
Appeal Decision

Inquiry held on 26-28 April 2016

Site visit made on 25 & 27 April 2016

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 10 June 2016

Appeal Ref: APP/Q3115/W/15/3136319

Mount Hill Farm, High Street, Tetsworth, Oxfordshire OX9 7AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Holland against the decision of South Oxfordshire District Council.
 - The application Ref P14/S3524/O, dated 31 October 2014, was refused by notice dated 22 April 2015.
 - The development proposed is the erection of 39 dwellings with associated parking, new vehicular access and estate roads and a new school building and associated outdoor space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 39 dwellings with associated parking, new vehicular access and estate roads and a new school building and associated outdoor space at Mount Hill Farm, High Street, Tetsworth, Oxfordshire OX9 7AD in accordance with the terms of the application, Ref P14/S3524/O, dated 31 October 2014, subject to the conditions in the Schedule at the end of this decision.

Application for costs

2. At the Inquiry an application for costs was made by Mr M Holland against South Oxfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Two signed S106 agreements dated 27 April 2016 were handed to me at the Inquiry, one in respect of obligations to the District Council (the Local Planning Authority or LPA) (S106-1) and the other with those to Oxfordshire County Council (OCC) (S106-2). I address the substance of these agreements below.
 4. The proposal is in outline with all matters reserved except access, which would be from the A40 at the location of the existing field gate at the south west corner of the site.
 5. I agreed at the Inquiry that the updated version of the illustrative master plan I am considering is drawing number 1E/LPd dated 23 March 2016. A number of village residents have stated that they considered that there had been inadequate consultation on this revised illustrative layout. However, the revisions concerned the detailed layout of some of the proposed houses and car
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parking areas within the site, including ensuring that the fronts of the proposed houses face the main road as the objecting residents wish. On the basis that the revisions are agreed with the LPA, are minor, would not affect any consideration raised by third parties, have not been the subject of any criticism and in any case are still only illustrative there would be no prejudice to anyone. In other words, they comply with the *Wheatcroft* principles¹, which is the reason I accepted them.

Main Issues

6. The main issues are as follows:

- (a) Whether the proposed development complies with local and national policy in respect of the delivery and location of new homes;
- (b) Its effect on the character and appearance of the area;
- (c) Whether it makes sufficient and appropriate provision for any additional infrastructure, services and facilities required by or arising from the development.

Reasons

Housing Delivery and Location

Housing Land Supply (HLS)

- 7. Following two recent appeal decisions at Chinnor² and Wallingford³ the LPA accepts that it does not have a supply of specific deliverable sites sufficient to provide five years worth of housing (5YHLS) against its current housing requirement. This requirement is based on the Oxfordshire Strategic Housing Market Assessment (SHMA) published in April 2014, which reflects the full objectively assessed housing need of the District (FOAN).
- 8. This requirement, as set out in the Statement of Common Ground (SoCG), is based on the mid-point figure of 775 homes per year. This is a large uplift from the annual requirement of 547 dwellings set out in the South Oxfordshire Core Strategy (CS) adopted in December 2012, which was based on the revoked South East Plan.
- 9. When taking account of the shortfall from previous years and the accepted 20% buffer the LPA states that this equates to a minimum of 5,148 homes over the next five years (1,030 per year) assuming that the shortfall will be made up over the whole of the remaining plan period (the Liverpool method). If the shortfall was to be addressed within the next five years (the Sedgfield method) it agrees the requirement would be 6,144 (1,229 per year)⁴. This equates to a 4.7 or 3.9 years HLS respectively.
- 10. The LPA considers the Liverpool method is more appropriate for the reasons given in paragraph 22 of the Wallingford decision but the appellant disputes this, essentially for the reasons set out in the recent Stadhampton appeal decision⁵. I decided not to hear detailed evidence of supply from individual sites because in my view the undisputed lack of a 5YHLS rendered this

¹ As set out in the Procedural Guide: Planning Appeals – England, Annex M

² APP/Q3115/W/15/3097666 – Allowed 23 March 2016

³ APP/Q3115/W/15/3032691 – Allowed 21 March 2016

⁴ SoCG paragraph 31 Table 1

⁵ APP/Q3115/W/15/3035899 – Allowed 19 May 2016, paragraphs 11-16

unnecessary, so I make no judgement on delivery of homes from sites where such delivery is disputed between the main parties.

