



Appeal Decision

Inquiry opened on 18 November 2015

Site visit made on 26 November 2015

by David Prentis BA BPI MRTPI

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

Decision date: 09 March 2016

Appeal Ref: APP/H1705/W/15/3005729

Land West of Beech Tree Close, Oakley, Basingstoke RG23 7HT

- 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 Gleeson Developments Limited against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 14/00963/OUT, dated 31 March 2014, was refused by notice dated 30 January 2015.
 - The development proposed is for 85 dwellings (including affordable housing) with associated landscaping, open space, car parking and new vehicular and pedestrian access arrangements from Beech Tree Close and a new pedestrian link to Barn Lane (appearance to be reserved).
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Decision

1. The appeal is allowed and planning permission is granted for 85 dwellings (including affordable housing) with associated landscaping, open space, car parking and new vehicular and pedestrian access arrangements from Beech Tree Close and a new pedestrian link to Barn Lane (appearance to be reserved) at Land West of Beech Tree Close, Oakley, Basingstoke RG23 7HT in accordance with the terms of the application, Ref 14/00963/OUT, dated 31 March 2014, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The Inquiry sat for 5 days on 18, 19, 20, 24 and 25 November 2015. There was an accompanied site visit on 26 November 2015. In addition I carried out unaccompanied site visits to Oakley and the surrounding area before and during the Inquiry. These unaccompanied visits included observing the local highway network during the morning peak hour and visits to various highway works around Basingstoke which had been referred to in the evidence.
 3. The application was submitted in outline with only appearance to be reserved for subsequent approval. Access, landscaping, layout and scale are to be determined at this stage. The original application was for 107 dwellings. This was amended to 85 dwellings whilst the application was being considered by the Council. The amended description of development, as set out above, is recorded in the Statement of Common Ground (SoCG).
 4. The Council's decision notice sets out five reasons for refusal. Reasons 2 (highways), 3 (conservation area) and 4 (foul drainage) were withdrawn in advance of the Inquiry. The Council's 5th reason for refusal, which related to
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infrastructure contributions, was withdrawn at the Inquiry following the completion of a s106 Agreement (the Agreement). Thus the sole remaining reason for refusal, from the Council's perspective, was reason 1 which alleged prejudice to the Oakley and Deane Neighbourhood Plan. The Land West of Beech Tree Close Action Group (the Action Group) maintained objections in relation to the withdrawn reasons for refusal, and other grounds, and these matters were explored at the Inquiry.

5. The Agreement makes provision for financial contributions towards transport, education, equipped play spaces, sports facilities and parking controls. Further obligations relate to off-site highway and footpath works, a travel plan, the management of trees and open spaces within the site, affordable housing, broadband infrastructure and management of the proposed Sustainable Urban Drainage System (SUDS). I shall comment further on the individual obligations in the appropriate sections of this decision. At this stage, it is sufficient to note that the Council provided written evidence of compliance with the relevant statutory tests¹ together with oral evidence in response to my questions. The justification for the various obligations was not disputed by other parties at the Inquiry. I am satisfied that the Agreement is consistent with the relevant tests and I have taken it into account accordingly.
6. At the Inquiry the appellant introduced a revised Soft Landscape Design Strategy Plan² which shows a short section of footpath within the site linking with an existing public footpath in the adjoining field. This plan provided some additional detail in respect of an aspect of the proposals which was already well understood (in general terms) by those interested in the appeal. No-one present objected to the introduction of this revised drawing. I do not consider that anyone would be prejudiced by it and I have determined the appeal on this basis.
7. The report of the Examiner of the Oakley and Deane Neighbourhood Plan (the NP Examiner) was received by the Council following the close of the Inquiry. I have taken account of the report and the further comments received from the Council, the appellant and the Action Group in relation to it. On 11 February 2016 the Neighbourhood Planning Section of Planning Practice Guidance (the Guidance) was updated. I have taken account of these updates and further comments in relation to them from the Council, the appellant and the Action Group.

Main issues

8. The main issues are:
 - whether permitting the proposed development would be prejudicial to the preparation of the Oakley and Deane Neighbourhood Plan and whether it would conflict with the emerging neighbourhood plan, and
 - whether the proposed development would represent a sustainable form of development, as defined in the National Planning Policy Framework.

¹ Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 - see the proof of evidence of Mr Sims and LPA3, LPA4, LPA5, LPA6 and LPA7

² Reference TD_06 J

Reasons

Housing land supply and the policy context

9. The Council considers that a figure of 850 dwellings per annum (dpa) should be used for the purposes of the emerging Local Plan and for calculating the 5 year housing land supply (5yrHLS) position. Making due allowance for the 5% buffer required by the National Planning Policy Framework (the Framework), the Council and the appellant agree that as of 1 April 2015 there was 3.4 years supply of housing sites. It is further agreed that, in the absence of a 5 year supply of housing sites, relevant policies for the supply of housing should not be considered up-to-date³. It follows that the appeal is to be considered in the context of the presumption in favour of sustainable development set out in paragraph 14 of the Framework.
10. The development plan includes the saved policies of the Basingstoke and Deane Borough Local Plan 1996-2011 (LP)⁴. LP Policies D5 and D6 seek to restrict residential development to locations which are within settlement boundaries. The Council and the appellant agree that these are relevant policies for the supply of housing and, as such, should not be considered up-to-date. The appeal relates to a greenfield site outside the settlement boundary of Oakley and is therefore in conflict with policies D5 and D6. However, mindful of the 5yrHLS position, the Council's reasons for refusal did not rely on these policies. I agree that they should not be regarded as up-to-date and in my view only limited weight can be attached to this conflict.
11. The LP includes a range of saved policies which are relevant to the appeal, dealing with matters such as design heritage assets, landscape, nature conservation, affordable housing, housing mix, infrastructure and community facilities⁵. The Council does not consider that the proposals are in conflict with these policies.
12. The emerging Basingstoke and Deane Local Plan 2011-2029 (eLP) is currently at the examination stage. At the time of the Inquiry the examination hearings had been held, following which the Inspector conducting the examination (the LP Inspector) had written a note asking for consideration of, and comments on, various matters relating to the housing need figures contained in the eLP. The matters he raised included whether there should be increased provision for affordable housing. The Council's response explained why it considers that 850dpa is still an appropriate housing target for the eLP. Other parties who have responded to the LP Inspector's note have argued that this figure would not be sufficient to meet the objectively assessed need for housing in the Borough⁶. The LP Inspector will no doubt be considering all of these representations in the preparation of his examination report.
13. Policy SS1 sets out the scale and distribution of new housing throughout the plan period. Housing is to be delivered through a combination of development and redevelopment within settlement boundaries, the allocation of greenfield sites and neighbourhood planning. Policy SS5 states that the Council will

³ See paragraph 49 of the Framework

⁴ The South East Plan was revoked in March 2013, other than Policy NRM6 which relates to the Thames Basin Heaths Special Protection Area. Policy NRM6 is not relevant to this appeal.

⁵ The relevant policies are identified in the SoCG

⁶ The LP Inspector's note and some of the responses are at appendix 4 to Mr Armstrong's Addendum Proof of Evidence

support the neighbourhood planning process and identifies 5 settlements, including Oakley, where *'it will be necessary to identify sites/opportunities to meet the following levels of development, generally in and around defined Settlement Policy Boundaries'*. The level of development for Oakley is *'approximately 150 homes'*.

14. Following discussions at an examination hearing session in October 2015 the Council proposed some changes to Policy SS5. These included changing the reference to the level of development at Oakley to *'at least 150 homes'*. This proposed change is the subject of objections from the Oakley and Deane Neighbourhood Planning Group and others – objections which will no doubt be considered by the LP Inspector.
15. The eLP contains a range of other policies which are relevant to the appeal. These cover matters such as affordable housing, housing mix, infrastructure, transport, landscape, biodiversity, green infrastructure, flood risk, design and the historic environment⁷. The Council's case does not rely on any alleged conflict with these policies.
16. In general terms, the Council and the appellant agree that only limited weight can be given to the policies of the eLP at this stage because the examination process has yet to be completed and there are unresolved objections. I share that view. At the Inquiry the appellant argued that greater weight should be attached to the amended Policy SS5 on the basis that it is likely to be found sound by the LP Inspector. However, I do not agree that this single policy should be viewed differently from the rest of the eLP. The suggested change is subject to unresolved objections and it is not for me to pre-judge what conclusions the LP Inspector may reach on this point.
17. Oakley was designated as a Neighbourhood Plan area in July 2013. The draft Oakley and Deane Neighbourhood Plan (ODNP) has been submitted to the Council and has been the subject of statutory consultation. The NP Examiner's report was received in December 2015, following the close of the Inquiry. The NP Examiner has recommended a number of modifications to the ODNP. Subject to these modifications, he concludes that the ODNP meets the basic conditions⁸ and should proceed to a referendum. The referendum is to take place on 17 March 2016 and, if the ODNP is passed, it is expected that the plan would be made by the Council during May 2016.
18. Policy 1 of the submitted ODNP states that the plan allocates land for approximately 150 dwellings in the period 2011 – 2029. Policy 4 makes the following allocations:
 - Park Farm – approximately 45
 - Sainfoin Lane – approximately 35
 - Land West of Beech Tree Close – approximately 25
 - Andover Road – approximately 15
 - Oakley Hall – approximately 30

⁷ The relevant policies are identified in the SoCG

⁸ These are set out in paragraph 8(2) of schedule 4B of the Town and Country Planning Act 1990

19. The revised Settlement Policy Boundary is shown on plans which are in Appendix C of the submission version. The NP Examiner has recommended that these plans should be moved into the body of the document. He also recommends changes to the wording of Policy 4 to make clear that the allocations relate to the areas shown on the plans.
20. Policy 5 states that all development proposals must demonstrate that there is sufficient sewerage infrastructure, adequate access that does not significantly increase (by more than around 100%) the volume of traffic in existing residential areas and mitigation measures to minimise the impact on the local highway network. The NP Examiner has recommended that this policy be deleted. Policy 6 contains site specific requirements. For Land West of Beech Tree Close there is a requirement for an additional pedestrian access to Barn Lane via an existing field gate. However, the NP Examiner has recommended that this requirement be deleted and replaced with the words '*support will be given to improvements to the local footpath network delivered in association with the development of this site*'.

