatments;
 - Details of all street lighting and street furniture;
 - Tree planting on estate roads;
 - Existing and proposed ground levels.

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

- 9) Concurrent with the submission of the reserved matters application, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the local planning authority. The BEP should be broadly in accordance with the outline details of habitat enhancements outlined in section 6 of the supporting Ecological Appraisal (Aspect Ecology, 30/04/2020). The BEP should include:
- Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required;
 - Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate;
 - Selection of appropriate strategies for creating/restoring target habitats or introducing target species;
 - Selection of specific techniques and practices for establishing vegetation;
 - Sources of habitat materials (e.g. plant stock) or species individuals;
 - Method statement for site preparation and establishment of target features;
 - Extent and location of proposed works;
 - Full details of a biodiversity metric assessment to demonstrate a biodiversity net gain.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements shall be delivered prior to the final occupation of the development.

- 10) Concurrent with the submission of the reserved matters, a maintenance schedule and a long-term management plan (for a minimum period of 20 years), for the soft landscaping works shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall include:
- Details of long-term design principles and objectives;
 - Management responsibilities, maintenance schedules and replacement provisions for existing retained landscape features and any landscape to be implemented as part of the approved landscape scheme including hard surfaces, street furniture within open spaces and any play/youth provision;
 - A plan detailing which areas of the site the Landscape Management Plan covers and also who is responsible of the maintenance of the other areas of the site;
 - Summary plan detailing different management procedures for the types of landscape on site e.g. Wildflower meadows, native or ornamental hedgerows.

The schedule and plan shall be implemented in accordance with the agreed programme

- 11) The reserved matters submission shall be accompanied by a site-wide bat mitigation strategy, consistent with the recommendations made in section 4.4 of the supporting Bat Activity Survey Report (Aspect Ecology, 16/09/2020), which shall previously have been submitted to and

approved in writing by the local planning authority. The site-wide bat mitigation strategy shall:

- Identify existing habitats and features on site of importance to roosting, commuting and foraging bats which must be retained and protected on site;
- Identify areas on site where habitat creation and enhancement will take place to benefit the local bat population;
- Identify areas where external lighting on site must be avoided or minimised (dark corridors); and
- Set parameters for external lighting in areas outside of dark corridors to minimise the impacts of light spill on foraging and commuting bats.

The reserved matters application shall accord with the approved provisions in the site-wide bat mitigation strategy.

- 12) Concurrent with the submission of the reserved matters application, a scheme of mitigation measures to protect future residents from noise from the adjacent B4016 shall be submitted to and approved in writing by the local planning authority. The development shall be built in accordance with the approved scheme prior to first occupation of any of the dwellings to which the noise mitigation relates. The approved mitigation measures shall be retained thereafter.
- 13) Prior to the commencement of the development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
 - Updated ecological surveys for relevant habitats and species. Updated surveys shall follow national good practice guidelines;
 - Risk assessment of potentially damaging construction activities;
 - Identification of "biodiversity protection zones";
 - Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;
 - The location and timing of sensitive works to avoid harm to biodiversity features;
 - The times during construction when specialist ecologists need to be present on site to oversee works;
 - Responsible persons and lines of communication;
 - Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 14) Prior to the commencement of the development hereby approved an Energy Statement shall be submitted to and approved in writing by the local planning authority. The Energy Statement shall include Standard Assessment Procedure (SAP) calculations in line with the recognised methodology set by Government, demonstrating how the development will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations.

- 15) Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. This shall be based on the Flood Risk and Drainage Assessment by Martin Andrews Consulting reference 277-FRA-01-B dated April 2020, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall also include:
- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
 - A range of SuDS techniques throughout the site to manage water quantity and maintain water quality;
 - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - Infiltration tests to BRE 365;
 - A Flood Exceedance Conveyance Plan;
 - Detailed design drainage layout drawings of the SuDS proposals including cross sections as appropriate;
 - SUDS and drainage construction details to include flow controls, headwall and trash screen details;
 - A condition survey of the culvert taking the watercourse below the adjacent highway and any watercourse along boundaries or within the confines of the site along with any maintenance remedial proposals necessary for the effective drainage of the site;
 - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
 - Details of how water quality will be maintained during construction.

No dwelling shall be occupied until the surface drainage works to serve that dwelling have been carried out and completed in accordance with the approved details.

- 16) Prior to the commencement of the development, a detailed foul water drainage scheme shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and no dwelling shall be occupied until the foul water drainage works to serve that dwelling have been completed.
- 17) Prior to the commencement of the development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority. 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.
- 18) Prior to the commencement of the development a professional archaeological organisation acceptable to the local planning authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the local planning authority.
- 19) Following the approval of the Written Scheme of Investigation referred to in condition 18 and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of

Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the local planning authority within two years of the completion of the archaeological fieldwork.

- 20) No operations shall take place within the construction exclusion buffer zone as shown on the parameter plan unless previously notified to and authorised in writing by the local planning authority. Such operations shall take place strictly as approved. Any unauthorised operations which take place within the construction exclusion buffer zone shall cease immediately and be reported in writing within 2 working days to the local planning authority.
- 21) Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice such as CLR11 Model Procedures for the Management of Land Contamination and BS10175 Investigation of potentially contaminated sites. Each phase shall be submitted to and approved in writing by the local planning authority.

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

Phase 3, if required, shall include a remediation strategy which is to be submitted to and approved in writing by the local planning authority to ensure the site will be rendered suitable for its proposed use.
- 22) 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.
- 23) Prior to the first occupation of each dwelling hereby approved, a verification report shall be submitted to and approved in writing by the local planning authority. The verification report shall demonstrate (with photographic evidence) that the energy efficiency measures approved in the energy statement for that dwelling have been implemented in accordance with the approved energy statement. These measures shall be retained and maintained as such thereafter in accordance with the energy statement and verification report.
- 24) Prior to the first occupation of the development hereby permitted, a scheme outlining mitigation measures to address any adverse impacts on local air quality shall be submitted to and approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved details prior to occupation, or in accordance with a programme agreed in writing by the local planning authority.
- 25) Prior to the first occupation of any dwelling hereby permitted, a scheme to provide each house with on-plot electric vehicle charging points shall

- be submitted to and approved in writing by the local planning authority. The scheme shall also include electric vehicle charging points for communal parking and on-street parking and shall be implemented as approved and retained thereafter.
- 26) Prior to the first occupation of the development hereby permitted, details of the means by which the dwellings may be connected to the utilities to be provided on site to facilitate super-fast broadband connectivity shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 27) Prior to occupation of the dwellings hereby permitted the proposed means of access onto the B4016 shall be formed and laid out and constructed strictly in accordance with the local highway authority's specifications and all ancillary works specified shall be undertaken.
 - 28) Before any of the initial 70 dwellings hereby permitted are first occupied, the estate roads and footpaths (except for the final surfacing thereof) serving those 70 dwellings shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming shall be put in place in accordance with Oxfordshire County Council's specifications.
 - 29) Before any of the dwellings after the initial 70 have been occupied, are first occupied, the whole of the estate roads and footpaths (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 Oxfordshire County Council's specifications.
 - 30) Prior to the commencement of development details and specification for estate access, driveways and turning areas shall be submitted to and approved in writing by the local planning authority. The proposed vehicular accesses, driveways and turning areas shall be constructed, laid out, surfaced and drained in accordance with approved details prior to first occupation of any dwellings.
 - 31) Prior to the first occupation of the development a residential travel plan for the encouragement of the use of sustainable modes of transport shall be submitted to and approved in writing by the local planning authority. It shall include a travel plan statement and details of a travel information pack to be provided to the first residents of each dwelling upon occupation. The travel plan shall be implemented upon occupation of the first dwelling and thereafter updated upon 50% occupation (75th dwelling). It shall be monitored and reviewed in accordance with details to be set out in the approved plan.
 - 32) If proposed, 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 shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and a programme for the works) has been submitted to and approved in writing by the local planning authority. Any piling shall be undertaken in accordance with the terms of the approved piling method statement.

- 33) The dwellings hereby approved shall meet the following requirements:
- all affordable housing and at least 15% of market housing shall be designed to meet the standards of Part M (4) Category 2: accessible and adaptable dwellings;
 - at least 5% of affordable housing dwellings shall be designed to meet the standards of Part M (4) Category 3: wheelchair accessible dwellings; and
 - all affordable housing and 1 and 2 bed market housing dwellings shall be designed to meet the Nationally Described Space Standards.

Upon completion of the development evidence of construction to these standards shall be provided to the local planning authority if requested.

- 34) Construction works shall take place only between 07.30 and 18.00 on Mondays to Fridays, and between 08.00 and 13.00 on Saturdays. Construction works shall not take place at any time on Sundays or on Bank or Public Holidays.
- 35) No more than 50 dwellings shall be occupied until confirmation has been provided that either:
- All water network upgrades required to accommodate the additional flow have been completed; or
 - A development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.
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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Cosgrove He called	Queen's Counsel
Mr L Robertson MA Dip(UD) BSc(Hons) MRTPI	Independent Chartered Town Planner.
Mr P Radmell MA BPhil CMLI	Independent landscape practitioner – took part in the landscape round table session.
Mrs T Smith BA(Hons) BTP MRTPI	South Oxfordshire District Council – took part in the housing land supply round table session.

FOR THE APPELLANT:

Mr Richard Ground Mr B Du Feu They called	Queen's Counsel Of Counsel
Mr G Armstrong BA(Hons) MRTPI	Director, Armstrong Rigg Planning – gave evidence and took part in the housing land supply round table session.
Ms S Gruner BHons (landscape Architecture) CMLI	Associate Landscape Architect, CSA Environmental - took part in the landscape round table session.

INTERESTED PERSONS:

Mr A Sabato	Didcot Garden Town Project Officer.
Dr N Hards	Local Resident.
Cllr D Rouane	Didcot Town Council
Officers of Oxfordshire County Council	Attended for the discussion relating to the S106 Agreement.
Mr J Bancroft	Vectos – attended on day 1 for the Appellant to answer any questions on the agreed highway position.



Appeal Decision

Inquiry Held on 16 December, 20-23 December 2021 and 6-7 January 2022
Site visit made on 11 January 2022

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

an Inspector appointed by the Secretary of State

Decision date: 1st February 2022

Appeal Ref: APP/R3650/W/21/3280136

Land off Scotland Lane, Scotland Lane, Haslemere GU27 3AN

- 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 Redwood (South West) Limited against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1213, dated 28 July 2020, was refused by notice dated 23 July 2021.
 - The development proposed is the erection of a residential development including associated parking, landscaping, open space and infrastructure.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a residential development including associated parking, landscaping, open space and infrastructure on Land off Scotland Lane, Scotland Lane, Haslemere GU27 3AN in accordance with the terms of the application, Ref WA/2020/1213, dated 28 July 2020, and subject to the conditions in the attached schedule.

Procedural Matters

2. A draft planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) between the Appellant and the Council was submitted at the Inquiry. A signed and dated version was submitted after the event. The obligation relates to the provision of affordable housing, the management of public open space, play space and sustainable urban drainage as well as the management of the permissive path and circular walks.
3. The Council and the Appellant provided Statements of Common Ground (SoCG) with regard to planning matters and housing land supply. A revised SoCG regarding housing land supply was agreed and submitted to the Inquiry during the event. A further SoCG was provided on 5 January 2022 in response to comments made by Councillor Hyman with regard to the Wealden Heaths II Special Protection Area (SPA) and the requirement for Appropriate Assessment.
4. The Council refused planning permission citing four reasons. It is agreed between the parties that all matters relating to reasons 2, 3 and 4, regarding ecology, highways and the piecemeal approach to development, have been

addressed with the submission of additional information. As there remain no differences between the Council and Appellant on these matters, I do not deal with them as main issues. However, as ecology and highway issues remain of concern to several residents, I have addressed them in other matters.