11. However, the Inspector in Stadhampton gave detailed consideration to Liverpool/Sedgefield and I agree with his conclusions. In particular, that the uplifted scale of the new housing requirement including the need to address an increasing backlog is, as the appellant argued at this Inquiry, a 'game-changer' that justifies the need to substantially increase delivery within the next five years. Also, because of the undisputed need to additionally accommodate about 3,000 homes of Oxford City's requirement into South Oxfordshire District, which is likely to be addressed in the emerging Local Plan (eLP).
12. For these reasons I conclude that the backlog should be addressed over the next five years (the Sedgefield approach), which means that even by the LPA's figures there is only a 3.9 years HLS, which is a significant under supply. This means that relevant policies for the supply of housing are not up-to-date⁶, and that permission for the proposed development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole⁷.

The Spatial Strategy and Development Plan Policy

13. The LPA's spatial strategy as set out in the CS is to concentrate the delivery of new homes in Didcot in order to promote the redevelopment of key sites there and link housing provision with employment growth in the Science Vale (Objective 1 and Policy CSS1). Policy CSH1 sets out the housing requirements and supply in Didcot and in the Rest of the District (RoD) but only down to the level of the 'larger villages'. Tetsworth is defined as a 'smaller village'⁸. Policy CSR1 allows infill development in 'smaller villages' in principle on sites of up to 0.2ha or equivalent to 5-6 houses. Infill development is defined as the filling of a small gap in an otherwise built-up frontage or on other sites within settlements where the site is closely surrounded by buildings⁹.
14. These are clearly policies for the supply of housing. Whilst they are out-of-date in view of the lack of a 5YHLS this does not mean that the spatial strategy of the CS is no longer relevant. On the contrary, I consider such a strategy to meet policy for the sustainable location of new development as set out in the NPPF and it attracts considerable weight in view of the CS's adoption following the introduction of the NPPF. The proposal would not comply with this strategy as expressed in the above Policies because it is a major development of more than 6 houses on a 1.87ha site that cannot realistically be described as infill development.
15. The appellant argued that the spatial strategy in the CS is redundant because the villages in the RoD will be required to accommodate significant increases in housing numbers as set out in the eLP. However, the spatial strategy in the eLP is no more than an evolution of the current spatial strategy in the CS¹⁰. It still maintains Didcot and the Science Vale as a focus of development and still restrains significant development in the smaller villages; the proposed added flexibility of allowing up to 10 houses in villages rather than 5-6 houses under

⁶ National Planning Policy Framework (NPPF) paragraph 49

⁷ Ibid paragraph 14

⁸ CS Appendix 4

⁹ Core Strategy paragraph 13.10

¹⁰ CD6: South Oxfordshire Local Plan 2031 Refined Options pages 12 & 13 and admitted by Mr Sensecall under XX

CS Policy CSR1 does not fundamentally change the existing spatial strategy.¹¹ The appellant did not demonstrate that the increased housing requirement was not capable of being met in Didcot, the other three market towns or the larger villages within the District and I have no reason to believe that this would not be the case. In view of this I give significant weight to the conflict between the LPA's spatial strategy, both in its existing form in the CS and in the eLP.

16. Conflict with the spatial strategy and the above Policies must perforce be weighed up against the benefits of providing much needed new homes in the planning balance, and I address this later on in the decision.

Location

17. Tetsworth had a population of 693 living in 294 dwellings at the 2011 census. It has a pub (which includes a small shop), a restaurant-cum-antiques centre, a church, village hall, sports and social club, recreation ground, primary school and pre-school and a few small employment sites, all of which are within a short walk of the site on paved footways.
18. It is about 5 miles south of Thame and 15 miles south east of Oxford, where there are many employment opportunities and other main facilities including a hospital with an Accident and Emergency department. It has two bus services. Bus 275 provides 4 buses each way between High Wycombe and Oxford Monday to Friday (no services at weekends). It leaves every 3 hours at 07:36, 10:30, 13:45 and 16:51 to Oxford and at 09:05, 11:45, 15:00 and 18:14 to High Wycombe. The journey time to High Wycombe is 37 minutes and 32 minutes to Oxford. I note that these bus times, with the possible exception of the 07:36 to Oxford, are not very practical or realistic for potential bus customers who work or study in Oxford or High Wycombe or in locations on the way to these towns.
19. Bus 124 goes once daily to Thame and Watlington, the journey to the former being 12 minutes and to the latter 16 minutes (no service on Sunday). The subsidy that supports this service will be stopped by OCC in July 2016 and so the service is due to cease. Red Rose Travel, the company that runs Bus 275, has written to the appellant to say that it would adjust its timetable to run a service to and from Thame should the development go ahead. But its letter is undated and there is no contract in place for such an increased service as far as I am aware, so I do not attribute much weight to this offer.
20. Feedback from the Tetsworth Community-Led Plan also suggested that such a service was unlikely in any case to be used by existing residents. But I consider it unlikely that no one in the 39 new households would use the bus service from time to time and so the development would only be likely to contribute to the bus service's viability, albeit probably in a minor way. However, the lack of an hourly bus service to Oxford and High Wycombe does not offer a realistic choice to the private car.
21. Thame is a short cycle ride away although I doubt this mode of transport would be favoured by many residents because the road to it is unlit and traffic speeds high and many people would perceive this route to be unsafe.
22. For the above reasons the village cannot be said to be endowed with a good range of facilities and its accessibility by public transport and cycle is limited,