Whether there would be prejudice to and/or conflict with the Oakley and Deane Neighbourhood Plan

21. Paragraph 216 of the Framework states that decision makers may give weight to policies in emerging plans. Factors to be taken into account include the stage of preparation of the plan and the extent to which there are unresolved objections. Advice on the issue of prematurity is given in Planning Practice Guidance (the Guidance) which states that arguments that an application is premature are unlikely to justify a refusal of planning permission unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Such circumstances are likely to be limited to situations where the grant of permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of development that are central to an emerging plan and where the emerging plan is at an advanced stage⁹.
22. In the case of a Neighbourhood Plan, refusal on grounds of prematurity will seldom be justified before the end of the local authority consultation period. In this case, that consultation period ended on 5 October 2015. The NP Examiner's report has been received and a date has been set for a referendum. There is therefore no dispute that the ODNP is at a very advanced stage. In addition, the Guidance states that when seeking to apply weight to an emerging neighbourhood plan decision makers should respect evidence of local support prior to the referendum. It goes on to note that documentation produced in support of emerging plans, such as consultation statements, may be of assistance to decision makers¹⁰.
23. The Neighbourhood Plan Consultation Statement describes the steps that have been taken to engage the community in the planning process. There were three rounds of consultation during the course of 2014. The first round sought to identify issues and potential housing sites. Around 20 sites were then appraised by the ODNP Steering Group. The response to the second round of consultation was that no one site was preferred over another, although there was more support for a multi-site solution than any other solution. The view emerged

⁹ Ref ID 21b-014-20140306

¹⁰ Ref ID 41-007-20140306 and 41-082-20160211

that the community did not want to see more than 150 houses built over the next 15 years. The third round of consultation provided an opportunity for people to vote on specific questions. Over 1,900 people voted, approximately 43% of those eligible. Some 63% of respondents agreed with the proposition that development should be spread across multiple sites.

24. The Council advises that there were responses from 83 individuals and organisations to its consultation on the submitted ODNP. Of these, 74 were supportive of the ODNP and 6 were opposed. There were 6 responses from developers/land owners, of which 4 were objections.
25. To my mind the Consultation Statement demonstrates that there has been extensive consultation and a high level of community engagement in the preparation of the ODNP. The numbers responding to the Council's statutory consultation were not very high as a proportion of the number of eligible local residents. However, this must be seen in the context of the much higher participation rates in the earlier stages of the neighbourhood planning process. It is also important to note that the NP Examiner found that the consultation process was comprehensive and robust and that the plan reflects the views of local people. Overall, I consider that the evidence shows that there is widespread local support for the emerging ODNP.

Effect of the appeal scheme on the plan-making process

26. The appeal site comprises two fields of grassland (described at the Inquiry as the northern field and the southern field) together with Cedar Lodge, a detached house standing in a substantial plot. The site which is allocated for approximately 25 houses in the ODNP broadly equates to the southern part of the southern field of the appeal site¹¹.
27. The submission version of the ODNP envisages approximately 150 new dwellings at Oakley during the plan period. This is not expressed as a maximum housing number. Nevertheless, the effect of increasing the number of dwellings to the west of Beech Tree Close from 25, as proposed in the ODNP, to 85 would be to increase the total provision from 150 to approximately 210 (assuming the other allocated sites were built out in accordance with the plan). That would be an increase of 40% - a scale of development which would be substantially higher than that provided for in the ODNP.
28. The location and distribution of development proposed in the plan is such that no single site would deliver more than 45 units. Moreover, the houses would be spread between the northern and southern parts of the village. The appeal scheme would result in 85 units on a single site - over half of the total amount currently envisaged in the ODNP. In my view this concentration of delivery on a single site would not be consistent with the multi-site strategy which is a central feature of the ODNP.
29. The appellant argued that there would be no prejudice to the plan-making process because the outcome of the appeal would have no bearing on the ODNP examiner's task¹². In my view this approach takes too narrow a view of the concept of prejudice to the plan-making process. It is clear from the

¹¹ There are some minor differences around the boundaries but these are not such as to have any material bearing on the appeal.

¹² The way this argument was put at the Inquiry reflected the position at that time, when the NP Examiner's report was not yet published

- Guidance referred to above that prematurity is unlikely to be a reason for refusal unless a neighbourhood plan is at an advanced stage. However, the Guidance does not suggest that there is any cut-off point after which the process is too advanced for potential prejudice to arise.
30. On the contrary, the Guidance refers to prejudice to the outcome of the plan-making process. In this case, if the appeal is allowed, it seems likely that the scale and location of development at Oakley would have been pre-determined (to a material extent) before local people come to vote in a referendum on the ODNP. To my mind that would amount to a degree of prejudice to the plan-making process.
 31. The appellant considers that the ODNP should not have been brought forward in advance of the housing requirement for the Borough as a whole being settled through the eLP examination process. Representations have been made to the LP Inspector, by the appellant and others, arguing for a higher housing requirement. If those arguments are accepted by the LP Inspector then the eLP housing figures may increase and this may or may not increase the strategic requirement for housing at Oakley. However, the Guidance makes clear that neighbourhood plans can be brought forward before, or at the same time, as the local planning authority produces its local plan¹³. It is not for me to pre-judge what the LP Inspector may conclude on the Borough-wide housing requirement.
 32. Furthermore, The NP Examiner has specifically addressed the issue of whether Policy 1 of the ODNP meets the basic conditions in circumstances where the eLP housing figures have yet to be finalised. He refers to the same Guidance that I have referred to above and concludes that the policy does meet the basic conditions¹⁴. He also comments that Policy 1 contributes to the achievement of sustainable development, that it does not set out a maximum housing number and that it does not prevent sustainable development from coming forward.
 33. It was suggested at the Inquiry that the consequence of allowing the appeal may be that the ODNP would be withdrawn before the referendum or, alternatively, that the plan would not be approved by the referendum. As noted above, matters have moved on since the Inquiry. Given the very advanced stage the plan has reached, the widespread support it has in the community and the findings of the NP Examiner it seems likely that the ODNP will complete the process and become part of the development plan in any event.
 34. In these circumstances there is no obvious reason why the remaining site allocations should not come forward in due course. Nor is there any reason why all the other policies in the ODNP should not have full effect. Thus, whilst allowing the appeal scheme would impact on the scale and distribution of housing in the way I have described, it would not negate the purpose of having a neighbourhood plan for Oakley.
 35. The ODNP Steering Group described the considerable time and effort that has been invested by the community to get the ODNP to its current stage. It was argued that allowing the appeal would have a negative impact on the community for various reasons, including that the sense of ownership of future

¹³ Ref ID 41-009-20140306

¹⁴ This finding is subject to some modifications to the wording however the reference to 'approximately 150 dwellings' is unchanged

development would be unnecessarily lost. The Action Group submitted that the appeal scheme would totally undermine the ODNP against the democratic wishes of the villagers. Similar views were expressed in written representations from the Parish Council, the Member of Parliament and many individuals. I take account of these concerns as part of my overall assessment.

36. Having regard to all the above factors, I conclude that the appeal scheme is 'premature' in the terms of the Guidance. Allowing the appeal scheme would result in a material degree of prejudice to the plan-making process by predetermining decisions about the scale and location of development that are central to the emerging ODNP.