5. After the Inquiry closed, an appeal decision was issued for a proposed residential development at Loxwood Road, Alford¹. The main parties were asked for comments on whether this decision had any implications for their respective cases. I have taken these comments into account.

Main Issues

6. In light of the above, I consider the main issues to be as follows:
 - the effect of the proposal on the character and appearance of the Area of Great Landscape Value, the wider countryside, the setting of the Surrey Hills Area of Outstanding Natural beauty and the character and appearance of Museum Hill and Old Haslemere Road;
 - whether the Council can demonstrate a five-year supply of deliverable housing land against the housing requirement;
 - whether the proposal would preserve the setting of the Grade II listed buildings at Red Court.

Reasons

Policy Context

7. The appeal site comprises an area of around 4.9 ha to the south of Scotland Lane, Haslemere. The site lies in open countryside outside but adjoining the settlement boundary of Haslemere. It is also defined as within an Area of Great Landscape Value (AGLV) and within the setting of the Surrey Hills Area of Outstanding Natural Beauty (AONB).
8. The development plan for the area comprises the Waverley Local Plan Part 1 adopted in 2018 (LPP1) and the Waverley Borough Local Plan 2002 (Saved Policies 2007). It also includes the Haslemere Neighbourhood Plan 2013-2032 which was made in November 2021. The development plan policies applicable to this appeal are agreed by the main parties in the SoCG.
9. The Council is also in the process of preparing the Waverley Borough Council Local Plan Part 2: Site Allocation's and Development Management Policies (LPP2) which was formally submitted for examination to the Secretary of State on 22 December 2021. Whilst this document is well advanced, I am aware of a number of objections to it, such that I afford it limited weight in this appeal.
10. I am aware that the site has been promoted for development by the Appellant for some time and that it formed a draft allocation in earlier versions of LPP2. In the submission version of the document, the allocation has been removed.

¹ APP/R3650/W/21/3278196

Character and appearance

Landscape Character

11. The appeal site consists of four field enclosures consisting of grassland, woodland and paddocks. The site lies on a north facing ridge rising from Scotland Lane and is currently accessed by a narrow private track at the northeast corner of the site. The site has a wooded edge to Scotland Lane and is bound by existing residential development to the north and further properties on Scotland Close to the west. Red Court and Red Court Lodge, both Grade II listed buildings, lie to the south.
12. The site lies within National Character Area 120 Wealden Greensand. This is characterised by an undulating and organic landform, with semi natural habitats including lowland heath, small or medium fields in irregular patterns bounded by hedgerows, pastoral and arable land set within a wooded framework and large houses within extensive parks and gardens. Whilst this is a high-level assessment, I consider the site is representative of this Character Area.
13. The Surrey Landscape Character Assessment provides a more detailed analysis, describing the site as within the Hindhead Wooded Greensand Hills Landscape Character Area (LCA). This wraps around Haslemere and has key characteristics of a complex topography forming steep ridges, heavily wooded continuous blocks of woodland with pockets of heathland, smaller scale pastoral fields bounded by hedgerows, peaceful and remote due to its enclosed nature and limited access. Whilst I agree with the Appellant that the appeal site does not include heathland, it is not uncommon that an individual site does not include all characteristics of a particular LCA. My assessment is that the wooded pasture character is clearly evident on the site and the topography is complex with steep slopes and a north facing ridge. I observed on my site visit, that despite its proximity to Haslemere the site is relatively peaceful and feels remote. I therefore conclude that it is representative of this LCA.

Valued Landscape

14. The Council and the Haslemere Rule 6 Alliance argue that the appeal site forms a valued landscape, though this was not mentioned in the reasons for refusal, or in the Council's report to committee.
15. Paragraph 174 a) of the National Planning Policy Framework (the Framework) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
16. It is common ground that the criteria in GLVIA3² and the Landscape Institute Technical Guidance Note TGN 02/21 should be used to assess whether the site should be considered as a valued landscape. The Council and the Appellant use Table 5.1 in GLVIA3 whilst Haslemere Rule 6 Alliance use the Technical Guidance Note. They are very similar, using slightly different terms only. For the purposes of my decision, I use the criteria in GLVIA3.

² Guidelines for Landscape and Visual Impact Assessment Version 3, 2013

17. In terms of landscape quality, this is a measure of condition. The site has not been managed appropriately for a number of years, leading to the invasion of Japanese Knotweed and the dense spindly plantation woodland. I agree with the main parties that the landscape condition is medium. Turning to scenic quality, this is a term used to describe landscapes that appeal to the senses, primarily the visual senses. The site is well contained with views limited to close range locations. It does not therefore in my view satisfy this criterion.
18. In terms of rarity, whilst I accept that the site is characteristic of the Hindhead Wooded Greensand Hills LCA, which itself is limited in extent, enclosing the town of Haslemere, there is no evidence before me to suggest the site contains any individual features or elements that are rare. With regard to representativeness, whilst the site is representative of the LCA, I have not been advised of any particular character and /or feature of elements which are considered particularly important examples. Accordingly, this criterion is not satisfied.
19. Turning to conservation interest, the site is not subject to any ecological designations. It forms improved pasture and birch plantation. Ecological surveys have indicated that the site has some ecological value but there are no ecological constraints and there are no objections to the site's development by Natural England or Surrey Wildlife Trust. I concur with the Council that the site has moderate ecological interest.
20. The appeal site has no known cultural heritage and makes no cultural associations. Furthermore, it has no recreational value as this site currently has no public access. The Haslemere Rule 6 Alliance argued that this site did have some recreational value as walking along Scotland Lane to and from the wider countryside it would be passed adding to the enjoyment of the walk. This does not provide sufficient recreational value in the terms of the GLVIA criteria.
21. With regard to perceptual aspects, all parties agree the site is not 'wild'. I have no reason to disagree. In terms of tranquillity, the site is adjacent to the urban edge with residential development affecting the sense of tranquillity. Towards the southern boundaries of the site, at a greater distance from existing built form, a higher level of tranquillity is experienced. This is however typical of any site in this context and does not elevate the site to a valued landscape.
22. An additional criterion set out in the Landscape Institutes Technical Guidance Note is that of 'function'. The site does not in my view perform a clearly identifiable and valuable function. It is not part of an active agricultural holding, and it has a limited function in the visual setting of the AONB, a matter I will return to later. Whilst it provides a setting to Scotland Lane, the retention of boundary hedgerows will maintain this aspect of the site.
23. The identification of landscape value needs to be applied proportionately ensuring that the identification of a valued landscape is not overused³. Case law has confirmed that a valued landscape is a landscape that is more than

³ Landscape Institute Technical Guidance Note 2/21 p43

mere countryside but is landscape that has physical attributes which take it 'out of ordinary'⁴

24. I acknowledge that the site is valued by the local community and forms an area of attractive countryside. However, in my view, whilst the appeal site has a medium landscape quality and some ecological value, it does not meet the majority of the above criteria. I am not therefore persuaded that it forms a valued landscape.

Impact on the setting of the AONB

25. Paragraph 176 of the Framework states that development in the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Policy RE3 of the LPP1 requires new development to respect and where appropriate enhance the distinctive character of the landscape in which it is located. Part (i) of the policy concerns the Surrey Hills AONB and states that the setting of the AONB will be protected where development outside its boundaries harm public views from or into the AONB. Policy P6 of the Surrey Hills AONB Management Plan 2020-2025 reiterates this policy requirement, that development spoiling the setting of the AONB by harming public views into or from the AONB will be resisted.
26. The Appellant argues that there are no public views of the site from within the AONB. The Council's landscape witness agreed with this on cross examination. The Haslemere Rule 6 Alliance witness expressed uncertainty about whether the development would be able to be viewed on the skyline, particularly from Valewood Park to the south. I share the concern that the evidence does not clearly demonstrate this. However, at worst, the rooflines of houses on the northern boundary of the site would be visible above the tree line. However, this would be in the same view as the buildings at Red Court. In this context, I consider that should there be any visibility, it would have a negligible impact and cause no harm to public views. Accordingly, in this regard the appeal scheme would not conflict with LPP1 Policy RE3 (i) or with paragraph 176 of the Framework.
27. The Council has argued that the impact on the setting of the AONB does not only result from harm to public views but as Planning Practice Guidance (PPG)⁵ states, significant harm may occur through poorly located development in the setting of an AONB where the landscape character of land within and adjoining the designated area is complementary. I acknowledge that the appeal site falls within the same LCA as the adjoining AONB, the Wooded Greensand Hills. However, the site lies on the southern edge of Haslemere and is bounded by residential development on two sides. In spatial terms it therefore forms a logical extension to the settlement. I have already found that the scheme causes no harm to public views from or into the AONB. I am therefore not persuaded that the development can be described as poorly located.
28. I note that in 2013 a study was undertaken commissioned by Surrey County Council on behalf of Surrey Planning Officers Association and the Surrey Hills AONB Board, to assess the natural beauty of the Surrey Hills AONB. The site

⁴ Hewitt, R (on the application of) v Oldham Metropolitan Borough Council & Anor [2020] EWHC 3405 (Admin)

⁵ PPG Natural Environment (8) paragraph:042 Reference ID:8-042-20190721

is identified as a site for potential future inclusion in the AONB. Natural England have recently launched a boundary review. It is not possible to know at this stage, that this 2013 study will be relied on to inform the review. It may well be that further survey work is undertaken. The Planning Advisor to the AONB Board suggested that it is highly likely that the site would become AONB if the appeal is dismissed. Whilst the identification of the site is a material consideration, the outcome of the AONB review is currently unknown, the process is likely to take some time.

Impact on AGLV and surrounding countryside

29. LPP1 Policy RE1 seeks to recognise the character and quality of the countryside, consistent with paragraph 174 (b) of the Framework. LPP1 Policy R3 relates to landscape character. The overarching requirement is for new development to respect and where appropriate enhance the distinctive character of the landscape in which it is located. The policy then provides further guidance for specific areas. Part (ii) relates to AGLV. It states that the same principles for protecting the AONB, will apply in the AGLV, whilst recognising that the protection of the AGLV is commensurate with its status as a local landscape designation. The interpretation of this policy was the subject of considerable debate at the Inquiry.
30. The Council argue the decision maker should protect and enhance the character and qualities of the AGLV but bearing in mind that the AGLV is a local designation, that protection should be at a lower level. The Appellant suggests that because the appeal site is in the setting of the AONB, a decision maker should apply the second sentence of Policy RE3 (i), which protects the setting of the AONB where development outside its boundaries harm public views from or into the AONB.
31. I have considered all parties views and can see some logic in both arguments. However, in my judgment the Council's approach is the correct one. By applying a lesser level of protection, it is consistent with the Framework and distinguishes the hierarchy of international, national and locally designated sites. If the Appellant's approach were to be followed, assuming a situation where there was no conflict with RE3(i) then in applying the same principles, there could also be no conflict with RE3(ii). However, it is quite feasible that a scheme could cause no harm to the setting of the AONB but could cause harm to the AGLV in which it is located. Therefore, the same principles of protection should be applied to the appeal site as in the AONB but taking account of its status as a local landscape designation.
32. The section of AGLV in which the appeal site is located, forms a sliver of land at the southeast boundary of Haslemere and acts as a buffer to the AONB. The Appellant analysed the landscape types within it. The Council has criticised this analysis as it looks at land uses not landscape types. Land use however directly affects the character of an area. The area has a mixed land use, with existing high density residential development, woodland, fields and also large dwellings set in spacious plots. This establishes that residential development already exists in the AGLV. Accordingly, it follows that the development proposed would not in principle form a land use out of character in this area.