¹¹ Ibid, pages 17-20 & 40-41

which indicates that potential residents would be largely reliant on the private car. This comes as no surprise given its place in the CS's spatial strategy. However, it is fairly close to Oxford and very close to Thame, which partially mitigates these failings.

23. Nonetheless, I conclude that the residents of the proposed homes would have fairly poor access to essential services and facilities by sustainable transport modes. Locating this many new houses here would not comply with CS Policy CSM1, which seeks to encourage modal shift to sustainable modes of transport. Nor would it comply with CS Policy CSQ3, bullet point 6, which requires the same thing. The appellant acknowledges that these Policies are not policies for the supply of housing and accordingly should carry full weight¹². I also note OCC's objection to the proposal on these grounds, although the Highway Authority does not suggest that there are any objections to the detailed design of the proposed site access or the capacity of the A40 to accommodate the additional traffic from the development.
24. Again, this conflict with development plan policy, and indeed also with NPPF paragraphs 17, 29 and 30, will feed into the planning balance below.

Character and Appearance

25. I had a good walk on and around the site before and during the course of the Inquiry. Manor Hill Farm occupies a small ridge of land in the oldest part of the village, which is located in the Clay Vale between the Chiltern ridge and Oxford. The land rises from the southern part of the site to the north east. From the A40 the site appears contained by the higher land to the north east, which forms a natural visual boundary to the wider countryside beyond.
26. The farmyard is steeply raised above the natural level of the land on the rest of the site to the south east, which is fallow or pasture agricultural land. It sits on a roughly level manmade platform or hardstanding that has been extended out south-eastwards from a series of barns and is used for storing hay and agricultural machinery. The current form of the site is prominent from the A40, particularly from the field gate next to the telephone exchange, the site of the proposed access.
27. It forms a substantial open gap between the former Council housing along the A40 to the south east and the rest of the main part of the village to the north-west. However the large barns are prominent from the road and there is also residential development on the other side of the road, albeit that the site predominantly faces the long open garden of the house opposite. There are also additional barns belonging to the farmer behind the site to the east. The overall impression when walking in and around the site is that it lies within the village, notwithstanding it has a clear rural edge to the north east. I note here that villages within the District, including Tetsworth, do not have delineated settlement or development boundaries.
28. Apart from the old farmhouse the farm buildings comprise mainly large utilitarian twentieth century barns used for housing cattle and farm machinery and total 3,090m² amounting to about 16% of the site. The barns and the hardstanding together amount to about half the total area of the site. Whilst acknowledging that it is of course customary to see such agricultural buildings,