Whether the appeal scheme would conflict with the emerging ODNP

37. Policy 4 of the ODNP allocates a site for approximately 25 dwellings which is consistent with the southern part of the southern field of the current appeal site. However, the appeal scheme envisages significant development outside the area allocated in the ODNP. Moreover, the number of houses proposed is much greater.
38. At the Inquiry the appellant's planning witness suggested that the appeal scheme is in accordance with Policy 4, relying on a reference within Policy 1 to the areas for development being 'shown indicatively'. However, when the ODNP is read as a whole it is clear that the intention is that the proposed housing allocations should be located within the areas shown on the plans at Appendix C. In any event, any potential ambiguity on this point would be resolved by the modifications recommended by the NP Examiner. Moreover, even allowing for the use of the word 'approximately' in Policy 4, a proposal for 85 dwellings cannot in my view be regarded as consistent with a policy allocation for 25 dwellings.
39. The appellant also argued that, in practice, the additional dwellings would not result in any material planning harm. That is a matter I return to in the conclusions of my decision. However, it does not affect my assessment of whether the appeal scheme accords with the emerging ODNP. I consider that the appeal scheme conflicts with Policy 4 due to the amount of housing proposed and also due to the site area which extends well beyond that identified in the ODNP.
40. ODNP Policy 5 sets out requirements for the management of development constraints. These include a requirement that the access to a new development should not significantly increase the volume of traffic (by more than about 100%) in existing residential areas. At the Inquiry the appellant accepted that there would be an approximately four-fold increase in traffic within Beech Tree Close as a result of the development. I comment further on the implications of that below. At this stage it is sufficient to note that there would be a conflict with Policy 5 of the submission version. However, as the NP Examiner has recommended that Policy 5 be deleted, I attach limited weight to this conflict.
41. Policy 6 sets out site-specific requirements for the five allocated sites. The appeal scheme includes a pedestrian and cycle link to Barn Lane at Cedar Lodge, a different location to that identified in Policy 6. To this extent there is a conflict with the submission version of Policy 6. However, as the NP Examiner has recommended that this part of Policy 6 be deleted, I attach limited weight to this conflict. Moreover, the proposals would improve the local footpath

network in accordance with the revised wording recommended by the NP Examiner. I comment further on the merits of the proposed access arrangements in the following section of my decision.

42. The weight to be attached to the conflict with the ODNP is affected by the Borough-wide 5yrHLS position. The judgment in *Woodcock Holdings*¹⁵ indicates that paragraphs 14 and 49 of the Framework apply to housing supply policies in a draft development plan, including a draft neighbourhood plan. Policies 4 and 6 are relevant policies for the supply of housing. Consequently, notwithstanding the fact that these are still emerging policies, they are not to be regarded as 'up-to-date' in the terms of the Framework.
43. It does not however follow that such policies are automatically to be regarded as being of little or no weight. The judgment in *Crane*¹⁶ indicates that the weight to be attached to them is not fixed either by Government policy or by case law. It will vary according to the circumstances of the case. For example, in a recent appeal decision at Thorpe Road, Earls Barton¹⁷ the Secretary of State decided that significant weight should be attached to an emerging neighbourhood plan in view of the very advanced stage that the plan had reached and the high degree of local support for it. He reached this conclusion notwithstanding that there was not a 5yrHLS in that case and the housing supply policies of the emerging neighbourhood plan were therefore not to be considered up-to-date.
44. The Guidance states that decision makers may still give weight to relevant policies in an emerging neighbourhood plan, even in circumstances where these policies should not be considered up-to-date due to the 5yrHLS position¹⁸.
45. In this appeal the Council and the appellant agreed that significant weight should be attached to the emerging ODNP, notwithstanding that the housing supply policies are not up-to-date. I see no reason to take a different view and therefore attach significant weight to the conflicts I have identified.

Whether the proposed development would represent a sustainable form of development

46. The Framework adopts a broad definition of sustainable development in that it states that the policies in paragraphs 18 – 219, taken as a whole, constitute the Government's view of what sustainable development means in practice. The three dimensions to sustainable development are economic, social and environmental. In this section of my decision I shall comment first on social and economic factors and then on a number of topics which were matters of concern to those who made representations opposing the appeal. These relate predominantly to environmental matters but also have implications for economic and social factors.

Social and economic factors

47. As noted above, Basingstoke and Deane does not have a 5 year supply of deliverable housing sites. The Council and the appellant agree that as of April

¹⁵ *Woodcock Holdings Limited v Secretary of State for Communities and Local Government* [2015] EWHC 1173 (Admin)

¹⁶ *Ivan Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin)

¹⁷ APP/H2835/A/14/2221102

¹⁸ Ref ID 41-082-20160211

2015 the supply stood at 3.4 years. The officer's report characterised this as a serious and significant shortfall. Moreover, there is also a substantial need for affordable housing within the Council's area, including within Oakley. The ODNP states that there are 92 persons in housing need within the parish.

48. The appeal site is available now and there is no reason to think that it could not deliver 85 dwellings within a 5 year period. The Action Group queried whether the delivery of housing might be constrained by a ransom strip around the boundaries of the site. However, having regard to the title documents produced at the Inquiry, I accept the appellant's submission that there is no restriction that would hamper the delivery of the appeal scheme.
49. The delivery of 85 units would make a meaningful contribution to meeting the current shortfall. Moreover, the Agreement provides for 40% of the dwellings to be affordable units. This would accord with saved Policy C2 of the LP and would contribute to meeting the need for affordable housing. The proposed mix of dwelling sizes would accord with saved LP Policy C3. Although the proposed mix would not completely accord with Policy 3 of the ODNP¹⁹, at the Inquiry no party suggested that the degree of divergence was sufficient to be an important consideration in this case.
50. Mindful of the emphasis on boosting the supply of housing set out in the Framework, I consider that the delivery of housing would be a benefit to which significant weight should be attached.
51. The new housing would also result in economic benefits during construction and the new residents would generate additional expenditure in the local economy, some of which would benefit shops and services in Oakley. Whilst these economic benefits have not been quantified, they add some weight to the case in favour of the appeal.

Overview of Oakley

52. The eLP describes Oakley as a relatively large, compact village located to the west of Basingstoke with a range of local facilities, including a primary school and local shops, which is served by regular buses providing connections to Basingstoke, Andover and Winchester. The scale of the appeal scheme is consistent with the general level of growth envisaged for Oakley in the eLP, albeit that in combination with the other ODNP allocations it would result in a level of growth higher than 150. The Agreement would make provision for proportionate contributions to education, children's play and sports facilities.

Transport impacts – preliminary matters

53. The highways and transport impacts of the development were raised as a concern in many of the written representations on the appeal. The application was accompanied by a Transport Assessment and further work was done in response to matters raised by the Highway Authority (HA)²⁰, resulting in the submission of a Transport Assessment Addendum Report and a Framework Travel Plan. As noted above, the highways reason for refusal was withdrawn before the Inquiry and there were separate SoCGs between the appellant and

¹⁹ The policy states that at least 90% of dwellings should be smaller than four bedrooms whereas the scheme proposes 85%. The scheme accords with the policy requirement for dwellings of 2 bedrooms or less. The NP Examiner has recommended modifications to the wording of the policy but not to its numerical requirements.

²⁰ Hampshire County Council

the HA/Council in respect of highways matters. The Action Group provided extensive evidence on highways issues, including a report from an independent highways engineer. Although the author of the report was not present, his report was discussed at the Inquiry.

54. The Action Group made a number of criticisms of the appellant's transport assessment methodology including in relation to speed surveys, the calculation of traffic generated by the development and the assumed distribution of the generated traffic. In relation to speed surveys, although the Action Group favoured a different methodology, the survey results they reported were broadly similar to those presented by the appellant. The approach to traffic generation in the transport assessment was based on a well established methodology²¹ and the traffic distribution reflected surveys undertaken by the appellant.
55. I attach significant weight to the fact that all of this work has been subject to scrutiny by the appropriate technical officers of the HA. The transport SoCG (with the HA) states that the information submitted is considered to be reliable and robust for the purposes of assessing the transport impacts of the appeal scheme. I see no reason to disagree.
56. The Agreement makes provision for financial contributions towards off-site transport improvements and parking controls in and around the appeal site. Further obligations relate to off-site highway and footpath works and the submission of a detailed travel plan. The off-site highway works would be the proposed site access to Beech Tree Close, the pedestrian/cycle/emergency access to Barn Lane (the Cedar Lodge access) and works at the Hill Road/Barn Lane junction.
57. The footpath works secured by the Agreement would be the provision of an all-weather surface to footpath 736, which runs adjacent to the western boundary of the site, pedestrian improvements along part of Rectory Road and surface improvements to footpaths 9a, 8a and 9b to the north of Rectory Road. Together, these improvements are intended to provide an improved pedestrian route to Oakley Infant/Junior Schools and the recreation ground.