33. The appeal site has been the subject of a number of landscape assessments. The Council's Landscape Study – Part 2 Haslemere and Godalming 2014 found that the site had some landscape qualities, that it made a medium contribution to the settlement setting, had a moderate visual prominence, low intervisibility, moderate landscape sensitivity and medium landscape value.
34. The Council produced a Landscape and Visual High-Level Review of proposed allocated sites as part of its preparation for the LPP2 in October 2020. This stated that the appeal site had a lower level of intervisibility and was visually well contained. It described the sites sensitivity to change as low to medium due to the difference in character between the site and the wider area and the proximity of the site to existing residential development. The landscape value was judged to be medium, and it was considered that the site could accommodate housing within a retained landscape structure. It stated that the development of the site would not be of significant impact in the context of the settlement edge. The Council's Land Availability Assessment in November 2020 refers to this Landscape Study and concluded that the site is potentially suitable for development.
35. The Council has disagreed with these findings arguing that the site has a high landscape sensitivity on the basis of its high value and high susceptibility to residential development. The Council points out that the 2020 Study is a high-level review and a detailed site assessment was not undertaken. This is evident because reference is made to coniferous plantation which no longer exists. Despite this anomaly, the Study was prepared for a particular purpose and inevitably was more of an overview to assess the principle of whether a site was suitable for development. I have no evidence before me to suggest that the Study was not robust or undertaken in a professional way or that its conclusions are unreliable. The Council continues to rely on it as evidence to support the LPP2. It has value in assessing landscape sensitivity and capacity and I concur with its findings.
36. Turning to the impact of the development on the site itself, I shall first consider topography. The site is situated on a north facing slope, rising steeply towards the southern boundary. The land to the south beyond the site, around Red Court, marks the top of the hill. Scotland Lane has the character of a sunken lane, set approximately 1-1.5 metres below the level of the site.
37. In order to accommodate the appeal scheme, some dwellings would require the creation of a level platform, reprofiling of the ground levels and the provision of retaining walls. Whilst this would change the topography of the site in certain places, the overall profile would remain. Dwellings set within sloping ground is not uncommon in the local area and characteristic of the locality.
38. The proposed attenuation ponds set within the slope in the northwestern part of the site would require an element of cut and fill. This would change the topographical profile of this part of the site with a steeper grass slope, however the overall profile of the hill would remain. This would not be uncharacteristic of the area. Furthermore, the ponds would be viewed in the context of the open space area and the retained and additional planting

which would create an element of layering through which views of the features would be filtered.

39. The Appellant has prepared an Arboricultural Impact Assessment which identifies the existing tree stock on the site and highlights those which would need to be removed to facilitate the scheme. The proposed scheme would retain all Category A trees, the trees of the best quality but result in the loss of a number of individual Category B and C trees. It would also be necessary to remove large parts of groups of trees, in particular Groups 17 and 21, which predominantly form Category B trees.
40. The Appellant points out that the Forestry Commission have undertaken a site visit and raised no objection to the removal of the trees. The Commission advise that the majority of the woodland to the east of the site is young and not mature woodland. They comment that there is a regrettable loss of a small number of mature trees within this woodland but note their value has been compromised as a result of their isolated position. They note that more and larger trees are to be retained. With regard to trees on the west of the site, the Commission comments that they are fairly young specimens neither mature woodland or high quality habitat.
41. The Appellant has further justified the loss of the majority of trees within G17 and G21. The lack of positive management of these trees over time has meant that the dominant birch trees have become dense, spindly and tall. This I observed on site. The woodland has also become infested with Japanese Knotweed. There is a risk that thinning, and coppicing would increase light to the woodland floor encouraging the Knotweed to spread. I heard evidence that the Knotweed could be treated without the removal of the trees, though care would be needed to be taken to ensure that the herbicides used did not adversely affect them. Whilst this may be the case, it would be likely to take longer to achieve, and may not be totally successful in any event. I note that the Appellant has carried out spraying in other parts of the site which has been unsuccessful, necessitating a specialist firm to be brought in to use a sifting technique to remove the roots. This alternative method would not be suitable in the woodland, and this adds weight to the Appellant's position.
42. In light of the above, I accept the justification for the removal of the majority of Group 17 and 21. The scheme retains trees of merit and would therefore comply with LPP1 Policy NE2 and saved 2002 LP Policies D6 and D7 which seek to protect significant trees and group of trees in new developments. Nevertheless, this level of tree removal would inevitably have a major adverse impact on the character of the site.
43. The scheme proposes the retention of many of the boundary trees and hedgerows with supplementary planting including buffer planting to maintain the screening to the site from Scotland Lane. The Appellant indicates that the design of the scheme seeks to retain the field boundaries within the site. I note in particular that the hedgerow to the rear of Plots 48-45 is proposed to be retained. However, this would form a rear boundary between residential plots which, in my view, because of its limited visibility, would not be appreciated as a former field boundary. Furthermore, there would be a risk of its diminution or loss due to lack of appropriate maintenance by

future houseowners. Overall, my view is that the scheme does not effectively achieve this objective.

44. The proposed access to the site would be taken at the same position as the existing private access. It would however require improvement through widening, footways and improved visibility splays. This would increase the visibility of the site from external views. The Council raises concern that this would change the character from a developed well wooded site to a residential area. However, it is proposed that the access road would curve quickly as it proceeds into the site. This means that views of the proposed dwellings from the site access would be restricted. Whilst there would be some change in character as the access would be widened, taking account of the retained trees and new planting, the character would be one of a residential development set back from the road with filtered views through vegetation. This would be in keeping with similar developments in the area, for example the entrance to Red Court. A widened access off Scotland Lane with residential development beyond would also not appear out of character having regard to the existing accesses to Scotland Close, Chiltern Close and Old Haslemere Road.
45. Given the above, I consider that the proposed development would have a major adverse impact on the character of the site. Due to the lack of intervisibility and the fact that the site is visibly well contained, this impact would be localised, however, it would still fail to recognise the intrinsic character and beauty of the countryside and protect the character and qualities of the AGLV. Therefore, the appeal scheme conflicts with paragraph 174 (b) of the Framework and LPP1 Policies RE1 and RE3(ii).

Visual Impacts

46. It is common ground between the parties that much of the landscape beyond the immediate environs of the appeal site would be visually unaffected. The main visual impact of the development would be for users of Scotland Lane and for residents on Scotland Close.
47. Turning to the impact for users of Scotland Lane, the lane is set at a lower level to the appeal site. The bank along the northern boundary of the site, together with existing trees and hedgerow, result in users of the lane experiencing very limited glimpsed views into the site through the existing boundary vegetation. Views would be much more readily achieved in the winter months. Should the development proceed, users of the road would be likely to see partial views of the roofs and upper sections of the dwellings. Landscaping would provide some mitigation but would not completely screen the development, resulting in an adverse impact.
48. There are distinct gaps in the vegetation particularly to the north western section of the site. This area is proposed to form open space with a play area and wildflower meadow as well as accommodating attenuation ponds. Due to the topography of the site the proposed dwellings to the south of this area would be at a higher level and would be particularly prominent when viewed from the lane or the existing residential properties opposite. Whilst trees on the northern site boundary would filter views to an extent, the presence of built development would have an adverse impact on the visual amenity of the area. I acknowledge that should the appeal be allowed; the details of the landscaping scheme would be conditioned. Consequently, a scheme could be

agreed which provided additional planting and screening along this part of the boundary to further mitigate this impact.

49. Views experienced by residents of Scotland Close would be significantly altered by the development. The proposed additional planting on the site boundary together with separation distances would assist to provide filtered views but would not overcome the adverse impact to visual amenity.
50. From viewpoints along Park Road to the north of the site, there are limited glimpsed views between houses. The most significant visual impact would be from the loss of trees but the presence of further trees beyond would result in a very minor adverse impact.
51. Looking from the recreation ground, conifer trees within the site can be viewed behind trees on the boundary of the playing fields. Their removal would also in my view result in a very minor adverse visual impact.
52. The Appellant and the Council have differing views on the visual effects of the development. The Council considers that at Year 1 more viewpoints would experience a major adverse impact whilst the Appellant considers they would be moderate adverse. This difference is partly explained by the fact that the Council views the site as a valued landscape attributing a higher sensitivity. The Haslemere Rule 6 Alliance make a similar assessment to the Council.
53. The Appellant and the Alliance then consider the impact at Year 10, the Council at Year 5. At Year 5, the Council's view remains unchanged. An assessment at Year 10 would in view be more appropriate to give time for the landscaping to establish. The effects at Year 10 would clearly be reduced. Following my assessment of the harm and the sites sensitivity, I agree with the Appellant's view that the impact would at the most affected viewpoints, be moderate adverse reducing to minor adverse.

Impact on Old Haslemere Road/ Museum Hill

54. In the interests of highway safety, and to provide a safe route to Haslemere town centre for pedestrians, the Highway Authority require a number of improvements to be made. These include the provision of a 2-metre-wide footpath from the site extending along Old Haslemere Road and a 1.2-metre-wide virtual footpath through the lower and narrower section of the road. This would then continue along Museum Hill before reverting back to a constructed footway to join the footpath on Petworth Road.
55. The 2-metre footway would be provided within existing grassed verges in the adopted highway. The character of Old Haslemere Road is one of a semi-rural lane. The grass verges on the west side of the road towards its southern end are wide, approximately 4 to 5 metres, and give the lane a feeling of spaciousness and contribute positively to its character. These verges reduce in width as one progresses towards the town centre particularly to the north of Park Road. The provision of a footway in the wider sections of verge would retain around 2 -3 metres of grass. However, where it narrows much less would be retained. Whilst the open character of the lane would be maintained at its southernmost end, this would not be the case for the whole length. The introduction of additional hard surfacing would adversely affect the verdant character of the lane.

56. In the latter section of Old Haslemere Road where it is much narrower, a virtual footway is proposed. This would comprise a hatched area marked out in the roadway which would signal to drivers that the surface was shared with pedestrians. Whilst this would not result in the loss of any vegetation, it would have an urbanising impact on the character of the lane, changing it from a semi-rural route to a road with a more urban character.
57. Museum Hill is effectively a single-track road with car parking on the eastern side of the highway reducing its width. In contrast to Old Haslemere Road, it has a suburban character with some areas of narrow grass verge and banking along its length. It is proposed to provide a virtual footway along this section of road until the blind bend where a 2-metre-wide footway would be provided in an area of grass verge. A further 2 metre footway would be provided in the grass verge on the approach to the junction with Petworth Road.
58. As a result of the narrowness of the grass verges along Museum Hill they would need to be completely removed and replaced with hard surfacing. The virtual footway in this location would, like Old Haslemere Road, have an urbanising effect. Consequently, these improvements would have a negative impact on the character and appearance of the area.
59. The far end of Museum Hill is located within Haslemere Conservation Area. I noted on my site visit that the grass verge in this location is narrow, poorly maintained and contributes little to the character and appearance of the area. Its replacement with a hard surface of an appropriate material would not be inappropriate, in keeping with other footpaths in the conservation area.
60. Given the above, I conclude that the proposed pedestrian improvements would cause harm to the character and appearance of the area. This harm has to be weighed against the benefits of the scheme in terms of pedestrian safety, which I shall address in the planning balance.