¹² Document ID12

- hardstandings and uses in the countryside and that these do not fall within the NPPF definition of previously developed land, they do have a considerable visual impact and this part of the site cannot be described as open countryside.
29. There is no doubt that to construct the development, either that shown on the illustrative plan or similar, considerable regrading and earth moving will be necessary. But to the extent that this would involve regrading the steep slope of the farmyard's hardstanding I consider this would be a positive benefit because it would restore the land to its natural form.
30. It is agreed¹³ that the site lies within the Clay Vale Landscape Character Area as set out in the South Oxfordshire Landscape Assessment (SOLA), adopted as Supplementary Planning Guidance by the LPA in 2003. The Clay Vale is divided into various Landscape Character Types (LCTs), and it is agreed that the site lies on the cusp of the *Undulating Open Vale* and the *Undulating Semi-enclosed Vale* LCTs. The SOLA's enhancement strategy plan identifies four potential objectives for the enhancement of landscape area, namely *Conserve*, *Repair*, *Restore* and *Reconstruct*; the plan places the site within the objective type *Repair*, which essentially means repairing the rectilinear field pattern and hedgerow structure of the land.
31. At present there is a hedgerow to the A40 frontage and to the south east boundary of the site, but the north east boundary is only defined by a post and wire fence. The illustrative landscaping proposals, which the LPA could insist on at reserved matters stage, show an 8m width band of structural tree and shrub planting to both the A40 frontage and the north east boundary. The sight lines for the new access would involve the removal of a large stretch of the existing hedgerow to the frontage. But the landscaping here would over time be considerably strengthened, and that to the north east boundary would restore the rectilinear field pattern as well as substantially screen the development from the wider countryside beyond, which would improve the local landscape structure. Although it could take 15 years for such a landscaping scheme to mature its benefits in terms of landscape character would be felt sooner.
32. The LPA takes issue at the appellant's categorisation of the significance of effect on the landscape as only 'slight adverse'. Mr Radmall for the LPA considers the effect on the site character and village character to be 'moderate adverse' after mitigation. However, for the above reasons especially including the topography of the site in its context and the landscaping proposals, I disagree and favour Mr Wilson's overall assessment. This is despite the fact that the development would clearly encroach onto undeveloped Greenfield land closing this open gap along the A40 and also despite some unclarity as to why Mr Wilson changed his categorisation of landscape sensitivity from high to medium. In summary, the development of this largely open piece of land would be relatively contained and meld with the existing structure and layout of the village's built development and its landscape setting.
33. There is disagreement between the LPA's and appellant's witnesses about the residual visual impacts (RVI) from Mr Wilson's Viewpoints (VPs) 2, 3, 4, 5 and 12, residual in this sense meaning the impacts after the maturing of the landscaping. I agree that these VPs are the most significant: VP2 is from the A40 next to the site; VP3 is from Judd's Lane (the public bridleway) abutting

¹³ As set out in the Landscape and Visual Impact Assessment August 2014 (LVIA) and in Mr Radmall's Proof

the site where the new pre-school building would be erected; VP4 is from the public footpath about 200m to the north west of the site; VP5 is from the bridleway at Horsenden Hill about 1km north of the site; and VP12 is from the pedestrian and bridleway bridge over the M40 about 700m west of the site. I saw the site from all these VPs.

34. I found Mr Wilson's justifications for his conclusions on the residual impact to receptors at these key VPs to be unclear and inexplicably at odds with the methodology set out in Appendix 1 of his Proof¹⁴. For these reasons I favour Mr Radmall's conclusions of RVI at these VPs. However, I have had regard to Mr Wilson's Review of the photomontages produced by Mr Radmall in his proof¹⁵ and consider the photomontages in this document and the delineations of the heights of the existing and proposed buildings to be accurate.
35. There will inevitably be a significant RVI from VPs 2 and 3 because these VPs are no more than 10m from the development but provided there is an 8m landscaped buffer to the A40 road frontage this would be sufficient to mitigate any impact from VP2. The visual impact of the new pre-school building from VP3 would be no worse than the impact of the existing barn in this location.
36. I consider the impact from VP4 to be the most significant but even this VP is already impacted by the views of the large barns; the new homes, which would be seen as being part of the context of the village, would not be significantly more prominent. Indeed, when the trees in the landscaping belt mature the impact of the new development is likely to be less than that of the existing barns. I have also taken into account the appellant's agreement to the ridge heights of the new homes being no higher than that of the ridge height of Barn B as shown in Figures 2 and 2A of ID5 (as set out in the relevant condition below).
37. The development would have only a marginal impact on the view from Horsenden Hill (VP5) because it is 1km away. The roofs of the new houses would be visible from the M40 over-bridge at VP12 but again so are the existing barn roofs and in any case these roofs are and would be seen as a backdrop to the rest of the village in the foreground including the tower of the church.
38. I agree with Mr Radmall that the RVI at VPs 2, 3 and 4 could at worst be argued to be 'moderate adverse' under the adopted LVIA methodology and the impact on VPs 5 and 12 'slight adverse'. But these impacts are not so significantly adverse as to warrant refusal of the proposed development. Together with my conclusion that the proposal would not adversely affect landscape character I therefore conclude overall, for the above reasons, that the proposal would not harm the character or appearance of the area.
39. The LPA now acknowledges that it no longer considers there to be any effect on the historic environment and that there is consequently no conflict with CS Policy CSEN3 despite the wording in refusal reason 2. Policy CSQ3 (Design) requires new development to respond positively to and respect the character of the site and its surroundings. The illustrative scheme would do so and therefore would comply with this Policy. The LPA also argues that the encroachment of the scheme onto open land and on the rural landscape setting

¹⁴ Mr Wilson under XX

¹⁵ ID5

of Tetworth would be contrary to 'saved' Policies G2, G4, and C4 in the South Oxfordshire Local Plan adopted in 2006. These Policies together require the protection of the countryside from adverse development and the protection of settlements' landscape settings. However, for the above reasons the proposed development would comply with these Policies.

