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## Appeal Decision

Inquiry held on 15, 16, 17, 18, 22 & 23 March 2016

Site visit made on 21 March 2016

**by W G Fabian BA Hons Dip Arch RIBA IHBC**

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

**Decision date: 16 May 2016**

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**Appeal Ref: APP/D3125/W/15/3019438**

**Land off Station Road, Eynsham, Oxfordshire**

- 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 Gladman Developments Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 14/01863/OUT, dated 13 November 2014, was refused by notice dated 22 January 2015.
  - The development proposed is residential development of up to 49 dwellings, public open space, vehicular access, landscaping and associated works.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Notwithstanding the description shown above, taken from the application form and decision notice, both parties confirm that the application was made in outline with all matters other than access reserved for a future application.
3. The appellant supplied a Development Framework Dwg 5443/DF/ASP3 revision D with the application, which the Council took into consideration in reaching the decision. An Illustrative Masterplan was also supplied at 4.2 of the Design and Access Statement. Since determination the appellant has provided various iterations of revised development framework plans and illustrative masterplan layouts, one of which formed the basis of a subsequent application, which the Council declined to validate.
4. For the appeal the appellant has also provided a revised Development Framework Dwg 5443/DF/ASP3 revision I and a 'Revised Scheme Illustrative Masterplan'. I have taken both the Framework drawings, revisions D & I, and the associated illustrative masterplan layouts, into account in reaching my decision, as set out below<sup>1</sup> but these are all illustrative only and provide alternative approaches to what could be achieved on the site.
5. The appellant has submitted two unilateral undertakings, one each in favour of the Oxfordshire County Council and the West Oxfordshire District Council. These are both executed as deeds. Each undertaking makes provision for any of the obligations within it to be severed, should they be found not to comply

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<sup>1</sup> Drawings bundles A and B

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with the tests in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (CIL) and those in the National Planning Policy Framework (the Framework).

6. The undertaking to the District Council secures the provision of on-site open space and its future management and provides an index-linked financial contribution in respect of public art.
7. The undertaking to the County Council provides index-linked financial contributions in respect of bus infrastructure, a bus stop, primary education and library infrastructure. It also provides for payment of the Council's legal costs in respect of preparation and completion of the undertaking as well as monitoring, site visits and administrative costs in connection with its enforcement.

### **Main Issues**

8. Just prior to the inquiry it was established in the Statement of Common Ground that subject to a suitably worded condition, the appeal scheme would provide 50% affordable housing, in accordance with development plan policy. The Council further acknowledged at the inquiry that the necessary appropriate infrastructure for the new housing proposed could be secured by the unilateral undertakings referred to above. As such it did not pursue the second reason for refusal.
9. Accordingly the main issues in this appeal are:
  - i) The effect of the proposal on the character and appearance of the surrounding area of open countryside, and whether it would preserve the settings of nearby listed buildings, (including Abbey Farm Barn, St Leonard's Church, the Eynsham Abbey Scheduled Ancient Monument and the Chil Bridge), the setting of the Eynsham Conservation Area and the settings of any non-designated heritage assets; and
  - ii) whether there is a five year supply of housing land in the district.

### **Reasons**

10. The appeal site is a large open field, of some 2.25 hectares, that lies immediately adjacent to the southern edge of Eynsham. Eynsham is identified as a Group C service centre (an 'other centre') where policy H7 of the *West Oxfordshire Local Plan 2011*, adopted 2006, (LP) allows for new dwellings. The policy identifies that these should be permitted for infilling, rounding off within the built-up area, conversion, or development on specifically allocated sites, none of which applies to the appeal site. However, the Council has acknowledged that, given the more recent *National Planning Policy Framework* (the Framework) aim to significantly boost the supply of housing, a site adjacent to a reasonably large settlement would not be unacceptable in principle for new housing of the proposed kind, subject to compliance with other development plan policies. Indeed, the Council has allowed housing development elsewhere around the edge of Eynsham on sites it considers suitable. The site is agreed to be close to a good range of services, facilities, shops, employment and schools.