Conclusion on character and appearance

61. The site occupies the northern face of a ridge facing away from the Surrey Hills AONB, is visually well contained and lacks intervisibility. I have found that the proposal would comply with LPP1 Policy RE3(i) as it causes no harm to public views from or into the AONB. However, it causes localised harm to the character and appearance of the area in which the site is located and would cause moderate adverse visual effects. Overall, it would cause harm to the character and appearance of the area, failing to recognise the intrinsic character and beauty of the countryside and the character and qualities of the AGLV, in conflict with paragraph 174 (b) of the Framework and LPP1 Policies RE1 and RE3 (ii).

Housing Land supply

62. In the revised Housing Land Supply SoCG, signed by the Council and the Appellant, it is agreed that the correct period for the purposes of assessing 5-year housing land supply (5yhls) is 1 April 21–31 March 2026, that the housing requirement is 590 dwellings per year and that a buffer of 5 % should be applied.

63. The parties disagree on the total five-year housing requirement (including the buffer and the shortfall). This is due to discrepancies that have come to light regarding completions. An additional 246 completions have been identified from monitoring years 2017/18, 2018/19 and 2019/20, resulting in a total number of completions of 3439. This has arisen as the Council has undertaken a review including consideration of Building Control and Council Tax data. There was also found to be an issue with residential institutions (C2 uses) not being included in the data.
64. I acknowledge that the previous data has been relied on to inform the Annual Monitoring Report and has been passed to Government for the Housing Delivery Test assessment. However, it is in my view appropriate for the Council to highlight the issue and correct its data. Not to do so, would compound the error. On that basis I find that the 5-year housing requirement should be 4460 dwellings.
65. The Appellant challenges the deliverability of 16 sites in the Council's supply, arguing that the Council's estimate has been persistently optimistic. I note that the Council used to rely on the Troy Planning Note to assess deliverability, but this was criticised in the Lower Weybourne Lane appeal⁶. The Council no longer relies on this, preferring to contact developers for their advice and then sense checking and critically analysing their estimates, changing delivery expectations where considered appropriate. I have insufficient evidence before me to indicate if this approach is ineffective or whether the Council is continuing to overestimate as the change of approach is very recent.
66. Turning to the individual sites in dispute, the parties correctly apply the definition of deliverability as set out in the glossary to the Framework and identify Category A and Category B sites. Category A sites should be considered deliverable unless there is clear evidence that homes will not be delivered within five years. Category B sites are those sites that should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
67. Planning Practice Guidance (PPG)⁷ provides some indication of what would be considered to form robust clear evidence. I use this in my assessment below.
68. The Woolmead, Farnham, has full planning permission for 138 dwellings. A variation of the consent to reduce the size of the basement was granted on appeal in May 2021. The developer argued this was required to make the scheme viable. Whilst the parties agree the site is deliverable, the Appellant considers the lead in time will be longer than anticipated by the Council and pushes back delivery one year, removing 38 units from the five-year supply. The Council consider 20 dwellings would be achievable in 2022/23 with 40 dwellings per year thereafter. The developer shows a clear intention to develop the site and there is no clear evidence that the predicted delivery would be unachievable. I therefore retain the site in the supply.
69. The site at 34 Kings Road, Haslemere has planning permission for 5 dwellings. However, an alternative scheme for an additional single dwelling

⁶ Appeal Ref: APP/R3650/W/20/3262641 Land at Lower Weybourne Lane, Badshot Lea, Farnham, GU9 9LQ

⁷ Paragraph: 007 Reference ID: 68-007-20190722

has been submitted and is pending determination. Viability issues have been raised in respect of the 5-unit scheme. I agree with the Appellant that there is clear evidence that the scheme will not deliver, and I therefore remove 4 dwellings from the supply.

70. Turning to Dunsfold Park, this forms an allocation in LPP1 for 2600 dwellings. The site has a hybrid consent including outline planning permission for 1800 dwellings. The proposal for a Garden Village, includes care home accommodation, a local centre, primary school, health centre, community centre and open space. Homes England funding has been achieved to support delivery. The Appellant considers the site will not contribute towards the five-year housing supply whilst the Council predict 50 dwellings in 2023/24 rising to 200 dwellings per annum thereafter.
71. I note that planning permission has been granted for the access road and that reserved matters consent has been granted for the roundabout. It is anticipated that these works will commence in 2022, though no firm start date was provided to the Inquiry. There have been delays with the site coming forward as the landowner has sought to sell the site. I understand there is a preferred bidder keen to make progress, but that party is an investment company and not a housebuilder. A developer partner would need to be sought once the acquisition has taken place. The Council advise that the Supplementary Planning Document (SPD) for the site is likely to be adopted in February 2022. I consider it most likely that the preferred bidder and developer partner would not wish to progress with the current outline consent but would seek an amended consent having regard to the SPD. Such matters would take time to resolve.
72. I accept that development could start on the site while temporary uses remain. I also acknowledge that the site benefits from an implementable outline consent, however as discussed above, there is no evidence that the subsequent reserved matters application would be progressed.
73. In light of the above factors, I consider that delivery in 2023/24 as suggested by the Council is unrealistic. On the basis of the evidence before me, the delivery of new homes could optimistically commence in 2025/26. I therefore push delivery back 2 years and assume delivery of 50 dwellings in 2025/26. Consequently, I remove 400 dwellings from the supply.
74. Land at Waverley's Folly, Badshot Lea, is anticipated to deliver 23 dwellings in 2025/26. The site has outline planning permission and a reserved matters application is pending. Revised plans were submitted in November 2021. The development is being put forward by a housebuilder and there are no constraints to the site's development. Progress is being made on this small site which provides the clear evidence suggested by the PPG that it will deliver new homes and contribute to the 5-year supply.
75. Land opposite Milford Golf Course received outline consent for up to 200 dwellings in 2019 and reserved matters consent for 176 dwellings in November 2021. The Council predict the site will deliver 160 units commencing in 2023/24 whilst the Appellant considers it will deliver no completions in the 5-year supply period.
76. The delivery of the site is impeded by a covenant. The developer has indicated that he will seek to have the covenant discharged within 15

months of the planning consent. The Council's legal adviser has suggested this is an appropriate timeframe. However, there is no evidence that an application has been made and it is likely that the issue will have to be resolved by the land tribunal. I understand that the holder of the covenant has no intention to relinquish it. As the site is Category B, it should not be considered deliverable unless there is clear evidence that completions will begin in 5 years. Currently this is not provided. I therefore remove 160 dwellings from the supply.

77. Land at Coxbridge Farm, Farnham has a resolution to grant outline planning permission. The s106 agreement is anticipated to be signed in January 2022. The Council predict the site will deliver 150 dwellings at a rate of 50 dwellings a year from 2023/24. The Appellant pushes back the development one year, thereby removing 50 units from the supply.
78. Emails provided by the site promoter confirm they will not develop the site. They will need to seek a developer partner. Making estimates of the time required for marketing and site sale, submission of reserved matters, discharge of conditions etc, based on the advice in the Lichfield⁸ report, the Appellant estimates completions from 2024/2025. This estimate allows one year for a reserved matters application to be made and approved. I consider this to be an overestimate based on the Council's average data for decision times⁹. I therefore consider the Council's estimate, whilst being optimistic is to be preferred. I retain the site in the 5yhs.
79. Turning to Centrum Business Park, this site is allocated for residential development of 150 dwellings in the Farnham Neighbourhood Plan. The Council predicts a delivery of 50 dwellings in both 2024/25 and 2025/26, a total of 100 units. I am advised by the Council, that pre application discussions have taken place and an application is anticipated in early 2022. The site has a number of existing occupiers who would need to relocate before the site could be developed. There is no evidence as to the lease/ownership arrangements or whether occupiers have sought new premises. Consequently, whilst I note the positive discussions with the developer, I am not satisfied that it has been demonstrated that completions will begin in 5 years. I remove 100 dwellings from the supply.
80. Turning to the site at Meadow Nursery West and Meadow Nursery East, this forms an allocation in the Chiddingfold Neighbourhood Plan for 19 dwellings. A planning application was to be submitted in November 2021, but this has been delayed. Whilst the developer has confirmed that site investigations have taken place, there is no clear evidence that the site would deliver in the next 5 years. I remove this site from the supply.
81. Land at South View Chiddingfold is also allocated in the Chiddingfold Neighbourhood Plan, but for 8 dwellings. Pre application discussions took place nearly a year ago and a planning application is anticipated in mid-2022. Whilst this is a small site, I do not consider sufficient progress has been made to bring the site forward. There is no clear evidence that the site would deliver and contribute to the 5-year supply. I therefore remove 8 dwellings from the Council's supply.

⁸ Lichfield Start to Finish Report

⁹ HLS Rebuttal Table 1

82. Land to the rear of Wildwood Close and Queens Mead, Chiddingfold is allocated for 60 dwellings in the above Neighbourhood Plan. Pre application discussions took place in 2019, some time ago. The landowner indicated that a planning application would be submitted in Autumn 2021, however this has now been delayed to sometime in the next 6 months. This is a greenfield site and I note the landowner's intention to develop. However, there is no clear evidence at the moment that the site will deliver in the next 5 years.
83. With regard to Ockford Water, this is a brownfield site with a pending planning application for 13 flats. I am advised that there are issues of ecology and viability to be resolved. These are fundamental matters which raise uncertainty as to whether planning permission will be granted and even if it is whether the development would proceed. In the absence of clear evidence, I remove 13 dwellings from the supply.
84. Land at Barons of Hindhead is a vacant brownfield site, forming a draft allocation in LPP2 and the subject of a current planning application for 38 dwellings. However, there are objections to the development as it adjoins the Surrey Hills AONB and there are viability and affordable housing issues to resolve. Whilst the fact that a planning application is pending shows some progress, the outstanding issues are of concern. There is no clear evidence that the site would deliver in the next 5 years.
85. Turning to the site at Andrews of Hindhead, this is a draft allocation for 35 dwellings in the LPP2. Planning permission for a 72 bed care home has previously been refused. The Council indicate that significant work has been undertaken to progress a full planning application but there is little clear evidence to support this. There is no certainty that the site will be allocated for development and therefore no clear evidence that the site will deliver houses in the next 5 years.
86. With regard to The Old Grove, Hindhead, this brownfield site is a draft allocation for development in the LPP2 and is the subject of a current planning application for 18 dwellings. The application shows progress being made to bringing the site forward, I have no indication that there are constraints on the site. I am satisfied that there is clear evidence the site will deliver homes in the next five years.
87. Land at rear 101 High Street, Cranleigh is a vacant site which is envisaged will provide 35 retirement apartments. There have been pre application discussion and I am advised that the developer intends to submit an application in February 2022. I note from additional information provided by the Council that the developer has confirmed the date for a public consultation exercise in early January 2022 and contracts have been exchanged with the landowner. This shows positive progress and a commitment to bring the site forward. It provides clear evidence of the type suggested by the PPG that the site could deliver homes in the five-year supply.
88. Land at Wey Hill, Haslemere forms a draft allocation in the LPP2 for 34 dwellings. The Council is the landowner and whilst the intention to submit a planning application has been confirmed, the advice from the Council's Estates Team suggest this is some time off. I note that some of the existing occupiers, the Guides and the St Johns Ambulance have already relocated. Whilst these factors show progress, they fall short of the evidence required

to demonstrate that dwellings would be delivered in the next 5 years. I therefore remove 34 units from the supply.

89. The Council suggest that the 5-year supply is 5.2 years based on their amended completions data. The Appellant suggests that it is just under 4 years. In light of my findings above, I conclude that the Council can demonstrate a supply of deliverable housing land of around 4.25 years.