Infrastructure

40. CS Policy CSI1 states that permission will only be granted when infrastructure and services to meet the needs of new development, both on- and off-site, is already in place or will be provided to an agreed timescale.
41. Both sides agree that the obligations in the two S106 agreements are sufficient to overcome the LPA's refusal reasons 3 and 4. It is however still necessary for me to determine whether the proposed obligations meet the tests in the *Community Infrastructure Levy Regulations 2010* (CIL Regs).
42. On 1 April 2016 the LPA adopted its CIL Charging Schedule, to which I understand this scheme will be liable, but there is no allegation from the appellant that this and the obligations together will make the proposed development unviable. The LPA's *Section 106 Planning Obligations Supplementary Planning Document* (SPD) adopted at the same time as the Charging Schedule is designed to prevent such an occurrence. Consequently, and with respect to the wording of the specific obligations, I am content there will be no double charging in this case.
43. S106-1 provides for the District Council's requirements. 40% affordable housing is required by CS Policy CSH3. 40% of 39 units is 15.6 units. 15 of the 39 new homes on the site would be affordable, 4 shared ownership and 11 for rent. There would be an appropriate financial contribution of £55,860 for the remaining 0.6 of a dwelling which could be used elsewhere in the District, as allowed for in Policy CSH3.
44. S106-1 also obliges the timely payment of contributions of £6,630 for waste and recycling bins for the new houses and £420.42 towards the funding of street naming and numbering within the development, in accordance with 'saved' LP Policy D12 and CS Policy CSI1. The LPA has confirmed that there are no other planning obligations since 6 April 2010 for such contributions and so the requirements of Regulation 123 of the CIL Regs are met.
45. It also ensures the delivery of public open space in perpetuity within the scheme prior to occupation of the eighteenth dwelling and that occupiers of the dwellings become shareholders of a company to manage this open space, in accordance with CS Policy CSG1 and LP Policy R6.
46. S106-2 provides for the County Council's requirements. These ensure that an appropriate site-specific contribution is made towards education infrastructure in the village. This is via the obligation that covenants the appellant to provide one of two alternatives, either the transfer of the land at the north-western part of the site next to Judd's Lane to OCC or its transfer and £220,000 towards the construction of a new pre-school building. This would mean that the primary school could free up space within the building on its site on the opposite side of the Lane to provide much needed new capacity in the main school in order to accommodate additional children likely to be generated by the family homes in the development.

47. I heard from the Chair of the School Governors at the Inquiry that the main primary school is currently at or over capacity in every school year as is the pre-school (as also confirmed by OCC¹⁶) and without this development and its accompanying obligation money for such an expansion would be unlikely to be forthcoming from OCC. This convinces me that both the transfer of the land and the £220,000 contribution towards the new pre-school building is necessitated by the proposed residential development, in accordance with CS Policy CSEM1(ii).
48. Schedule 2 of S106-2 provides for the provision of the new access and accompanying visibility splays, a widened footway of no less than 1.8m along the northern side of the A40 between the site access and Judd's Lane and an uncontrolled crossing of Judd's Lane linking the existing primary school to the site for the new pre-school building, together with all necessary accompanying works all via a S278 agreement. These works are necessary in order to safely and satisfactorily accommodate the traffic movements arising from the development, in accordance with CS Policies CSM1 and CSM2.
49. Regulation 122 of the CIL Regs set out the following tests for planning obligations: they are necessary to make the development acceptable in planning terms; they are directly related to the development; and they are fairly and reasonably related in scale and kind to the development. I have already explained why all the obligations meet the first and second tests. They meet the third test because they comply with the above Policies which either set out themselves or cross refer to accompanying documents that adopt customary standard formula for the calculation of relevant floor space or financial contributions.
50. Although not a specific obligation in itself, both S106 agreements also require a modest fee for monitoring the delivery of the obligations, which is not disputed by the appellant and which in my view is necessary and proportionate because such monitoring by the two Councils would not arise in the absence of the development and the necessary obligations to which it gives rise. I note that the Inspector in the recent Stadhampton appeal also agreed that a modest proportionate monitoring fee was acceptable in respect of the S106 agreement in that case.¹⁷
51. I therefore conclude that the proposed development makes sufficient and appropriate provision for any additional infrastructure, services and facilities required by or arising from it.