Opportunities for sustainable modes of transport

58. The proposals take account of opportunities for walking to and from the site. There would be a pedestrian/cycle access to Barn Lane together with improved pedestrian crossing facilities at the Hill Road/Barn Lane junction. (The safety of these highway works was a controversial matter, which I return to below). There would also be improvements to existing footpaths, as detailed above. The SoCG with the HA sets out walking distances from the site to various local facilities. The Action Group argued that many facilities would be further than 800m from the site, that existing footways in the locality are too narrow to provide safe and convenient routes (particularly for vulnerable road users) and that footpath 736 does not offer a suitable route because it would be unlit and not overlooked.
59. I agree that most of the relevant local facilities would be more than 800m from the site, although in most cases the additional distance would not be great. For example, the local shops would be 890m away and the Infant/Junior schools

²¹ Generation based on comparable developments using the TRICS database

- would be 1,060m away. Whilst Manual for Street (MfS) states that walkable neighbourhoods are typically characterised by having a range of facilities within about 800m it goes on to say that this is not an upper limit. Having regard to the tables of walking distances provided by the appellant and the Action Group I consider that most local facilities would be reasonably accessible on foot.
60. Oakley is a rural village which has evolved over time. In the older parts of the village the highway geometry does not reflect modern design standards. There are streets without footways, streets with footways on one side only and footways of variable width. These streets are long established features of the village scene and there is no evidence that, in practice, they have resulted in undue hazards to pedestrians. In any event, there are reasonable footways on the eastern side of Barn Lane and on the northern side of Hill Road. The latter varies in width but is at least 1.5m wide for most of its length²². This is a width which would enable a wheelchair user or a buggy to pass a pedestrian and accords with the '*minimum acceptable under most circumstances*' set out in *Inclusive Mobility*. I consider that these footways would provide a satisfactory pedestrian route from the site towards the local facilities in Oakley.
61. Footpath 736 is a rural footpath which, by its nature, is neither lit nor overlooked. Nevertheless, the proposal to improve the surface of the path would provide new residents with an attractive alternative route towards village facilities, including the schools, at least during daylight hours. I have some doubts that the improvements proposed to footpaths 9a, 8a and 9b would be much used to get to the schools because Oakley Lane appears to offer a more direct route. Even so, I consider that the package of footpath improvements proposed would make a useful contribution to connectivity in the locality.
62. The Cedar Lodge access is designed for cyclists as well as pedestrians. I consider that the streets within Oakley are generally conducive to use by cyclists and I note that there is a permissive cycle route providing a level and firm surface between Oakley and Basingstoke. The town centre of Basingstoke is within a reasonable cycling distance of the appeal site.
63. The bus stops on Hill Road are about 510m from the centre of the site. This is more than the distance of 400m recommended in *Planning for Public Transport in Developments*. Nevertheless, I consider that the Cedar Lodge access, together with the existing footway on Barn Lane, would provide a direct, convenient and attractive pedestrian route to the bus stops. In my view it is unlikely that many potential users of the bus services would be discouraged by the additional distance above the recommended standard.
64. The provisions of the Agreement relating to off-site transport improvements, highway and footway works and a travel plan would together support the use of sustainable modes of transport. Provisions relating to broadband and telecommunications connections would facilitate home working, thereby helping to reduce the need to travel.
65. My overall assessment is that the appeal scheme would provide opportunities for journeys to be made by a range of transport modes. The design and layout of the scheme, together with the package of transport measures secured by the Agreement, would facilitate the use of sustainable modes of travel.

²² In some cases there is vegetation encroaching onto the footway – that is a matter which is capable of being addressed under highways legislation

Whether there would be safe and suitable means of access

66. Vehicular access to the site would be provided by extending Beech Tree Close, a cul-de-sac which currently ends at a turning head near the site boundary, forming a bend leading into the appeal site. The Action Group raised concerns about the design of the proposed access, suggesting that current vehicle speeds on Beech Tree Close indicate that there should be a 41m forward visibility splay around the proposed bend. It was also argued that visibility in the vicinity of the bend would be impaired by parked vehicles.
67. The Action Group and the appellant's highways consultant provided differing assessments of current conditions. I accept that there are practical difficulties in establishing existing free flow traffic speeds in a short residential cul-de-sac such as Beech Tree Close. However, whichever assessment is preferred, it is necessary to have regard to the design speed of the proposed layout. MfS makes clear that there will be situations where reducing forward visibility will help to control traffic speed. This appears to me to be just such a situation. The plans indicate that there would be a 33m forward visibility around the bend. This is consistent with the proposed design speed of 25mph. I see no reason to think that increasing the forward visibility would make this a safer layout. Indeed, greater forward visibility could encourage higher traffic speeds.
68. The appellant's highways consultant and the Action Group have carried out surveys of parking conditions in Beech Tree Close at different times and days of the week. These surveys have confirmed the level of on-street parking that typically occurs. Beech Tree Close is a 5.5m residential street where some on-street parking is to be expected. The width of the street is sufficient to enable a large vehicle to pass a parked car. Consequently, I see no reason to think that on-street parking would have any harmful consequences for highway safety. The appeal scheme incorporates car parking in accordance with the Council's requirements so there is no reason to think that it would generate additional parking in Beech Tree Close. However, if it should happen that parking conditions in the locality deteriorate in the future then the Agreement would provide funding for any necessary parking controls to be put in place.
69. The Cedar Lodge access is currently used by vehicles associated with Cedar Lodge itself and other properties. There is currently limited visibility to the left (towards Hill Road) for emerging vehicles due to the proximity of the boundary of No 2 Barn Lane. The frontage of No 2 is enclosed by a substantial hedge which has grown out over the footway. In the proposed scheme there would be no vehicular use of this access, other than by emergency vehicles. The access has been designed for pedestrians and cycles. An uncontrolled crossing point is proposed immediately to the south of the access, facilitating crossing movements to the wider footway on the opposite side of Barn Lane. The plans indicate that there would be visibility splays of 0.4m x 33m to the left and 0.4m by 43m to the right at this point.
70. The Action Group argued that the visibility splays would be inadequate and that the controlled crossing would not be on the pedestrian desire line for people heading towards the village. However, bearing in mind the nature of Barn Lane as a lightly trafficked residential street, I accept the appellant's evidence that the appropriate guidance to rely on here is that set out in the *Sustrans Design Manual - Handbook for cycle friendly design* rather than the guidance relied on

by the Action Group²³. It is also relevant that traffic approaching the crossing point from the Hill Road direction would be likely to be travelling at a relatively low speed because it would be within a short distance of the Hill Road/Barn Lane junction. The Sustrans guidance indicates that markings and signs should be used to ensure that cyclists give way in circumstances (such as these) where an 'x' distance of 1m cannot be achieved²⁴.

71. From my observations on site, I consider that the submitted drawing fairly represents the visibility situation at the crossing point. Whilst the drawing recommends that the hedge in front of No 2 be cut back, that would not be necessary to achieve the visibility stated. I appreciate that the 0.4m 'x' distance would be tight for some pedestrians, such as those with buggies. However, it is important to note that visibility to the right (the leading traffic direction) is good at this point. Consequently I agree with the appellant that, in practice, this layout would not result in undue hazards to vulnerable road users.
72. I agree that use of the proposed crossing point would involve a minor deviation from the desire line for those emerging from the Cedar Lodge access wishing to turn left, towards Hill Road. No doubt some pedestrians would choose to stay on the west side of Barn Lane, notwithstanding that the footway here is rather narrow. Nevertheless, the proposed crossing point would provide an alternative route which would offer a crossing with satisfactory visibility in both directions and ready access to the wider footway on the east side of Barn Lane.
73. Finally, I attach significant weight to the fact that the proposed layout has been the subject of a Stage 1 Road Safety Audit and that neither the HA nor the Council's independent highways consultant has raised objection to it. In my view the appeal scheme would make appropriate provision for safe and suitable means of access.

Impacts on the highway network

74. The SoCG with the HA confirms the trip generation rates that have been used in the transport assessment and notes the various junctions which have been assessed. In all cases it is concluded that, with the addition of the development traffic, the junctions would continue to operate well within capacity.
75. All of the generated traffic would enter and leave via Beech Tree Close. As the current traffic volumes in the cul-de-sac are low (less than 20 vehicles in the peak hour) the addition of the development traffic would result in a significant increase in percentage terms. The Action Group considers that there would be around a 400% increase and the appellant does not dispute this figure. As noted above, this would not accord with part of ODNP Policy 5 which seeks to limit such increases to around 100%²⁵. Nevertheless, the resulting peak hour (two way) figure of around 70 vehicles per hour is not high in absolute terms. The generated traffic would of course be less at other times. Whilst an increase of this scale would no doubt be noticeable to residents, Beech Tree Close would continue to be a relatively lightly trafficked residential street. There was no evidence before the Inquiry which indicated that this level of traffic would have

²³ Design Manual for Roads and Bridges

²⁴ The Agreement requires that these works would be the subject of a s278 Agreement with the HA – the HA would therefore have control over the design details, including markings and signs