Heritage

90. Whilst not forming a reason for refusal, I have a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990, to assess the impact of the proposal on nearby heritage assets. The appeal site lies in the setting of the heritage assets at Red Court, located to the south.
91. Red Court together with its curtilage listed staff and stable block accommodation and the Lodge to Red Court are Grade II listed buildings.
92. Red Court was built in 1894-95 for a wealthy brewer. Designed by Ernest Newton, the property incorporates a blend of architectural styles but is generally defined by its overarching neo-Georgian style. The property was built on the ridge of the hill to afford views over the South Downs. It illustrates the historic development of Haslemere, with large, detached houses set in their own grounds built around the edge of the settlement, but with good connections to the rail network for access to London.
93. The significance of Red Court lies in its architectural design, being an example of the classical revival, and its historic interest as a mansion set in spacious grounds being representative of the historic development of Haslemere.
94. The stable and staff accommodation, which are curtilage listed, were likely to have been constructed at the same time as the house and designed by the same architect. Their significance lies in their functional relationship to the main house.
95. The Lodge at the main entrance to Red Court was constructed in 1895 and again designed by Newton. It is of architectural interest with similar detailing as the main house and stable block. Its significance lies in its functional relationship with the main house.
96. It is common ground that the appeal site makes a limited contribution to the significance of Red Court. The Council's Heritage Officer describes Red Court as an isolated country estate. Whilst I agree it is set in large spacious grounds, it is not isolated, being on the edge of Haslemere and close to the rail network. There is no evidence to suggest that the appeal site had a functional relationship with Red Court as part of the wider estate. The only connection on the ground is the secondary access road which runs through the appeal site to the service buildings. This was a later addition and not part of the original design.
97. The proposed development would have limited intervisibility with Red Court itself which lies to the south of the stable and staff buildings. It would retain its feeling of being located within a spacious garden plot, its sense of privacy and the ability to appreciate views over the South Downs. I am therefore

satisfied that the appeal scheme would have no effect on the setting of the main house.

98. The Lodge to Red Court is located to the east of the appeal site. The appeal scheme would result in the Lodge being located within a more suburban built-up setting. However, the Lodge is set back from the road, and appreciated through filtered views through the boundary vegetation. The proposed development in my view would not affect its functional relationship to Red Court or its architectural or historic interest. The appeal scheme would therefore have no effect on its significance through setting.
99. Turning to the curtilage listed stable block and staff accommodation, these buildings lie approximately 45 metres from the main house. Views from the southwest, from within Red Court itself, enable an appreciation of the functional relationship of these service buildings and contribute positively to its setting.
100. The buildings lie close to the southern site boundary which comprises a boundary fence and mature trees. I am advised that the staff accommodation block has recently been brought into the ownership of Red Court and that a covenant attached to the sale requires the maintenance of the woodland on this northern boundary. Together with the proposed additional planting on the appeal site, there would be a good level of screening on this boundary. I accept that during the winter months views of the roof tops of the new dwellings at Plots 5 and 9 may be visible from within Red Court. However, these views would not impact on the historic or architectural significance of these buildings or their functional relationship as service accommodation to the main house.
101. Overall, I conclude that the appeal scheme would preserve the setting of the adjacent heritage assets. The proposal would therefore comply with the requirements of the Act, section 16 of the Framework, Policy HA1 of LPP1 and saved policies HE3 and HE5 of the Local Plan 2002 which seek to conserve and enhance the historic environment.

Other matters

Dark skies

102. The Haslemere Neighbourhood Plan (HNP) Policy H10 seeks to ensure that new development is designed to minimise the effect of external lighting. The Institute of Lighting Professional Guidance Note for the reduction of obtrusive light distinguishes different areas such as urban, suburban and rural and defines them into a series of environmental zones for the control of obtrusive light. Whilst there is some debate about where the appeal site fits, there is common ground between the parties that an appropriately worded planning condition on any approval could require an appropriate lighting scheme. The South Downs National Park Authority is satisfied with such a condition. I am also satisfied that the impact of external lighting on dark skies can be mitigated by an appropriately designed scheme. The appeal proposal would therefore comply with HNP Policy H10.

Housing Mix

103. LPP1 Policy AHN3 requires proposals for new housing to make provision for an appropriate range of different types and sizes of housing to meet the

needs of the community, which should reflect the most up to date evidence in the West Surrey Strategic Housing Market Assessment (SHMA). HNP Policy H5 reiterates this requirement but adds that the mix should reflect the character of existing development in the surrounding area.

104. The SHMA sets out the required housing mix for Waverley and then in an addendum goes further to set out the required mix for Haslemere. The requirement is different for market and affordable housing. The appeal scheme does not include any 1 or 2 bed market houses and underprovides one bed affordable units but overprovides 3 bed affordable units. Turning to 3 bed dwellings, the provision reflects the SHMA for both market and affordable dwellings. With regard to 4 bed units, no affordable units are proposed. However, the SHMA requirement is for 5% which in a scheme provide 15 affordable units equates to less than 1 dwelling. In terms of 4 bed market units the scheme makes a significant overprovision of 57% compared to the SHMA requirement of 20%.
105. I recognise that the policy requirement is to reflect the SHMA not to meet it exactly. Whilst the scheme provides a range of affordable units, it underprovides one bed dwellings. It also overprovides 3 and 4 bed market houses and is completely deficient in terms of 1 and 2 bed market houses.
106. The Appellant has argued that the smaller properties are more likely to be provided in the town centres of Woking or Guildford. Whilst this may be the case, this does not address the need for 1 and 2 bed houses in Haslemere. The scheme provides 1 and 2 bed affordable units. Therefore, the Appellant's argument that smaller units such as 1 bed flats could affect the overall design of the scheme are in my view unfounded.
107. I take account of HNP Policy H5 which in addition to the requirement to reflect the SHMA considers the character of existing development. The character of the local area is one of larger three and four bed detached properties, such that a scheme of large market houses as proposed would not be out of character. However, this does not overcome the schemes deficiency in reflecting the SHMA. The Appellant argues that no harm has been demonstrated as a result of the proposed housing mix. The harm is that the housing needs of the local community are not being met. There is also no certainty that these needs would be met on alternative sites in the area.
108. I conclude therefore that the scheme conflicts with LPP1 Policy AHN3 and HNP Policy H5 in terms of housing mix.

Highways and Parking

109. The Appellant has provided a Transport Assessment to analyse the likely impact of the scheme on the highway network. It concludes that the majority of vehicle trips would be towards /from Midhurst Road. Once traffic is distributed on the wider highway network, the development proposed would not have a material impact. At the pm peak, it is calculated that there would be 18 vehicles arriving at the development, split over the three main routes to the site. This would have a minor impact on the network. The Highway Authority concur with the Transport Assessment's findings. I have no reason to disagree.

110. As I have already discussed, in order to provide a safer pedestrian route to the town centre, the highway authority require a series of pedestrian improvements along Old Haslemere Road and Museum Hill. A number of local residents have expressed concern that this scheme would result in the loss of on street car parking, particularly residents parking bays. I am satisfied from the evidence before me that existing car parking will be unaffected.
111. Concern has also been expressed about the safety of the proposed virtual footways. Old Haslemere Road and Museum Hill already operate as shared surfaces. The proposed virtual footways would provide a visual indication to drivers that they are entering such an area and raise their awareness that pedestrians may be present in the road. I accept that due to the narrowness of the highway it is likely that vehicles will run over the virtual footpath when necessary. However, the fact that the roads are narrow acts as traffic calming measure to reduce vehicle speeds.
112. Given the above, I am satisfied that the proposed pedestrian improvements would be of benefit to pedestrian safety. This benefit has to be weighed against the impact on the character of the area which I shall address in the planning balance.

Sustainability

113. Some representors including the Haslemere Rule 6 Alliance have questioned whether the site is a suitable location for residential development. The site is well related to Haslemere where a range of shops and service can be accessed. Haslemere Train Station is within 20 minutes' walk from the site and provides access to London and Portsmouth. Bus stops are located on Petworth Road, approximately 15 minutes' walk away, with routes going to the railway station, Godalming and Guildford. Further routes can be accessed from Haslemere High Street, including to Aldershot and Basingstoke.
114. As I mentioned above, the walk to the town centre takes around 15 minutes. Going into town is downhill but the walk back is up a steep hill. I experienced this for myself on my site visit. I also observed several people walking this route. I agree that older persons or those with mobility issues may not wish to or be able to tackle this route. Furthermore, the need to carry heavy shopping may deter some users. However, it is common in many places that due to the local topography a route may be steep. I am therefore not persuaded that this means that the location of the site is unsustainable.

Residential amenity and living conditions

115. A number of local residents on Scotland's Close have expressed concern about the potential for loss of privacy, overlooking and loss of light due to the proximity of the proposed dwellings to their properties.
116. Additional information and a plan provided by the Appellant illustrates that separation distances would be over 30 metres in all cases, the maximum being around 40 metres between No.8 Scotland Close and Plot 20. A garden shed is proposed in Plot 21 which would be approximately 24.6 metres from the rear habitable room windows in No. 6 Scotland Close.

117. The Council's Residential Extensions Supplementary Planning Guidance advises that a distance of at least 21 metres between proposed windows and neighbouring property windows should be achieved. This interface is significantly exceeded. This document does not however provide guidance where there is a level difference between the dwellings on the site and the adjacent properties, in this case a difference of approximately 4 metres.
118. I take account of the separation distances between dwellings, the level differences, the single storey nature of part of Plot 21 and Plots 18 and 19, as well as the proposed boundary planting and screening. I am satisfied that the proposal would not give rise to unacceptable loss of privacy or overlooking.
119. In relation to No.6 Scotland Close, on my site visit I viewed the office building in the garden, the rear patio area and noted the lack of obscure glazing to the bathroom. Whilst the current rear boundary is quite open, the proposed landscaping and siting of the garden shed would prevent loss of privacy in the office space. The proposed garden shed would be of a sufficient distance from the habitable room windows so that it would not be overbearing or affect outlook. Given the orientation of the buildings there would be no significant loss of daylight or overshadowing.
120. The Council's SPD requires 18 metres between proposed windows and neighbouring private amenity space. This is not achieved, varying between 16.6 metres and 18.3 metres. The intervening landscaping and distances achieved would in my view prevent direct overlooking. The Council take a similar view in their Officer Report to committee and this matter does not form a reason for refusal.
121. Accordingly, the proposal complies with LPP1 Policy TD1, Policies D1 and D4 of the Local Plan 2002 and the Residential Extensions SPD.

Ecology and Biodiversity Net Gain

122. The appeal scheme is supported by an Ecological Assessment and a number of technical notes which assess the impact of the proposal on biodiversity. It is recognised that the site has a biodiverse habitat within a local geographical framework. The Assessment indicates the presence of several protected species including bats, slow worm, grass snakes, badgers and dormice. Bird surveys have identified that the site supports a range of typical woodland and hedgerow species of birds.
123. A range of mitigation measures are proposed, including measures to mitigate the loss of habitat which I consider to be appropriate. There are no objections to the development from the Surrey Wildlife Trust or Natural England.
124. The Framework in paragraph 170 states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains in biodiversity. The Environment Act 2021 requires a biodiversity net gain of 10%. The ecological report prepared by the Appellant, which includes a metricated assessment, suggests the site would achieve a net gain of over 20%. This figure is disputed by representors who suggest the development would result in a negative net gain in the region of -44%.

125. It appears that one of the main differences relates to the assessment of woodland condition. The baseline affects the level of enhancement that can be achieved and therefore the overall net gain. I take account of the fact that third parties have not had the opportunity to go onto the site and undertake detailed site surveys. Furthermore, the Appellant's assessment has been scrutinised independently and found to be sound. I also note that there is the opportunity for further enhancement on the adjacent land in the Appellant's ownership, which is to be used for the permissive path and circular walk. Whilst there may be differences in judgments, I have no reason to conclude that the metricated assessment undertaken by the Appellant is unreliable.