The Planning Balance

52. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is an important material consideration, particularly in this case given its emphasis on meeting the FOAN for housing and the current inability of the LPA to demonstrate a 5YHLS¹⁸. The recent appeal decisions cited above are also clearly material considerations in this regard, as to an extent is the eLP.
53. I have concluded that Tetsworth has fairly poor access to essential services and facilities by sustainable transport modes, because of its limited bus service and

¹⁶ ID3 OCC Statement of Justification for Planning Obligations Requirements

¹⁷ Ibid paragraph 85

¹⁸ Ibid paragraphs 17, 47 and 49

village facilities, contrary to CS Policies CSM1 and CSQ3. I have also determined that the proposed development would be contrary to the spatial strategy in the CS and therefore contrary to Policies CSS1, CSH1 and CSR1. The proposed development does not for these reasons comply with the development plan as a whole. However, these latter policies are out-of-date because of a significant HLS shortfall, which means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

54. The NPPF states that sustainable development comprises economic, social and environmental roles and that these are mutually dependent. I have concluded that the proposed development would not significantly harm the character or appearance of the area and that it would provide via the two S106 agreements sufficient and appropriate additional infrastructure, services and facilities required by or arising from the development.
55. Furthermore and more importantly the development would provide 39 new homes in a District which has a significant shortfall of deliverable housing sites as well as 40% affordable housing in an area which has an under supply of such housing and a policy prerogative to meet this unfulfilled need. These are important social benefits given the NPPF's aims to significantly boost the supply of housing. There would also be proportionate economic benefits in terms of the construction of the new homes and the spending power of the new residents, which to a limited extent would inevitably benefit the village's facilities.
56. The site lies within the essential confines of Tetsworth and the new homes, as envisaged on the illustrative layout plan, would be an appropriate extension of built development that would be satisfactorily encompassed within the physical core of the village. The concomitant improvements to the primary school and pre-school, as well as being necessary for the development, would also have wider community benefits for the village. There would be no environmental disbenefits.
57. I conclude that the adverse impacts in terms of the fairly poor access to essential services and facilities by sustainable transport modes and the conflict with the development plan's spatial strategy would not significantly and demonstrably outweigh the above benefits. For these reasons the proposed development would contribute economically, socially and environmentally to the immediate area and to the District as a whole and would therefore comprise sustainable development.

Other Matters

58. Neighbours who spoke against the proposal at the Inquiry raised two points that I wish to address. The first was that to allow this proposal would essentially render the spatial strategy in the development plan null and void and set a precedent for such future large residential proposals in or on the edge of Tetsworth, such as an emerging proposal to build 60 houses in a field to the west of the village. I have explained above that the scheme's conflict with the existing spatial strategy weighs significantly against it but that other material considerations and my conclusion that it would not harm the character or appearance of the area outweigh these concerns. Any other proposal for residential development in or on the edge of the village would be judged on its

specific impact on the landscape, other relevant matters and on these or other relevant material considerations at the time any such planning application was determined. So allowing this appeal would not set any such precedent.

59. Secondly, it is alleged that the new access would be unsafe because traffic approaches fast from the north west over the brow of the hill. I have given this matter careful consideration following the fairly recent accident reported to me when Mr & Mrs Bradley's then 18-year old son was knocked down and badly injured outside the telephone exchange. Although I have great sympathy with the Bradleys, I do not know the exact circumstances of that accident and neither the LPA nor Highway Authority has provided evidence that this section of the road is an accident blackspot.
60. Although I appreciate that drivers may well at times exceed the 30mph speed limit at this point, the new access is designed with a new 90m visibility splay in both directions and a large section of the frontage hedge to the A40 will be removed to allow for this. The Highway Authority raise no objection in terms of visibility and S106-2 provides for the existing narrow footway to be widened to 1.8m for the whole site frontage. For these reasons I consider that the new access will be safe, for drivers entering and exiting it, for other drivers on the road and for pedestrians using the new widened footway and crossing the road in the vicinity of the site.