²⁵ As also noted above, the NP Examiner has recommended the deletion of policy 5

- materially harmful consequences, either in terms of highway capacity or safety or in terms of residential amenity.
76. The junction of Hill Road and Barn Lane has limited visibility for vehicles emerging onto Hill Road. The HA was of the view that, to accommodate the development traffic, highway works would be needed to improve the safety of the junction. The proposed scheme, which has been agreed with the HA, would introduce a build-out for vehicles travelling westbound on Hill Road, narrowing the carriageway to 3.0m. The stop line at the egress from Barn Lane would be moved forward to provide improved visibility. The footway on the southern side of Hill Road would be increased in width and there would be improved pedestrian crossing facilities.
77. These proposals were the subject of a petition of objection containing over 1,100 signatures and there have also been numerous written objections. The concerns raised by the Action Group included that the scheme would not achieve a 43m visibility splay to the east, would not reduce traffic speeds, would result in delays and would result in increased risks for users of the bus stop, particularly school children.
78. To accord with MfS, the traffic speeds on this part of Hill Road (around 30mph) would normally require visibility splays of 41m to the west, which is achievable, and 43m to the east, which is not. The scheme would provide a 34m splay to the east, measured to the centre of the approach lane. Consequently, the scheme was subject to a procedure known as 'departure from standard'. The outcome of this was that the HA accepted the departure on the basis that the proposed splay would be consistent with the design speed of the works (20 – 25mph), that there would be a significant enhancement in visibility and that, (because of the build-out), westbound vehicles would be on the northern side of the road, where 43m visibility would be available. I agree with the conclusions of the HA on this matter.
79. The highways SoCG makes clear that, notwithstanding the views of the Action Group, the HA considers that the road narrowing would assist in reducing vehicle speeds. I see no reason to doubt the views of the HA on this point. I saw on my visits that localised road narrowing is commonly employed around Basingstoke as a means of traffic calming. The bus stops would be located within the narrowed section so there would be some delay at times. However, the appellant has provided information on bus frequency and dwell times which indicates to me that such delays are unlikely to have a significant network impact.
80. School buses stop on the northern side of Hill Road where the footway is about 1.5m in width. However, the surveys of bus usage indicate that the numbers of school pupils waiting here are not so great that there would be insufficient space for them to stand clear of the kerb. Whilst the appeal scheme would generate some additional pupils they would not all travel by bus, nor would all of those that do travel by the same bus. Any increase in the numbers waiting at the stop is likely to be modest. Other relevant factors include that MfS indicates that a 3.0m carriageway provides sufficient width for large vehicles and that the surveys indicate that there is little HGV traffic along this section of Hill Road. In my view the proposals would amount to a safety improvement for users of the bus stop because of the improved crossing facility and generally reduced traffic speeds.

81. At the Inquiry the Action Group submitted a letter from Bakers of Oakley, a company which operates large recovery vehicles. The company objects to the narrowing of Hill Road. I have referred above to the general guidance of MfS on carriageway widths. Whilst I note that some of the trips made by recovery vehicles would involve abnormal loads, the letter explains that abnormal loads are accompanied by a police escort. These arrangements would no doubt address any particular safety issues arising from the movement of abnormal loads.
82. The highways SoCG confirms that proposals for junction works at Hill Road/Barn Lane have been through a Stage 1 Road Safety Audit. The HA considers that the works would limit the impacts of the development such that there would not be a significant detrimental impact on the operation of the road network, either in safety or capacity terms. Having regard to all the evidence before the Inquiry, I agree with that conclusion.

Landscape

83. The site comprises two fields and the land associated with Cedar Lodge. It is located in the countryside, in an area described as the Oakley/Steventon Down Landscape Character Area as defined in the Council's Landscape Assessment Supplementary Planning Guidance. It is not covered by any landscape designations. The main landscape features of the site are important groups of trees, notably the Corsican Pine and Spruce along the eastern boundary and well vegetated field boundaries to the west and between the northern and southern fields.
84. The plans show how the layout would respect the existing landscape compartments within the site. The field boundaries would be retained and the existing vegetation along the western boundary would be supplemented with additional planting. The application was accompanied by a tree survey which demonstrates that the important trees would be retained. Some trees would be lost but these are trees of limited amenity value.
85. The site is visually contained due to the boundary vegetation to the west and the existing built-up area to the east. There would be a loss of the landscape resource which derives from the open character of the site itself. There would also be glimpsed views of new development from the countryside and public rights of way network to the south and west. This would be mitigated by the proposed new planting. Overall, the Council and the appellant agree that impacts on the wider landscape would be limited. I agree and conclude that landscape impact is not a matter weighing significantly against the appeal.

Biodiversity

86. The appeal site is not subject to any statutory nature conservation designations. The information submitted with the application included an Extended Phase 1 Habitat Survey and additional surveys relating to reptiles and bats. Whilst the Action Group questioned whether the reports were sufficiently thorough, I note that they followed established methodologies and that the officer's report and the SoCG indicate that the Council is satisfied with the survey work that has been done. The ecological reports conclude that the habitats found at the site are commonplace and widespread. Mitigation measures are identified, subject to which it is concluded that there would be no

significant detrimental impacts on protected species or habitats, other than in relation to bats. These measures could be secured by conditions.

87. Cedar Lodge, which would be demolished, is identified as a bat roost²⁶. The surveys indicate that, whilst it is unlikely to be a significant roost for common pipistrelle bats, it is likely to be used by one or two brown long-eared bats as a summer roost. It is unlikely to be a maternity roost for any species. Mitigation measures are proposed including provision of alternative roosting sites, programmed and managed demolition and retention of mature vegetation.
88. It may be that the developer of the site would need to apply to Natural England (NE) for a European Protected Species licence²⁷. Subject to the proposed mitigation, I do not consider that the development would be detrimental to the maintenance of the populations of the bat species in question at a favourable conservation status. Moreover, the need for housing is capable of amounting to an imperative reason of overriding public importance and the shortfall of housing sites in the district indicates a lack of alternative sites. Consequently, the evidence before the Inquiry does not indicate that this is a case where NE would be unlikely to grant a licence.
89. I conclude that the impact on biodiversity, including on protected species, is not a matter which weighs significantly against the appeal.

Heritage assets

90. Part of the appeal site is within the Church Oakley Conservation Area. There is a group of listed buildings at East Oakley House, to the north of the site, and there are some non-designated heritage assets in Hill Road. The Council and the appellant agree that these are the relevant heritage assets to take into account in this case. No party at the Inquiry argued that the appeal scheme would cause harm to the setting or the significance of the listed buildings or the non-designated heritage assets. I agree because these buildings have limited inter-visibility with the appeal site and the appeal site is not important to their setting or their significance. The settings of the listed buildings would therefore be preserved.
91. The Council's Conservation Area Appraisal describes the historic character of the conservation area as a small residential and rural-based community that has developed over time. Its interest is said to derive from the varied mix of building styles, the use of vernacular materials and the relationship of buildings and spaces. Together with the undulating topography and irregular layout of buildings this creates a historic settlement of varied appearance and significant visual interest. The Revised Heritage Statement identifies that the rural setting of the settlement provides significant views and prospects of the conservation area, particularly from the south and northwest. These are said to provide clear associations with the historic agricultural functions and character of the settlement and to contribute positively to its significance. I agree that all of these features contribute to the significance of the conservation area as a designated heritage asset.
92. The Action Group, and many others who made written representations, objected on the basis that an outline planning application was submitted. I note that the LP states (at paragraph 2.17) that the Council will require fully

²⁶ All UK bats are protected species

²⁷ The tests that NE would have regard to are set out in the Conservation of Habitats and Species Regulations

detailed applications in conservation areas. However, this requirement does not form part of LP Policy E3, which seeks to preserve the character and appearance of conservation areas. Moreover, the Framework gives more recent advice on the approach to applications affecting the historic environment. This advice emphasises the importance of understanding the significance of any heritage assets affected by a development proposal and the potential impact of the proposal on that significance²⁸.

93. The application was supported by a heritage assessment which assessed the significance of each of the relevant heritage assets. Although the application was an outline application, a considerable amount of detail was submitted with it. In particular, access, landscaping, layout and scale are all to be determined at this stage. Appearance would be controlled at the reserved matters stage. In the circumstances of this case I consider that the submitted information is sufficient to understand both the significance of the heritage assets affected and the potential effect of the proposals on that significance.
94. Many of the written representations express the view that any new development on a greenfield site in the conservation area would be intrinsically harmful to its character and appearance. The ODNP Consultation Statement indicates that similar views were expressed during the neighbourhood planning process. The boundaries of the area allocated for development at Beech Tree Close were amended to exclude any land within the conservation area in response to comments received. However, the Framework states that not all elements of a conservation area will necessarily contribute to its significance. In my view that advice is pertinent to this appeal.
95. I agree with the assessment of the Revised Heritage Statement in relation to the southern field. It is not one of the large open fields which afford views of the historic settlement. It is visually contained and does not have an important relationship with the conservation area as a whole. Notwithstanding that part of the southern field lies within the conservation area, the open character of the southern field is not important to the significance of the conservation area as a whole.
96. I consider that the proposed design and layout takes account of the relationship of the site to the conservation area. The significant landscape elements within the site, including the surviving elements of the historic field pattern, would be retained. The northern field, which is closest to the historic core of the village, would be retained primarily as open space. The layout of the houses would have a spacious and informal character with a variety of building types. The Design Code provides a clear indication of matters such as facing materials and boundary treatments, which would be characteristic of those found in the conservation area. Details of these matters could be controlled at reserved matters stage and through conditions.
97. The off-site footway works include some minor works at Rectory Lane, within the conservation area. The Agreement requires that the details of these works would be agreed with the HA. There is no reason to think that the HA, in exercising its statutory functions, would not ensure that the details were appropriate to the rural character of Rectory Lane.