126. Should the appeal be allowed, a planning condition could be imposed to require biodiversity net gain, which would be subject to annual monitoring and audit. I am therefore satisfied that the scheme would be acceptable in this regard.

Water supply

127. I am aware that the site is located in an area of water stress. Local residents made me aware of the loss of supply on occasion in the summer months. Thames Water have raised no objection to the scheme stating that there would be sufficient water network infrastructure and capacity to serve the development. Should the appeal be allowed, it would be appropriate to impose a condition to minimise water use in line with LPP1 Policy CC2.

Design

128. The appeal scheme includes a variety of terraced, semi-detached and detached dwellings, with a range of architectural styles in keeping with the local area. The density is low with the proposed layout providing an overall spacious character. The materials are appropriate to the locality comprising red and orange facing bricks, clay tile hanging, render and timber boarding. The design and layout of the scheme would be appropriate in the local area causing no harm to character and appearance. In this regard the scheme would comply with Policy TD1 of LPP1 and saved Policies D1 and D4 of the Local Plan 2002 which seek to ensure that the character and amenity of the borough are protected.

Impact on Wealden Heaths Phase II Special Protection Area (SPA)

129. The appeal site is located within the 5km Buffer Zone to the Wealden Heaths II SPA. The SPA is designated due to its importance for breeding birds, in particular European Nightjar, Woodlark and Dartford Warbler.

130. European and national legislation requires that 'any plan or project' should not give rise to any likely significant effect upon these areas. In order to avoid any likely significant effect, proposals for development are required to demonstrate that they can avoid or mitigate any such effect. The proposal in combination with other projects has the potential to affect the integrity of the Wealden Heaths II SPA because of increased recreational pressures that would arise out of the increase in the local population.

131. The Appellant has submitted a Habitats Regulation Assessment and an Addendum Assessment. This provided information for the Council, as

decision maker for the planning application, to undertake an Appropriate Assessment (AA).

132. At the Inquiry, Councillor Hyman questioned the adequacy of the information provided and expressed the view that an Appropriate Assessment cannot be appropriately undertaken without past and present bird population data being available. The Council's approach has been to assess visitor survey data to monitor the effectiveness of a Suitable Area of Natural Greenspace (SANG). This is appropriate as the potential for a scheme to affect the integrity of the SPA results from recreational pressure.
133. It is notable that the Supreme Court¹⁰ has already addressed the issue of whether or not an AA should contain certain information. The Court noted that the legislation itself prescribed no set process or format and concluded that the assessment should be appropriate to the task in hand, that is being able to satisfy the responsible authority that the project will not adversely affect the integrity of the site concerned.
134. As I intend to allow this appeal, the Conservation of Habitats and Species Regulations require that I undertake an Appropriate Assessment. I am satisfied that I have sufficient information to enable me to do this.
135. The conservation objectives associated with the Wealden Heaths II SPA are to ensure that its integrity is maintained or restored as appropriate. It also requires the site to contribute to achieving the aims of the Wild Birds Directive, by maintaining or restoring its habitats. The Appellant estimates that the proposed 50 dwellings have the potential to accommodate around 120 new residents with 10 dog owning households. It is likely that many of these new residents would choose to visit the SPA for recreation which could lead to disturbance to ground nesting birds for which the SPA is designated.
136. I take account of the location of the appeal site, that it is 2.3 km from the SPA which is on the other side of Haslemere. There are also other recreational opportunities in the locality, including the nearby Recreation Ground, that are closer to the appeal site and more accessible. However, whilst the appeal scheme would itself generate a low level of recreational pressure, in combination with other plans and projects, including the draft allocation of around 320 dwellings in LPP2, there is the potential for an adverse effect on the integrity of the SPA, without mitigation measures being put in place.
137. Taking a precautionary approach, the Appellant has proposed the provision of a 2.3km circular walk on land in his control. The route would go through mature woodland, parkland and grassland and connect to the appeal site by a footpath link of approximately 1.1 km. The path provides connections to the wider public right of way network. Three pedestrian access points would be provided, and information boards put in place highlighting non-SPA local walks. Leaflets would be distributed to new and existing residents within 400 metres of the access points making them aware of the walk. This area of land and permissive path would be secured in perpetuity through a section 106 agreement.

¹⁰ R (on the application of Champion) v North Norfolk District Council [2025] UHSC 52

138. Natural England have published guidance for the creation of SANG. The mitigation scheme proposed would meet many but not all of the essential and desirable requirements set out in this document. However, the circular walk has the potential to be upgraded to formal SANG in the future.
139. Natural England originally objected to the appeal scheme due to the potential adverse effect on the integrity of the Wealden Heaths II SPA. I am advised that Natural England have walked the route, assessed the adequacy of the scheme and removed their objection to the proposal.
140. Councillor Hyman has questioned the effectiveness of SANG and commented that the Appellant has not provided evidence to demonstrate the efficacy of the mitigation and avoidance measures proposed. The Appellant and the Council in their SoCG on this matter, draw my attention to a number of documents that supported the SANG and Strategic Access Management and Monitoring (SAMM) approach adopted in the Thames Basin Heaths SPA. A 2018 Visitor Survey Report for the Thames Basin Heaths SPA concluded that there had been a statistically significant drop in visitor numbers overall despite an increase in housing numbers within 5km. It goes on to say that whilst several factors can influence visitor numbers and behaviour, it is likely that the implementation of the SANG and SAMM has had the greatest impact in reducing visitation.
141. The use of SANG is an accepted approach to reduce visitor pressure on a SPA or other protected site. There is no substantive evidence before me to suggest this approach would be ineffective in this case. The Councillor's assertion that SANG could encourage dog ownership is not supported by evidence. In my experience the decision to become a dog owner is more complex and a range of other factors would be considered.
142. Councillor Hyman brought my attention to two appeals which he considered supported his representations, the Lower Weybourne Lane appeal and one at 9 Brambleton Avenue, Farnham. I find nothing in these respective appeals that I need to consider further. Both Inspectors followed the appropriate regulations and legislation in coming to their decision.
143. In summary, I am satisfied that the mitigation measures put forward by the Appellant would provide the necessary mitigation to ensure that the development, in combination with other plans or projects, would have no adverse effect on the integrity of the SPA. Accordingly, the proposal would accord with section 15 of the Framework and Policies NE1 and NE3 of LPP1.

Planning balance

144. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
145. I have found that the proposal would not recognise the intrinsic character and beauty of the countryside as required by Policy RE1. Whilst it would cause no harm to the Surrey Hills AONB or the South Downs National Park, it would cause harm to the character of the AGLV in conflict with LPP1 Policy RE3 (ii). As the scheme would cause localised harm, typical of any greenfield

development on the edge of a settlement, I attribute moderate weight to this policy conflict.

146. I have also concluded that the appeal scheme conflicts with LPP1 Policy AHN3 and HNP Policy H5 regarding housing mix. As the scheme would be in keeping with the character of existing development in the locality, this conflict attracts moderate weight against the scheme.
147. HNP Policy H1 (iii) seeks to control development outside the settlement boundaries. It goes on to say that development in such locations will only be supported which otherwise conform with national and local planning policies. In light of the above, the appeal scheme would conflict with this policy.
148. I have concluded that the Council cannot demonstrate a 5-year supply of deliverable housing land. Accordingly in line with paragraph 11(d) of the Framework, the policies most important for determining the application are out of date. Planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The tilted balance is therefore engaged.
149. It is common ground that both the borough as a whole and Haslemere are highly constrained. There is an acute need for homes in the borough. The Council has failed to meet the local housing need figure in 9 out of the last 12 years. I acknowledge that the most recent figures, 2019/20 and 2020/21, show an improving picture, with the Council meeting its housing requirement, but there is still a significant deficit. Furthermore, the direction of travel, with the introduction of the standard methodology is upward, with an increased housing need figure of around 38% on the LPP1 requirement.
150. With regard to Haslemere itself, Policy ALH1 of the LPP1 sets out a specific minimum housing target of 990 net homes to be provided between 2013 and 2032. At April 2021, 23% of that requirement has been delivered. Taking account of outstanding permissions, 316 dwellings will need to be allocated in LPP2. It is common ground that the new homes required cannot be delivered without making use of greenfield land outside the settlement, including AGLV land or sites within the AONB.
151. LPP2 was submitted for examination in December 2021. However, it is unlikely to be adopted for 12-18 months. It does not therefore offer an immediate solution to the need for housing in the borough. Draft allocations are subject to objection and once the plan is adopted it will take time for sites to go through the planning process and deliver new homes.
152. The Appellant has assessed a number of the draft allocations and highlighted in his view, the constraints to them coming forward. At the Inquiry the Royal Junior School site in Hindhead was discussed. This site has become available and is now a draft allocation in the LPP2. It is located in the AONB is not an edge of settlement site and is only partially previously developed. The LPP2 Inspector would need to determine whether it is a suitable location for residential development. The Council is optimistic that sites will come forward and that the required housing delivery will be achieved in the remainder of the plan period. Taking an optimistic view, whilst this may be feasible, the housing need in Haslemere is now.

153. Turning to the provision of affordable housing, there is also a shortfall. The HNP acknowledges that the need in Haslemere is acute and also notes that the majority of new housing in Haslemere will be on small sites which will not be required to provide affordable units.
154. The appeal scheme provides 50 dwellings, of which 15 would be affordable. Given the above I give significant weight to the site's contribution to market and affordable housing.
155. The proposed pedestrian improvements are necessary to mitigate the impact of the proposal. Whilst they would cause harm to the character and appearance of the area, I recognise that they would also be of benefit to the wider community. Overall, I consider it attracts limited weight against the scheme.
156. The site is a suitable location for residential development being well located close to the shops and services in Haslemere as well as being close to public transport connections. This provides moderate weight in favour of the scheme.
157. The proposed permissive path and circular walk is necessary to offset the potential harm to the Wealden Heaths II SPA as a result of increased recreational pressure. It would therefore be neutral in the planning balance. However, as it would benefit not just the new residents of the proposal but the wider population, I afford it limited weight.
158. In terms of other benefits, the scheme would create local construction jobs and support the local supply chain. These benefits would however be short lived. More long-term benefits would accrue from future residents spending in the local economy. I therefore give them moderate weight. Measures to provide sustainable homes and energy efficiency are required to meet policy and therefore attract neutral weight.
159. Biodiversity net gain is also required for policy compliance and therefore attracts neutral weight. The scheme would provide around 40% of its site area as public open space and green infrastructure. This significantly exceeds the policy requirements and attracts moderate weight in favour of the scheme.
160. The Appellant points out that the scheme will provide significant CIL contributions and increased Council Tax. The PPG is clear that it would not be appropriate to make a decision based on the potential for a scheme to raise money for the local authority or other government body. Whether a 'local finance consideration' is material to a particular decision will depend on whether it could make the development acceptable in planning terms. Therefore, CIL and Council Tax contributions do not add weight in favour of a scheme.
161. I have found the scheme is acceptable in terms of dark skies, heritage issues, highways and parking and residential amenity. These form neutral factors neither weighing for or against the scheme.
162. Overall, I find that the policy conflicts and the adverse impacts I have identified to the character and appearance of the area and housing mix, would not significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole.

Therefore, I conclude that there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

163. Accordingly planning permission should be granted.

Planning Obligation

164. The submitted section 106 agreement would secure 30% affordable housing, ie 15 dwellings, in compliance with the provisions of Policy AHN1 of the LPP1.