Conditions

61. A revised list of agreed conditions was given to me at the Inquiry. I agree that most of these conditions are necessary for the development to go ahead although I have slightly reworded and amalgamated some in order to comply with Planning Practice Guidance and in the interests of brevity. References to numbered conditions (e.g. C5, C9 etc) are to the numbers of the conditions in my Schedule below.
62. However, conditions reserving details of boundaries, samples of external construction materials, detailed landscaping requirements/management and details of roads and footpaths within the development are unnecessary at this outline stage because these issues will either be agreed as part of reserved matters submissions or in some cases could be attached to such later permissions. However, given that the residual landscape impact of the development has been based on the assumption that 8m landscaped tree and shrub belts would be provided to the north east boundary of the site and the A40 frontage a condition is necessary to ensure that this forms part of the landscaping reserved matters submissions (C9).
63. C1-3 are the standard outline conditions tailored to this proposal. C4 specifying the approved drawings is necessary as this provides certainty as to what has been approved. C5 is required to promote the preservation and enhancement of biodiversity in accordance with CS Policy CSB1 and paragraphs 109 and 117 of the NPPF. C6 is necessary in case there are any significant archaeological remains, which is possible given the site's location near the old centre of the village, in accordance with Policy CSEN3. A levels condition (C7) is required in order to ensure that the maximum agreed height of the new dwellings is no higher than that of 'Barn B', in order to minimise the landscape impact of the development from the north east as set out above.

64. Having weighed up the merits of imposing the LPA's suggested contamination condition I have decided that it is necessary because of the District Council's environmental health comments on the scheme (C8); these stem from the appellant's submitted Geo-Environmental Appraisal (by Glanville) dated 30 September 2014, which suggests the need for intrusive ground investigation in order to assess whether there is any contamination on the site.
65. Equally, Glanville's Foul Water Drainage and Utilities Assessment of the same date submitted with the application and the lack of information regarding surface water drainage at this stage make C10 below necessary now, in order to prevent pollution and flooding in accordance with Policy CSQ3. Although roads and footpaths relate to layout as a reserved matter it is necessary to ensure that the access is safe during construction as well as thereafter (C13) and in particular that they have been completed in accordance with the detailed access plans prior to occupation of each dwelling (C11 and C16).
66. C12 specifies that electric vehicle charging points shall be required when the detailed layout of the development is submitted, in order to help contribute to satisfactory standards of air quality in accordance with LP Policies G2 and EP1. C14 likewise requires cycle parking in order to minimise use of trips by private car in accordance with LP Policy T2, and C17 requires the submission and agreement of a Green Travel Plan for the same reasons, in accordance with CS Policy CSM2. A Construction Method Statement is required to be agreed with the LPA in the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network and local residents, in accordance with LP Policies T1 and EP1 (C15).

Conclusion

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

Nick Fagan

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the Reserved Matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the Reserved Matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the Reserved Matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan P-01; Schematic Layout Plan 1E/LPd (only in so far as it shows the means of access because it is otherwise simply illustrative); Proposed Access Plan TR8130274/01.

- 5) Prior to commencement of development, including any demolition and any works of site clearance, a method statement for biodiversity enhancements based on the recommendations of the submitted Ecological Appraisal (by James Johnston Ecology dated 26 June 2014) shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancements shall be carried out and retained in accordance with the approved details.
- 6) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 7) The ridge levels of the proposed development shall not exceed 108m Above Ordnance Datum (AOD).
- 8) Development other than that required to be carried out as part of an approved contaminated land remediation scheme must not commence until phases i) to iii) below have been complied with, or further works have been deemed unnecessary as a result of conclusions based on risk assessments during phase i), and this has been agreed in writing by the local planning authority (LPA). Documents detailing the works undertaken in each phase must be submitted to and approved by the LPA in writing before any other phase commences, and before occupation of any building in relation to phase iii). All phases of investigation must be designed and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination', CLR 11.
 - i An intrusive site investigation to assess the type, nature, extent and risk(s) of any contamination, whether or not it originates on site. It is recommended that the LPA are consulted on the proposals.
 - ii A detailed remediation scheme, to bring the site to a condition suitable for the intended use. The scheme shall include all works to be undertaken, proposed remediation objectives and criteria, a timetable of works and site management procedures. The scheme shall also ensure that after remediation the site will not qualify as Contaminated Land under Part 2A of the Environmental Protection Act 1990.
 - iii Validation of the remediation scheme demonstrating the effectiveness of the remediation approved in ii) above.