²⁸ Paragraph 128

98. I conclude that the appeal scheme would not be harmful to the significance of the conservation area. The character and appearance of the conservation area would be preserved. The proposals would accord with saved LP Policy E3.

Open space

99. The scheme includes 2.3ha of open space. At the Inquiry the Council accepted that the amount of open space would exceed its normal requirements for new housing and to this extent it should be regarded as a benefit of the scheme. The Agreement includes provision for the future management of the open spaces within the scheme. It is also relevant to note that the open space would be connected to nearby rural footpaths, thereby enhancing opportunities for informal outdoor recreation.

Foul drainage

100. The appellant's initial proposal was to connect to the public sewer network to the east of the site. This proposal was the subject of objections from local residents due to concerns about the capacity of the existing system. Subsequently, Southern Water confirmed that extensive off site network reinforcements would be required to accommodate the development. A revised proposal was then put forward to connect most of the proposed units to an existing sewer in Rectory Road, to the north west of the site, via an on-site pumping station and a rising main. A maximum of 8 units would be connected to the foul sewer to the east. Southern Water has confirmed that there is sufficient capacity to accommodate this proposal. As noted above, the Council has withdrawn the reason for refusal relating to foul drainage. The Council and the appellant now agree that the issue of foul drainage can be dealt with by way of a condition. I share that view.

Surface water drainage

101. The proposals include a Sustainable Urban Drainage System (SUDS) with infiltration basins at the northern and southern ends of the site and a swale running along the western boundary. These features are intended to attenuate surface water run-off and to form a connection to the chalk which lies below the clay surface layer, such that the water could drain away. Neither the Council nor the Environment Agency raise any objection on grounds of surface water drainage or flood risk. The Agreement includes provision for the future management of the SUDS.

102. The Action Group objected to the SUDS design, arguing that the soakage tests carried out to calculate infiltration rates had not been done in accordance with the relevant technical guidance. It was suggested that the SUDS would have insufficient capacity, leading to an increased risk of surface water flooding for surrounding properties. It was also argued that the design of the infiltration basins would pose a safety hazard, particularly for children.

103. At the Inquiry, the appellant's civil engineering witness gave his opinion that a sufficient number of infiltration tests had been carried out for the purposes of the initial SUDS design. He pointed out that, in general terms, chalk geology is particularly suitable for SUDS. In answer to my questions, he stated that the infiltration test results were within the anticipated range for chalk. He also confirmed that the design calculations incorporate a safety factor such that the infiltration rates assumed in the calculations are 50% of the measured rates.

104. It is agreed by the Council, the appellant and the Environment Agency that the final design of the SUDS could be controlled by a condition. In the event that further design work was to identify a need for greater attenuation capacity, there are various ways this could be achieved without materially affecting the layout of the scheme. These could include increasing the depth of the SUDS features or incorporating a layer of granular material beneath them.
105. I accept the appellant's technical evidence in relation to the SUDS design and also attach significant weight to the fact that this approach has been agreed by the Environment Agency. Having regard to the evidence before the Inquiry, I consider that the suitability of the site for a SUDS approach has been demonstrated and that any outstanding detailed design issues could be addressed by way of the suggested condition. The submitted cross sections of the infiltration basins show that they would have gently sloping banks with fencing and boundary planting to deter access. There is no evidence that they would be unduly hazardous.

Neighbourhood planning

106. The Council's closing submissions emphasise that the Framework adopts a broad definition of sustainable development which includes all those matters in paragraphs 18 to 219. These include paragraphs 183 to 185 which give strong support for neighbourhood planning. It was argued that, because the appeal scheme would prejudice the spatial strategy of the ODNP, it should not be regarded as sustainable development when the Framework is viewed as a whole. This is a factor I take into account in my conclusions on the second main issue.

Conclusions on second main issue

107. The site is located in Oakley, a settlement identified as suitable for new housing in the eLP and the ODNP. The scale of the appeal scheme is consistent with the general level of growth envisaged for Oakley, albeit that in combination with the other ODNP allocations it would result in a level of growth higher than 150.
108. The site is available for development now and would make a meaningful contribution to meeting the current shortfall in housing supply in Basingstoke and Deane. The scheme would include an appropriate mix of house types and would also include affordable housing, for which there is a particular need. The provision of new housing would result in both social and economic benefits. The proposals take account of opportunities for walking and cycling and most local facilities would be reasonably accessible on foot. The design and layout of the scheme, together with the package of transport measures secured by the Agreement, would facilitate the use of sustainable modes of travel. The provision of open space would result in social and environmental benefits.
109. I have not identified material harm in relation to highway safety or the capacity of the local road network. Impacts on landscape, biodiversity, heritage assets, drainage and flood risk have been addressed. Subject to the mitigation measures and conditions referred to above, I have not identified any conflict with the policies of the Framework, the LP or the eLP in relation to these matters.

110. On the other hand, in relation to the first main issue, I have concluded that there would be prejudice to the ODNP and conflict with its emerging policies. The Framework emphasises the importance of neighbourhood planning, which is intended to give communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. However, as noted above, the Framework adopts a broad definition of sustainable development. In concluding on the second main issue, I consider that it is necessary to take a balanced view across all the relevant paragraphs. Looked at in that way, my overall assessment is that the proposal would, on balance, represent a sustainable form of development, as defined in the Framework.

Other matters

111. I have taken account of the many individual objections made to the Council at the planning application stage. I have also taken account of the petition objecting to the Hill Road/Barn Lane junction works which was submitted at the Inquiry. In general, the matters raised have been covered above. In addition, concerns were expressed in relation to potential overlooking and overshadowing of neighbouring residential properties.

112. Several of the proposed dwellings would back on to the eastern site boundary. The depth of the proposed rear gardens would be sufficient to avoid any undue overlooking or overshadowing of existing houses and gardens. The dwellings at plots 18 – 19 would have a flank wall facing the flank wall of Marchwood, an adjoining dwelling. Although the existing dwelling has some flank windows facing the site at ground floor level its main outlook is to the front and rear. The proposed dwellings would have a similar orientation. Subject to consideration of window sizes and locations, which would be controlled at the reserved matters stage, there is no reason to think that there would be an adverse impact due to overlooking.

113. Representations were made to the effect that the rights of nearby residents under the Human Rights Act 1998 (HRA) may be infringed. In my view such concerns are not well founded. I have not identified any impacts on the living conditions of nearby residents that would be unacceptable in planning terms. The degree of interference that would result from the proposals would be insufficient to result in any violation of any rights under the HRA.

114. Various appeal decisions were referred to in the evidence and at the Inquiry. In some cases these were relevant to the housing land supply position in Basingstoke and Deane, albeit that this was not a disputed matter in this appeal. Others related to the consideration given by the Secretary of State and Inspectors to emerging neighbourhood plans. I have taken account of these appeal decisions insofar as they illustrate approaches to decision making. However, at the Inquiry there was no suggestion that the facts of any one case were so aligned with the facts here that the previous decision indicated that this appeal should be either allowed or dismissed.

Conclusions

115. As the Council is currently unable to demonstrate a five year supply of deliverable housing sites it follows that relevant policies for the supply of housing, including relevant policies of the ODNP, are not to be considered up-to-date. I have concluded that the appeal proposal would represent a

sustainable form of development. The presumption in favour of sustainable development set out in paragraph 14 of the Framework therefore applies. Planning 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.

116. The appeal scheme would have adverse impacts in that it would result in a material degree of prejudice to the neighbourhood planning process by predetermining decisions about the scale and location of development that are central to the emerging ODNP. It would also conflict with the emerging policies of the ODNP. The neighbourhood plan is at an advanced stage and it has been demonstrated that it has significant local support. One likely consequence of allowing the appeal would be to reduce the perceived effectiveness of neighbourhood planning in the eyes of the local community. For all these reasons I attach significant weight to the effect on the ODNP, notwithstanding the fact that its relevant policies for the supply of housing are not to be considered up-to-date.
117. This is a situation in which two important objectives of the Framework – namely boosting the supply of housing and supporting neighbourhood planning – pull in opposite directions. Following the recent updates to the Guidance, (relating to Neighbourhood Planning), the Council and the Action Group suggest that it is now very likely that the ODNP will be made following the forthcoming referendum. Consequently, they suggest, the Guidance relating to neighbourhood plans which are part of the development plan is of relevance²⁹. That Guidance refers to paragraph 198 of the Framework which states that where a planning application conflicts with a neighbourhood plan which has been brought into force, planning permission should not normally be granted.
118. The appellant, on the other hand, points out that the ODNP had not yet been made so paragraph 198 is not engaged. Even if paragraph 198 was engaged, the appellant argues that the housing supply policies of the ODNP are not up-to-date and the decision must therefore be made in the context of the presumption in favour of sustainable development set out in paragraph 14 of the Framework.
119. At the time of writing the ODNP has not been made, so paragraph 198 does not apply. Even so, the Framework as a whole emphasises the importance of neighbourhood planning so it is, in my view, reasonable to have regard to the fact that the ODNP is likely to become part of the development plan in the near future. In resolving the conflict between the competing objectives of boosting the supply of housing and supporting neighbourhood planning three factors appear to me to be important.
120. First, the shortfall in housing land supply is acknowledged by the Council to be serious and significant³⁰. At the Inquiry, the Council argued that this is likely to be a temporary situation which will be soon be resolved through progress on the eLP. However, there can be no certainty on that point. The housing requirement for Basingstoke and Deane is a controversial matter on which the views of the LP Inspector are as yet unknown.