165. The obligation also provides for the maintenance of the proposed play space on the site including a local area of play (LAP) and a local equipped area of play (LEAP). This is in compliance with LPP1 Policy LRC1. Such provision needs to be properly maintained for the lifetime of the development. The maintenance of open space is also provided for in the obligation together with the management of the permissive footpath and connecting circular walks. As already discussed, this is required to comply with the Conservation of Habitats and Species Regulations 2017 and provide mitigation to protect the Wealden Heaths II SPA from increased recreational pressure.

166. The agreement also includes the maintenance of the sustainable urban drainage scheme (SuDS). This is required by paragraph 169 of the Framework to ensure an acceptable standard of operation for the lifetime of the development.

167. I am satisfied that the above obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.

Conditions

168. The Council and the Appellant provided a list of suggested conditions which were discussed at the Inquiry. Amendments have been made to the wording of some conditions for clarity, brevity, or to avoid duplication, and to ensure accordance with the tests set out in paragraph 55 of the Framework. Pre-commencement conditions have been agreed by the Appellant.

169. Although not included in the list provided by the parties, a condition setting out the time limits for the development is necessary. A condition specifying the approved plans is also necessary in the interests of good planning.

170. To protect and maintain the character and appearance of the area, condition 3 is necessary to require the details of materials to be submitted for approval. For the same reason a condition regarding site levels and including details of earthworks and ground levels is required, as well as a condition controlling external lighting (conditions 16 and 26). Furthermore, I impose condition 29 requiring the submission of a detailed landscaping scheme and requirement for maintenance for a 5-year period in the interest of the character and amenity of the area.

171. Conditions 4 and 5 regarding the provision of the site access and vehicle parking for the dwellings are required to maintain highway safety. A Construction Transport Management Plan is required by condition 7 to control construction vehicles, loading and unloading, storage of materials, deliveries and to maintain the condition of the local highway. Conditions 10 and 11 are necessary to require the off site highway improvements connecting the site to Petworth Road and at the junction of Scotland Lane and Midhurst Road. This is in the interests of pedestrian safety.
172. In order to promote sustainable travel, conditions are necessary to provide for cycle parking, electric cycles for use by future occupiers of the site, electric vehicle charging points and the submission of a Travel Plan (Conditions 12,13,14 and 15). Condition 32 requires the provision of broadband to ensure sustainable construction and design.
173. I impose condition 6 to control the hours of construction on the site and condition 8 to require a Construction Environmental Management Plan. These measures are required to safeguard the amenity of nearby residents during the construction phase.
174. In the interests of safeguarding biodiversity, conditions are required to secure the submission of an Ecological Construction Environmental Management Plan and a Landscape and Ecological Management Plan and an Ecological Enhancement Plan (conditions 9,22 and 25). In addition, conditions requiring measures to specifically protect reptiles and dormice on the site are necessary (conditions 23 and 24).
175. To ensure that the site is properly drained, conditions 17 and 18 are necessary to ensure that the details of a surface water drainage strategy are submitted and that a verification report is provided once the strategy has been completed.
176. I impose conditions 19,20 and 21 to address the identified potential for on site contamination. Condition 30 requires a programme of archaeological work as the site is in an Area of High Archaeological Potential. As the site is in an area of water stress, condition 31 is necessary to control water consumption.
177. Condition 27 relates to trees to be retained and tree protection areas. At the Inquiry I was advised that there were discrepancies between the submitted Arboricultural Impact Assessment (AIA) and the submitted Preferred Services Layout Plan. To overcome this potential source of conflict, the Council suggest that an updated AIA be submitted including details of the tree protection measures and any services to be provided or repaired including drains and soakaways. The Appellant however suggests a slightly differently worded condition which requires the submitted AIA to be implemented but also seeks the submission of a services plan in relation to retained trees and root protection areas. In the interests of clarity and to remove any doubt with regard to the protection of trees, I impose the Council's suggested condition. The submitted Preferred Services Layout Plan is not referred to in Condition 1 as it does not form an approved plan.
178. Finally, condition 28 is necessary to require the submission of details of cross sections indicating proposed finished ground levels, surface materials

and edgings within the protected tree zones. This is to ensure trees worthy of retention are not harmed during the development.

Conclusion

179. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

Helen Hockenhull

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Clare Parry of Counsel

She called

Radek Chanas
Meng LA MA Garden and Landscape
History CMLI

Associate Landscape Architect,
Pegasus Group

Katherine Dove MA MRTPI

Principal Planning Officer, Waverley BC

Brian Woods BA MRTPI

Managing Director, WS Planning &
Architecture

FOR THE APPELLANT

Heather Sargent of Counsel

She called

Christopher McDermott
BSc (Botany) MLD
(Landscape Design)

Director Sightline Landscape Ltd

David Neame
BSc (Hons) MSc MRTPI

Director, Neame Sutton Limited

Charles Collins
BSc (Hons) MSc MRTPI

Director, Savills (UK) Ltd

HASLEMERE RULE 6 ALLIANCE

(Unrepresented by an advocate at the Inquiry)

Louise Cronk

Spokesperson and resident

Christine Marsh
BA (HONS) DipLA CMLI

Landscape Architect, Hankinson Duckett
Associates

Lynne Evans BA MA MRTPI MRICS

Director, LJE Planning Ltd

INTERESTED PERSONS

Tim Young

Resident

Sarah Claridge

Resident

Gareth David

Resident

Howard Brown	Resident
Mr and Mrs Marshall	Residents
Tim Collins	Resident
Chris Wright	Resident
Aine Hall	Resident
Samantha Noonan and Dillett	Residents
Clive Smith	Surrey Hills AONB Planning Advisor
Cllr Jerry Hyman	Waverley Councillor for Farnham Firgrove

DOCUMENTS SUBMITTED DURING THE INQUIRY

1. Sarah Claridge Speaking Notes
2. Tim Collins Speaking Notes
3. Gareth Davies Speaking Notes
4. Howard Brown Speaking Notes
5. Mr Marshall Speaking Notes
6. Chris Wright Speaking notes
7. Aine Hall Speaking Notes
8. Samantha Noonan and Ray Dillett Speaking Notes
9. Opening Statement from the Council
10. Opening Statement from the Appellant
11. Opening Statement from the Haslemere Rule 6 Alliance
12. Updated 5YHLS position following Loxwood Road Appeal
13. Existing Levels and Proposed Building Platforms Plan
14. Illustrative perspective view of the site
15. Christine Marsh Evidence in Chief statement
16. Highways Technical Advice Note 10, Vision Transport Planning dated 21 December 2021
17. Further Ecology Note prepared by Engain in response to Mr Matthes dated 21 December 2021
18. Cllr Hyman Evidence dated 21 December 2021
19. Western Boundary Treatment Plan SK16, Adam Architecture with accompanying note from Savills dated 22 December 2021
20. Further information from the Council regarding Dunsfold Park, temporary planning permissions
21. Copy of two emails submitted by the Council regarding Meadow Nursery West and Meadow Nursery East, Chiddingfold dated 13 December and 15 November 2021 respectively
22. Copy of email dated 9 December 2021 submitted by the Council regarding Manns Department Store, Cranleigh
23. Dr K Ellis, Haslemere Town Council response to Mr Collins Proof of Evidence
24. Appeal decision Ref APP/R3650/W/19/3243575, 9 Brambleton Avenue, Farnham submitted by Cllr Hyman
25. Copy of Appropriate Assessment Pro Forma in respect of the site submitted by the Council

26. Lynne Evans Evidence in Chief Statement
27. Draft s106 agreement, unsigned and undated
28. Statement from Dr K Ellis dated 29 December 2021
29. Email from the Council dated 5 Jan 2022 in response to Inspector questions regarding the AA.
30. HRA Matters – Statement of Common Ground – in relation to statement by Cllr Hyman on 21 December 2021, EPR
31. Response from Professor T Oliver regarding Biodiversity Net Gain calculation dated 23 December 2021
32. Email response to Professor T Oliver comments from Engain dated 6 January 2022
33. Mr Matthes further response dated 6 January 2022 following Engain comments of 21 December 2021
34. Mr Brown Speaking Note in response to Engain rebuttal 6 Jan 2022
35. Council's Closing Submissions
36. Appellant's Closing Submissions

DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. Signed and dated s106 agreement
2. Revised list of conditions
3. Appeal Ref APP/R3650/W/21/3278196, Land west of Loxwood Road, Alford, Surrey.

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:

Site Location Plan 1:1250 PL_01 b, Site Layout 1:500 PL_02 a, Landuse 1:500 PL_03 a, Access and Movement 1:500 PL_04 a, Unit Mix Plan 1:500 PL_05 a, Tenure Plan 1:500 PL_06 a, Building Heights 1:500 PL_07 a, Refuse/Cycle/Parking Plan 1:500 PL_08 a, Accommodation Schedule & Building Matrix PL_10 e, Street Elevations (1 of 3) 1:200 PL_20 a, Street Elevations (2 of 3) 1:200 PL_21 a, Street Elevations (3 of 3) 1:200 PL_22 a, Footway Improvement Midhurst Rd/Scotland La 17054-004 a, Swept Path Analysis of a Large Refuse Vehicle 17054-010 Rev G, Proposed Access and Associated Visibility Splays 17054-011 Rev A, Proposed Footway Improvements (4 Sheets) 17054-014 d, Landscape General Arrangement 1:500 at A1 389_LMP_01 a, Tree Planting Plan 1:500 at A1 389_LMP_02 a, Boundary Treatments 1:500 at A1 389_LMP_03 a, Ornamental Planting 1:500 at A1 389_LMP_04 a, Grassland 1:500 at A1 389_LMP_05 a, Blue Green Infrastructure 1:500 at A1 389_LMP_06 a, Buffer Planting 1:500 at A1 389_LMP_07 a, TSP (Tree Survey Plan) 10881.01, TRRP (Tree Retention/Removal Plan) 10881.02A, Indicative TPP (Tree Protection Plan) 10881.03, Manhole Schedule 49215/2001/002, Standard Details (Sheet 1 of 2) 49215/2001/010, Standard Details (Sheet 2 of 2) 49215/2001/011, Existing Services Layout 49215/2002/001, House Type BF1- GF Plan (27-30) PL_100, House Type BF1- FF Plan (27-30) PL_101, House Type BF1- Elevations (27-30) PL_102, House Type BF1- Elevations (27-30) PL_103, House Type BF2- GF Plan (14-17) PL_104, House Type BF2- FF Plan (14-17) PL_105, House Type BF2- Elevations (14-17) PL_106, House Type BF2- Elevations (14-17) PL_107, House Type T1 - Floor Plans (18,19) PL_108, House Type T1 - Elevations (18,19) PL_109, House Type T1 - Elevations (18,19), PL_110, House Type T2/T3 - Floor Plans (25,26) PL_111, House Type T2/T3 - Elevations (25,26) PL_112, House Type T4- Floor Plans (31,32) PL_113, House Type T4- Elevations (31,32) PL_114, House Type T5 / 6- Floor Plans (35,36,37) PL_115, House Type T5 / 6- Elevations (35,36,37) PL_116, House Type T5 /6- Elevations (35,36,37) PL_117, House Type T7- Floor Plans (34,49) PL_118, House Type T7- Elevations (34,49) PL_119, House Type T7a- Floor Plans (10,21) PL_120 a, House Type T7a- Floor Plans (10,21) PL_121 a, House Type T8- Floor Plans (5,50) PL_122 a, House Type T8- Elevations (5,50) PL_123 a, House Type T9- Plans (42) PL_124, House Type T9- Elevations (42) PL_125, House Type T10- Floor Plans (6,38) PL_126, House Type T10- Elevations (6,38) PL_127, House Type T11- Floor Plans (43) PL_128, House Type T11- Elevations (43) PL_129, House Type T11a- Floor Plans (1,13,45) PL_130 a, House Type T11a- Elevations (1,13,45) PL_131 a, House Type T11b- Floor Plans (39) PL_132, House Type T11b- Elevations (39) PL_133, House Type T11b- Elevations (39) PL_134, House Type T11ba- Floor Plans (33) PL_135, House Type T11ba- Elevations (33) PL_136, House Type T11ba- Elevations (33) PL_137, House Type T12 - Floor Plans (23,24) PL_138, House Type T12- Elevations (23,24) PL_139, House Type T12- Elevations (23,24) PL_140, House Type T13 - Floor