If contamination is found during the course of development that was not previously identified, the development must be halted on that part of the site to the extent specified by the LPA and until the LPA is satisfied that all necessary phases above have been undertaken.
- 9) As part of a Reserved Matters submission (or alternatively a full planning application) the landscaping of the site shall include two landscaped belts approximately 8m in depth within which shall be planted trees and shrubs as shown on the approved illustrative Schematic Layout Plan 1E/LPd.
- 10) The development shall not be occupied until foul and surface water drainage works have been carried out in accordance with details that

- have first been submitted to and agreed in writing by the local planning authority.
- 11) The development shall not be occupied until the vehicular access to the site has been constructed in accordance with approved plan TR8130274/01.
 - 12) Details and locations of 'rapid charge' electric vehicle charging points for parking spaces shall be included as part of a Reserved Matters submission (or alternatively a full planning application) for the Layout of the development.
 - 13) Prior to commencement of development vision splays measuring 2.4m by 90m shall be provided and permanently retained to each side of the access and these splays shall not be obstructed by any object, structure, planting or other material (either permanently or temporarily) with a height exceeding or growing above 0.9m as measured from carriageway level.
 - 14) Details of cycle parking facilities for the dwellings in the development shall be provided as part of a Reserved Matters submission (or alternatively a full planning application) for the Layout of the development.
 - 15) No development shall take place, including any works of demolition or site clearance, until a Construction Method Statement 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 Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) site office and other temporary buildings
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - vi) wheel washing facilities
 - vii) measures to control the emission of dust and dirt during construction
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - ix) hours of construction/deliveries
 - 16) No dwelling shall be occupied until the proposed vehicular accesses, driveways, turning areas and footpaths that serve that dwelling shall have been laid out, surfaced and drained as approved in writing by the local planning authority via a Reserved Matters submission (or alternatively a full planning application) for the Layout of the development.
 - 17) Prior to first occupation of any of the dwellings a Green Travel Plan shall be submitted to and approved in writing by the local planning authority, such Plan to include proposals for all travel by modes other than the private car for journeys to and from the site.

APPEARANCES

FOR THE APPELLANTS:

Sasha White of Queen's Counsel	Landmark Chambers, London <i>instructed by</i> Heritage & Architecture
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Called:

Stephen Wilson BA(Hons) Dip LA LMLI	Portus & Whitton Landscape Architects
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Steven Sensecall BA(Hons) DipTP MRTPI	Kemp & Kemp LLP
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FOR THE LOCAL PLANNING AUTHORITY:

Mark Westmoreland Smith of Counsel	Francis Taylor Buildings, London <i>instructed by</i> Ian Price, Senior Litigation & Planning Lawyer, South Oxfordshire District Council
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Called:

Peter Radmall
MA BPhil CMLI

Mark Flood BA(Hons) DipTP MRTPI	Insight Town Planning Ltd
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INTERESTED PERSONS:

Marjorie Sanders MPHIL BIOL MRSB Churchill Fellow	Local Resident & spokesperson for Tetsworth PC
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David Hinton	Local Resident
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Christie Bytom	Local Resident
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Adrian Cannon	Local Resident & Chair of Governors of Tetsworth Primary School
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Martin Redman	Site Owner
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Michael Holland	Appellant
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End of Appearances List

DOCUMENTS HANDED IN AT THE INQUIRY

ID1 S106-1 in relation to District Council matters

ID2 S106-2 in relation to County Council matters

ID3 County Council's Statement of Justification for Planning Obligations

ID4 County Council's Note of Compliance of Planning Obligations in respect of Regulation 123 of the CIL Regs

ID5 Appellant's Review of Photomontages produced by Peter Radmall

ID6 Appellant's and LPA's landscape witnesses' judgements on impacts

ID7 LPA's position on weight to be applied to relevant development plan policies (Mr Flood evidence-in-chief)

ID8 Opening speech on behalf of Appellant

ID9 Opening speech on behalf of LPA

ID10 Letter from David Hinton also containing views of other local residents

ID11 Representations from Christie Bytom

ID12 Mr Sensecall's response to ID7

ID13 Letter from Mr Redman setting out use of Footpath No R382/54 20 April 2016

ID14 Revised agreed list of conditions

ID15 List of people notified of Inquiry

ID16 Section 106 Planning Obligations SPD

ID17 Closing Statement on behalf of LPA with *Cheshire East V SSCLG & Renew Land Developments* High Court Judgement 16 March 2016

ID18 Closing submissions on behalf of Appellant

ID19 Costs application on behalf of Appellant

ID20 LPA's response to ID19 costs application

And the following document submitted after the Inquiry had closed:

ID21 Stadhampton appeal decision APP/Q3115/W/15/3035899 19 May 2016

End of Inquiry documents

End of Decision