²⁹ Ref ID 41-08-20160211

³⁰ See page 36 of the officer's report

121. Second, although the appeal scheme would prejudice the ODNP in the way I have described, it would not negate the purpose of having a neighbourhood plan for Oakley. Other allocations could still come forward and other policies could still have effect.
122. Third, part of the appeal site is an allocation in the ODNP. The effect of increasing the site area would be to increase the number of dwellings. The amount of traffic generated would increase proportionately. Moreover, there would be new housing within the conservation area. Whilst I acknowledge that these are matters of local concern, the evidence before the Inquiry does not indicate to me that material harm, (in planning terms), would result.
123. Taking account of these factors, together with all the other matters referred to above, I do not consider that the adverse impacts of allowing the appeal would be such as to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appeal should therefore be allowed.

Conditions

124. The Council has suggested conditions which I have considered in the light of the Guidance. In some cases I have combined suggested conditions or adjusted detailed wording to reflect the Guidance.
125. Condition 1 requires development to be in accordance with the plans, consistent with the Guidance. Conditions 2 – 4 are standard conditions for outline permissions, although the time periods for submitting the reserved matters and commencing the development are reduced to reflect the pressing need for housing delivery. Conditions 5 – 8 secure the implementation of the submitted Design Code as well as requiring further details of materials, boundary treatments and landscaping. These conditions are needed to ensure the achievement of good design and to protect the character and appearance of the area.
126. Conditions 9 and 10 relate to utilities and a scheme of tree protection. Together, they are needed to protect trees which are important to the character and appearance of the area. Condition 11 requires the submission of a verification report relating to imported soils in the interests of managing risks of pollution. Condition 12 is needed to protect the archaeological potential of the site. Condition 13 requires the submission of an Ecological Mitigation and Enhancement Scheme which is to be generally in accordance with the various ecological reports before the Inquiry. It is needed in the interests of protecting and enhancing the biodiversity of the site and to secure appropriate mitigation in respect of protected species.
127. Conditions 14 and 15 relate to surface and foul water drainage. They are needed to manage risks of flooding, to protect ground water resources and in the interests of sustainable development. Condition 16 requires the submission of a Construction Method Statement in the interests of highway safety and protecting the living conditions of nearby residents. Conditions 17 – 22 require further details of vehicle parking, garages, traffic calming, turning facilities, estate roads and visibility splays within the development. Notwithstanding the information on the submitted layout, further details of these matters are needed in the interests of ensuring a safe and convenient means of access for all users of the development.

128. Condition 23 requires the submission of details of refuse and recycling storage to ensure that proper provision is made and in the interests of highway safety. Condition 24 is needed because, for technical reasons, the Cedar Lodge parcel is not covered by the Agreement. The effect of the condition is to ensure that the Agreement would be triggered by development of the main site access before any development could take place on the Cedar Lodge parcel.
129. Some conditions require details to be submitted before development commences. This is necessary for conditions 10, 12, 13 and 16 because they relate to matters arising during construction. It is necessary for conditions 2, 6 – 9, 14, 15 and 17 - 23 because they relate to the design/layout of the development.
130. The Council suggested that permitted development rights should be withdrawn on the basis that part of the site is within the conservation area and that there are listed buildings nearby. However, for the reasons given above, the proposed development would have no material effect on the settings of the listed buildings in question. The Town and Country Planning (General Permitted Development)(England) Order 2015 already contains limitations on permitted development rights within conservation areas. The need for additional restrictions has not been demonstrated. The Council also suggested conditions relating to details of various highway and footway works. These conditions would duplicate the terms of the Agreement, under which the developer would be required to agree the details of the works with the highway authority. Consequently the suggested conditions are not necessary.

David Prentis

Inspector

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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He called	
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INTERESTED PERSONS:

Land West of Beech Tree Close Action Group

Dr Ian Prescott	Chairman, Land West of Beech Tree Close Action Group
John Phillips	Local Resident

Other interested persons

Cllr Rob Golding	Member of Basingstoke and Deane Borough Council, Oakley and North Waltham Ward
John Glasscock	Chairman, Oakley and Deane Neighbourhood Planning Group

Local residents

Brian Collins
James Ferguson
Camilla Lardner
Celia Huntley
Peter Johnson

DOCUMENTS SUBMITTED DURING THE INQUIRY

Documents submitted by the appellant

GDL1	Draft s106 Agreement
GDL2	Summary of key planning obligations
GDL3	Standards for green infrastructure
GDL4	ODNP consultation statement
GDL5	Secretary of State's decision regarding Station Road, Earls Barton
GDL6	Opening submissions
GDL7	Agreed further condition
GDL8	ODNP – Amendment to Regulation 16 version of the Plan prior to Examination
GDL9	PPG extracts relating to determining a planning application
GDL10	Agreed amendments to the s106 Agreement
GDL11	Rebuttal proof of evidence of Mr Gimingham
GDL12	Extracts from the BRD report submitted by Mr Saul
GDL13	Extracts from Manual for Streets
GDL14	Closing submissions

Documents submitted by the Council

LPA1	Draft list of planning conditions
LPA2	Opening submissions
LPA3	Note regarding green space contribution
LPA4	Note regarding playing fields contribution
LPA5	Further note regarding playing fields contribution
LPA6	Addendum proof of evidence of Mark Philcox
LPA7	Note regarding education contributions
LPA8	Letter from Independent Examiner of the ODNP
LPA9	Extracts from the legislation relating to neighbourhood planning
LPA10	Basingstoke and Deane Demographic Forecasts (Edge Analytics)
LPA11	Revised draft list of planning conditions
LPA12	PPG extracts relating to neighbourhood planning
LPA13	Closing submissions

Documents submitted by the Land West of Beech Tree Close Action Group

AG1	Folder of documents including correspondence, traffic petition, transport proof of evidence, land registry documents and statements from residents who spoke at the Inquiry
AG2	Southern Water letter of 7 October 2013
AG3	Companion Document to Manual for Streets
AG4	Footway surveys, location of speed cameras and parking surveys
AG5	Bakers of Oakley letter of 24 November 2015
AG6	Armstrong Rigg – Oakley Sites Assessment

Other documents

Transport Statement of Common Ground (between appellant and the Council) dated 17 November 2015
Addendum Transport Statement of Common Ground (between appellant and Hampshire County Council) dated 6 November 2015
S106 Agreement dated 23 November 2015

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan 1165/01 (dated 11.04.14) received 11th April 2014
 - Site Layout Plan 1165/03 (dated 24.10.2014) received 31st October 2014
 - Infiltration Basin Sections Plan TD659_SK1 received 18th August 2014
 - Proposed Site Access at 16 Beech Tree Close, Oakley Plan ITB6089-GA-101 received 12th September 2014
 - Proposed Pedestrian/Cycle/Emergency Access from Barn Lane (Existing Access to Cedar Lodge) Plan ITB6089-GA-102 rev G received 21st November 2014
 - Preliminary Levels Strategy Plan 13-034/005 rev B received 18th August 2014
 - Soft Landscape Design Strategy Plan TD659_06J received 16th October 2015.
- 2) Details of appearance (hereinafter called "the reserved matter") 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.
- 3) Application for the approval of the reserved matter shall be made to the local planning authority no later than one year from the date of this permission.
- 4) The development hereby permitted shall begin not later than one year from the date of approval of the reserved matter.
- 5) Application for the approval of the reserved matter shall be in substantial accordance with the Design Code dated August 2014.
- 6) No development shall take place until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the local planning authority. The materials shall be substantially in accordance with details set out within the Design Code dated August 2014. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority plans indicating the positions, design, materials/species and types of boundary treatment to be erected/planted. The details shall be substantially in accordance with the Design Code dated August 2014. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until full details of hard and soft landscape works including planting plans, written specifications (stating cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation programme have been submitted to and approved in writing by the local planning authority. These details shall also include hard surfacing materials and

the proposed footpath link to the existing footpath adjacent to the western boundary of the site. The landscape works shall be carried out as approved in accordance with the approved implementation programme.