Plans (3) PL_141, House Type T13- Elevations (3) PL_142, House Type T14 - Floor Plans (4,47) PL_143, House Type T14 - Elevation (4,47) PL_144, House Type T14a - Floor Plan (48) PL_145, House Type T14a - Elevation (48) PL_146, House Type T14b - Floor Plan (12, 46) PL_147, House Type T14b - Elevation (12, 46) PL_148, House Type T14ba - Floor Plan (44) PL_149, House Type T14ba - Elevation (44) PL_150, House Type T16 - Floor Plan (8) PL_151, House Type T16 - Elevation (8) PL_152, House Type T19 - Floor Plan (22,41) PL_153, House Type T19 - Elevation (22,41) PL_154, House Type T19a - Floor Plan (2) PL_155, House Type T19a - Elevation (2) PL_156, House Type T20- Floor Plan (40) PL_157, House Type T20 - Elevation (40) PL_158, House Type T20a- Floor Plan (9) PL_159, House Type T20a - Elevation (9) PL_160, House Type T21- Floor Plan (7,11,22) PL_161, House Type T21 - Elevation (7,11,22) PL_162, Studio Garage S1 - Floor Plan (13) PL_163, Studio Garage S1 - Elevations (13) PL_164, Studio Garage S2 - Floor Plan (38) PL_165, Studio Garage S2 - Elevations (38) PL_166, Studio Garage S3 - Floor Plan (4,34,45,49) PL_167 a, Studio Garage S3 - Elevations (4,34,45,49) PL_168 a, Studio Garage S3a - Floor Plan (48) PL_169, Studio Garage S3a - Elevations (48) PL_170, Double Garage Dga PL_171, Double Garage DGb PL_172 , Double Garage DG combined A PL_173, Double Carport DG combined B PL_174, Substation and Garden shed PL_175 , Bicycle and Bins Storage PL_176.

- 3) No development above damp-proof course shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to first occupation of the development hereby approved, the proposed modified vehicular access to Scotland Lane shall be constructed and provided with visibility splays in accordance with Drawing No. 17054-011 Rev A, and thereafter the visibility splays shall be kept permanently clear of any obstruction over 1 metre high.
- 5) No dwelling hereby approved shall be occupied unless and until space has been laid out within the site, in accordance with the approved plans, for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 6) Hours of construction, demolition and site clearance including deliveries to and from the site shall be limited to 08:00 – 18:00 Monday to Friday; 08:00 – 13:00 on Saturdays and no work on Sundays and Bank or Public Holidays.
- 7) No development shall commence until a Construction Transport Management Plan, to include details of
 - a) construction access route(s), parking for vehicles of site personnel, operatives and visitors
 - b) loading and unloading of plant and materials
 - c) storage of plant and materials
 - d) programme of works (including measures for traffic management)

- e) provision of boundary hoarding behind any visibility zones
- f) HGV deliveries and hours of operation
- g) vehicle routing
- h) measures to prevent the deposit of materials on the highway
- i) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
- j) on-site turning for construction vehicles

has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Construction Transport Management Plan.

- 8) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall provide for:
- a) an indicative programme for carrying out of the works
 - b) the arrangements for public consultation and liaison during the construction works
 - c) measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s)
 - d) details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination
 - e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - f) wheel washing facilities
 - g) measures to control the emission of dust and dirt during construction.

The approved Construction Environmental Management Plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 9) No development shall take place, including any works of demolition, until an Ecological Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include, but not be limited to:
- a) a map showing the location of all of the ecological features, including location of biodiversity protection zones
 - b) risk assessment of the potentially damaging construction activities
 - c) practical measures (physical measures and sensitive working practices) to avoid and reduce impacts during construction
 - d) location and timing of works to avoid harm to biodiversity features

- e) the times during construction when specialist ecologists need to be present on site to oversee works
- f) responsible persons and lines of communication
- g) the roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- h) use of protective fences, exclusion barriers and warning signs.
- i) timing of vegetation or site clearance to avoid bird nesting season, or, if not possible, site checked for active nests within 24 hours of any clearance works.

The approved Ecological Construction Environmental Management Plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 10) No dwelling hereby approved shall be first occupied unless and until a pedestrian improvement scheme, including the resurfacing of the carriageway, has been provided connecting the site to Petworth Road in accordance with Drawing No. 17054-014 Rev D.
- 11) No dwelling hereby approved shall be first occupied unless and until a footway and tactile paving has been provided at the junction of Scotland Lane and Midhurst Road in accordance with Drawing No. 17054-004 Rev A.
- 12) No development above damp-proof course shall take place until a scheme for the provision of facilities for the secure, covered parking of bicycles has been submitted to and approved in writing by the Local Planning Authority. No dwelling may be occupied unless and until the bicycle parking facilities for the relevant dwelling have been provided in accordance with the approved scheme. The approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority in accordance with the approved scheme.
- 13) No dwelling hereby approved shall be occupied unless and until the relevant dwelling has been provided with a fast-charge Electric Vehicle charging point (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority. The charging points shall thereafter be retained and maintained to the satisfaction of the Local Planning Authority.
- 14) The development hereby approved shall not be occupied unless and until a fleet of at least 5 electric bikes has been provided within the site in accordance with a scheme (including a maintenance scheme), to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.
- 15) Prior to the occupation of the development a Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority in accordance with the sustainable development aims and objectives of the National Planning Policy Framework 2021 and Surrey County Council's 'Travel Plans Good Practice Guide'. The approved Travel Plan Statement shall be implemented in full.

- 16) No development shall take place on site until a detailed levels plan, clearly identifying existing and proposed ground levels and proposed ridge heights, has been submitted to and approved in writing by the Local Planning Authority. This should include details of any earthworks including the proposed grading and mounding of land areas, the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.
- 17) No development shall commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:
 - a) confirmation of groundwater levels, to confirm that a minimum of 1 metre is available between the base of the infiltration devices and the highest recorded groundwater level.
 - b) evidence that the proposed final infiltration-based solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. The final solution should follow the principles set out in the approved drainage strategy.
 - c) detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.)
 - d) a plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.
 - e) details of drainage management responsibilities and maintenance regimes for the drainage system.
 - f) details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.
 - g) full details of the treatment of the surface water in relation to the source protection zone.
- 18) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved in writing by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 19) Prior to commencement of development, other than that required to be carried out as part of demolition or approved scheme of remediation, the

following shall be submitted to and approved in writing by the Local Planning Authority:

- a) an investigation and risk assessment, in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment shall be undertaken by a competent person as defined in Annex 2: Glossary of the NPPF.
- b) if identified to be required, a detailed remediation scheme shall be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property. The scheme shall include
 - all works to be undertaken
 - proposed remediation objectives and remediation criteria
 - timetable of works
 - site management procedures

The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation works shall be carried out in strict accordance with the approved scheme. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

- 20) Upon completion of the approved remediation works, a verification report demonstrating the effectiveness of the approved remediation works carried out shall be completed in accordance with Condition 19 and shall be submitted to the Local Planning Authority for approval prior to occupation of the development.
- 21) Following commencement of the development hereby approved, if unexpected contamination is found on site at any time, other than that identified in accordance with Condition 19, the Local Planning Authority shall be immediately notified in writing and all works shall be halted on the site. The following shall be submitted and approved in writing by the Local Planning Authority prior to commencement of works.
 - a) an investigation and risk assessment, undertaken in the manner set out in Condition 19 of this permission
 - b) where required, a remediation scheme in accordance with the requirements as set out in Condition 19(b)
 - c) following completion of approved remediation works, a verification report, in accordance with the requirements as set out in Condition 20.
- 22) No development shall take place, including any works of demolition, until a Landscape and Ecological Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be implemented in full. The Plan shall include, but not be limited to:
 - a) aims and objectives of management including biodiversity net gain to be achieved by reference to the targets for the achievement of a

- biodiversity net gain in accordance with The Biodiversity Metric (version 3.0)
- b) description and evaluation of features to be managed, including habitat creation and enhancement and ongoing management for invertebrates, amphibians, reptiles, birds, bats, hazel dormouse, and badger
 - c) ecological trends and constraints on site that might influence management
 - d) appropriate management options for achieving aims and objectives
 - e) strategy for identifying and managing invasive non-native species
 - f) prescriptions for management actions, together with a plan of management compartments
 - g) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period
 - h) details of the body or organisation responsible for implementation of the plan
 - i) ongoing monitoring strategy that includes details of how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
 - j) legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.
- 23) No development shall take place, including any works of demolition, until a Reptile Impact Avoidance, Mitigation and Translocation Plan detailing measures as to how killing and injuring is to be avoided and how the population will be maintained or enhanced, during both construction and operational phases of development, has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be carried out in strict accordance with the approved details.
- 24) No development shall take place, including any works of demolition, until a Reasonable Avoidance Measures Document detailing measures as to how killing, injuring and disturbance of dormice will be avoided during both construction and operational phases of development, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved document.
- 25) The development hereby permitted shall be carried out in accordance with the Ecological Enhancement Plan (Figure 7-2) of the Full Ecological Assessment, prepared by Engain, reference eg17812.002, dated 21 July 2020.
- 26) The development hereby permitted shall not be occupied until a detailed scheme of external lighting has been submitted to and approved in writing by the Local Planning Authority. The scheme shall achieve lighting to conform with at least Zone 1b as defined by the Institution of Lighting Professionals. The development should be carried out in accordance with

- the approved details. No additional sources of external lighting shall be installed on the development without the prior written approval of the Local Planning Authority.
- 27) No works shall be carried out within the root protection area of any tree until an update to the submitted Arboricultural Impact Assessment (Arboricultural Implications Assessment dated July 2020 and prepared by the Complete Arboricultural Consultancy) has been submitted to and approved in writing by the Local Planning Authority. This shall include details all of the trees to be retained / removed as part of the development hereby approved and shall comply with British Standard 5837 Trees in relation to design, demolition and construction. It shall also include details of the compliant Tree Protection Measures and of any services to be provided or repaired including drains and soakaways. All works shall be carried out in strict accordance with the approved details.
 - 28) No development shall take place until details of cross sections/details indicating the proposed finished ground levels, surface materials including sub-base and depth of construction and method/materials used for edging, within protected zone around retained trees shall be submitted and approved in writing by the Local Planning Authority. All works shall be carried out in strict accordance with the approved details.
 - 29) Prior to the first occupation of the development, a detailed landscaping scheme, based on Landscape Design General Arrangement (ref. 389_LMP_01_REV_A) shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be carried out strictly in accordance with the agreed details and shall be carried out prior to the first occupation of the development. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, such maintenance to include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority, seriously damaged or defective. Such replacements to be of same species and size as those originally planted.
 - 30) No development shall take place on site, including demolition, until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority
 - 31) Prior to the occupation of the dwellings, details shall be submitted to and approved in writing by the Local Planning Authority to confirm that the dwellings have been completed so that the potential consumption of wholesome water by persons occupying a dwelling will not exceed 110 litres of water per person per day.
 - 32) Prior to the first occupation of the dwellings hereby permitted the highest available speed broadband infrastructure shall be installed and made available for use.