- 9) No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence on site until a plan showing the location of all proposed utility services has been submitted to and approved in writing by the local planning authority. This shall include gas, electricity, communications, water and drainage. No development or other operations shall take place other than in accordance with the approved plan.
- 10) No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place other than in accordance with the approved tree protection scheme. The tree protection scheme shall include the following information:
 - (a) A tree protection plan comprising a drawing at a scale of not less than 1:500 showing, with a solid line, all trees and other landscape features that are to be retained and, with a dashed or dotted line, those that are to be removed. This drawing shall also show the position of protection zones, fencing and ground protection measures to be established for retained trees
 - (b) A British Standard 5837 Tree Survey schedule with tree reference numbers corresponding with trees on the plan required by section a) of this condition
 - (c) The specification for protective fencing and a timetable to show when fencing will be erected and dismantled in relation to the different phases of the development
 - (d) Details of any levels changes within or adjacent to protection zones
 - (e) Details of the landscaping to be applied within protection zones, including a full specification and method statement
 - (f) A specification and schedule of works for any tree surgery required, including pruning of trees and details of timing in relation to the construction programme
 - (g) Provision for the prevention of soil compaction within planting areas
 - (h) Provision for briefing construction personnel on compliance with the plan
 - (i) Provision for signage of protection zones and precautionary areas
 - (j) Details of contractor access during any demolition or building

operations including haulage routes where soil is to be removed

- (k) A tree protection mitigation plan detailing emergency tree protection and remediation measures which shall be implemented in the event that the tree protection measures are contravened
- (l) Provision for the appointment of an arboriculturist to supervise construction activity occurring on the site. The arboriculturist will be responsible for the implementation of temporary protective measures, shall oversee the installation of approved special engineering solutions designed for trees and shall be responsible for organising a pre-commencement meeting with the local planning authority Tree Officer once the temporary tree and ground protection is in place and ready for inspection.
- 11) No dwelling hereby permitted shall be occupied until a verification report (subsequent to the BRD Geo-environmental Investigation) has been submitted to the local planning authority. The verification report shall comprise:
- Waste transfer notes which clearly indicate how much material has been imported onto the application site
 - Chemical test results which demonstrate that any imported topsoil or subsoil is free of contamination.
- 12) No development shall take place until the applicant has secured the implementation of a programme of archaeological assessment and a programme of archaeological mitigation in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the local planning authority.
- 13) No development shall take place until an Ecological Mitigation and Enhancement Scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter maintained in accordance with the Scheme so approved. The Scheme shall include:
- Purpose, aims and objectives for the Scheme, taking into account the existing biodiversity of the site
 - A method statement for implementation of the enhancement proposals
 - Sources of habitat materials (e.g. planting stock and its origin)
 - Aftercare and long term management

The Ecological Mitigation and Enhancement Scheme shall include wildlife protection and mitigation measures generally in accordance with the Extended Phase 1 Habitats Survey submitted by PJC Ecology dated April 2013, Reptile presence/absence survey submitted by PJC Ecology dated August 2013 and Extended Phase 1 Habitat Survey (Cedar Lodge) submitted by PJC Ecology dated February 2014. Measures for the protection of bats shall incorporate the recommendations of the Dawn/dusk Bat Survey and Mitigation Strategy submitted by PJC Ecology dated July 2014 and shall include details of the type and location of proposed bat boxes and access features to address the protection of bats before, during and after development works.

- 14) No development shall take place until a detailed surface water drainage scheme for the site, based on the approved Flood Risk Assessment (FRA) and Surface Water Drainage Strategy (Report No. 13-034-03 Rev C, dated August 2014) prepared by Odyssey Markides, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details prior to occupation of any new dwellings. The scheme shall demonstrate use of sustainable urban drainage systems including infiltration basins, permeable paving and soakaways and shall include details of how it will be managed and maintained after completion for the lifetime of the development.
- 15) No development shall take place until a foul drainage scheme has been submitted to and approved in writing by the local planning authority. The foul drainage scheme shall include details of any on-site foul drainage infrastructure and details of any off-site works. The foul drainage scheme shall also include details of any removal of hedgerows along the western boundary of the site and along the southern boundary of Rectory Road that may be necessary to construct the proposed foul drainage infrastructure together with details of proposals for replacement planting which shall include similar species to those in the existing hedgerows. No dwellings shall be occupied until the drainage scheme for the development has been implemented in full, (other than in respect of replacement planting), including all necessary off-site works. The replacement planting shall be carried out in the first planting and seeding seasons following the first occupation of any dwelling.
- 16) No development shall take place, including any demolition or site clearance works, until a detailed 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. It shall include:
 - (a) hours of working relating to the construction of the development
 - (b) hours at which plant, materials and spoil/waste may be delivered to or removed from the site, including the management and coordination of deliveries of plant and materials and the disposing of waste resulting from construction activities so as to avoid undue interference with the operation of the public highway, particularly during the Monday to Friday AM peak (07:30 to 09:30) and PM peak (16.30 to 18.30) periods
 - (c) means of access to the site from the adjoining public highway (which shall be via Beech Tree Close only)
 - (d) measures to prevent site operatives and visitors from parking upon the public highway (including upon Beech Tree Close and Barn Lane)
 - (e) arrangements for loading, unloading and storage of plant and materials used in constructing the development away from the public highway
 - (f) arrangements for the parking and turning of the vehicles such that all vehicles enter and exit the site in a forward gear (all to be established within one week of the commencement of development)

- (g) measures to prevent mud from being deposited on the public highway
 - (h) measures to control the emission of dust and dirt during construction
 - (i) method statement for piling
 - (j) a scheme for recycling and disposing of waste resulting from construction work
 - (k) the routes to be used by construction traffic to access and egress the site so as to avoid undue interference with the safety and operation of the public highway and adjacent accesses
- 17) Notwithstanding the submitted details, no development shall take place until full details of the vehicle parking facilities, including the design and alignment of the pedestrian connections between the vehicle parking facilities and the building entrances and the design of the proposed unallocated lay-bys, have been submitted to and approved in writing by the local planning authority. The details shall be implemented as approved before the development hereby approved is occupied. Thereafter, the parking facilities shall be permanently retained as approved and kept available for vehicle parking.
- 18) Notwithstanding the submitted details, no development shall take place until full details of the proposed garages have been submitted to and approved in writing by the local planning authority. The details shall include the provision of minimum clear openings of 2.3m (for single garage doors), 5m (for double garage doors) between the frames of the garage doors and minimum internal dimensions of 3m by 6m (single garages) and 6m by 6m (double garages) as measured internally between the supporting walls, with a headroom clearance of at least 2.3m. Thereafter, the garages shall be provided in accordance with the approved details and permanently retained for the purposes of the parking of vehicles and cycles.
- 19) Notwithstanding the submitted details, no development shall take place until a traffic calming and on-street parking scheme for the estate roads (from the intersection with Beech Tree Close) has been submitted to and approved in writing by the local planning authority. The scheme shall be designed to a maximum design speed of 20mph and this shall be evidenced within the submission. Vehicle swept paths shall also be provided to demonstrate convenient access by delivery, service and cleansing vehicles (including road sweepers) as well as convenient access to/from the adjacent driveways and parking areas. The approved scheme shall be implemented prior to the occupation of the development and permanently retained thereafter in accordance with the approved details.
- 20) Notwithstanding the submitted details, no development shall take place until details of the turning facility located between plots 82, 83 and 84 have been submitted to and approved in writing by the local planning authority. These details shall demonstrate the design, geometry (including the kerb lines and overhang margins) and the safe operation (including vehicle swept paths) of the turning facility. The approved turning facility shall be laid out before commencement of building of plots 74 - 85 and shall be fully implemented before occupation of those

plots. The turning facility shall thereafter be permanently retained in accordance with the approved details.

- 21) Notwithstanding the submitted details, no development shall take place until details of the estate roads have been submitted to and approved in writing by the local planning authority. The details shall include:
- (a) the width, alignment, gradient and surface materials of the estate roads including all relevant horizontal and longitudinal cross sections showing existing and proposed levels, street lighting and the method of disposing of surface water
 - (b) the 2.4m (X-distance) by 33m (Y-distance) junction visibility splays measured in both directions to the nearside channel lines
 - (c) the 25m forward visibility splays along the length of the estate roads
 - (d) the provision of uncontrolled crossing facilities to assist pedestrians (including those with mobility impairments) when crossing the estate roads
 - (e) a copy of the independent Stage II (Detailed Design) Road Safety Audit, including the responses of the Design Organisations
 - (f) confirmation of how the estate roads shall be managed and maintained after completion, for the lifetime of the development

The details shall be implemented as approved before the occupation of the development and shall thereafter be permanently retained as such.

- 22) Notwithstanding the submitted details, no development shall take place until full details of the 2m by 2m forty five degree access visibility splays to be provided at the intersection of the driveways and parking areas with the adjacent footways, service margins and verges have been submitted to and approved in writing by the local planning authority. These visibility splays shall be provided as approved prior to the first use of each driveway and parking area and thereafter they shall be permanently maintained clear of all obstructions between 0.6m and 2.0m above the height of the adjacent carriageway.
- 23) Notwithstanding the submitted details, no development shall take place until details of the refuse and recycling storage and collection facilities have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the facilities associated with it have been constructed in accordance with the approved details. The said facilities shall be permanently retained as such thereafter.
- 24) No development (other than site surveys and investigations, remediation or archaeological works necessary to discharge the relevant conditions on this planning permission) shall commence on the Cedar Lodge Parcel (meaning all that land within the application site as is registered under title number HP672365) unless and until the main site access from Beech Tree Close as shown in principle on drawing ITB6089-GA-101 has been constructed to completion certificate standard (as defined in the Agreement under s106 of the Town and Country Planning Act 1990 attached to this permission).