**First main issue - character and appearance of the surrounding open countryside**

11. LP policy BE2 lists criteria that amongst other things seek development that respects the existing scale and pattern and character of the surrounding area and that does not adversely affect the landscape surrounding and providing a setting for existing towns and villages. Policy BE4 relates specifically to open space within and adjoining settlements; it seeks to prevent the loss or erosion of an open area which makes an important contribution to the distinctiveness of a settlement. Policies NE1 and NE3 relate to the countryside and local landscape character; they seek to maintain or enhance the value of the countryside for its own sake and to prevent development that would harm the district's local landscape character. Policy HE2 resists additional dwellings that would erode the character and appearance of the surrounding area.
12. The appeal site is generally flat, it lies on a plateau just in front of and level with the settlement, topping the ground gently rising away from the course of the Chil Brook to its south and west. It is no longer in agricultural use, but remains in use for grazing horses. Although divided by various post and rail and electric fences into smaller paddocks, with a few wooden horse shelters located close to the south and west perimeters, its character is predominantly rural.
13. The north boundary is typified by mixed mature planting within the adjacent ownerships, including unclipped yew trees along the generous plots of properties within the conservation area boundary. There is 20<sup>th</sup> century housing further along outside the conservation area boundary, which is less well screened, but to my mind this abuts a very small part of the appeal site and does not dominate its rural character.
14. The west and south field boundaries are divided from the agricultural fields and countryside beyond by fencing and mature somewhat overgrown and at places slightly intermittent field hedging with a small groups of mature trees. The southeast corner of the field is indented around the side and rear boundaries of Stanton House and a pair of semi-detached dwelling, Dutch Cottages, but these are also secluded by heavy boundary planting and are seen as isolated rural dwellings in large plots separate from the settlement. They are more closely visually linked with the short row of older dwellings across Station Road just to the southeast. These date from the time of the former railway, constructed in the 19<sup>th</sup> century and now dismantled, with the route partly used for the southeastern by-pass to Eynsham along the B4449. The Chil Brook runs west to east through the fields to the south, between Dutch Cottages and the adjacent Oasis Park business park and industrial estate, under the Chilmore Bridge close to the junction of Station Road and the by-pass.
15. My analysis is borne out by that of the West Oxfordshire Landscape Assessment, which identifies the immediate countryside around Eynsham, including the nearby industrial estate, as within the Eynsham Vale, Character Area 11. This includes the land to the south of the footpath southwest of the appeal site. However, the fields around the Chil Brook including the appeal site and those across Station Road within the conservation area and south of that are specifically indented out of this and identified within Area 12, the Lower Windrush Valley and eastern Thames Fringes. They fall within the identified local landscape character type defined as floodplain pasture. Of the various

summarised characteristics, those directly applicable to the appeal site include: predominantly under permanent pasture; intimate semi-enclosed and pastoral character; moderate to low inter-visibility.

16. Seen with the fields to its south, either from the access to the appeal site at the northeast corner, or from the footpath further away to the southwest, the overall landscape character is as identified by the character assessment; landscape structure provided by lines and groups of mature trees, with willow and alder conspicuous; remote and tranquil with little intrusion by people and buildings.
17. Some but not all of these attributes are recorded within the Landscape and Visual Impact Assessment provided by the appellant, but with a different emphasis. It concludes that the site is visually contained, remote from the wider landscape type and subject to the urbanising influence of the edge of the settlement, as well as of Station Road. As such it finds that the change that would arise from the proposal to its current open undeveloped character would be appropriate within the settlement fringe setting and would not result in a significant adverse impact on it. However, it seems to me that this assessment is reached on the landscape qualities alone of the appeal site, without taking into account the tranquillity of the adjacent landscape of which it is a part and giving heightened influence to the edge of the settlement, which given the large plots at this part and the mature untrimmed screen planting is far from urban. It also does not assess the historic qualities of the surroundings and the possible contribution of the site to their settings; these are an inextricable part of the consideration in this first main issue, to which I turn below.

**First main issue - settings of the conservation area, listed buildings, the SAM<sup>2</sup> and non-designated heritage assets**

18. Section 66(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the listed building or its setting. LP policies BE5 and BE8 seek to protect the setting of conservation areas and listed buildings. The *National Planning Policy Framework* (the Framework) confirms at paragraph 134 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. As policies BE5 and BE8 do not reflect this balance, they are not in complete conformity with the Framework and thus attract reduced weight.
19. Paragraph 131 of the Framework establishes that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
20. Paragraph 132 continues that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest

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<sup>2</sup> Eynsham Abbey Scheduled Ancient Monument

- significance, notably (amongst other assets listed) scheduled monuments and grade I and II\* listed buildings, should be wholly exceptional.
21. Paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
  22. Historic England in *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* confirms that heritage assets that comprise only buried remains may not be readily appreciated by a casual observer; they nonetheless retain a presence in the landscape and, like other heritage assets, have a setting. For instance (amongst other examples) they may also be appreciated in historic street or boundary patterns, in relation to their surrounding topography or other heritage assets or through the long-term continuity in the use of the land that surrounds them.
  23. Eynsham has extremely early origins, which pre-date the Benedictine Abbey founded in 1005 and destroyed during the Reformation. Today the 13<sup>th</sup> century St Leonard's Church (listed, Grade II\*) with its attractive prominent 15<sup>th</sup> century tower fronts the Square and market cross. The Abbey Farm Barn (listed, Grade II) has possible medieval origins, but mainly dates from the 19<sup>th</sup> century. It has been recently converted for residential use in a simple and sensitive manner, commensurate with its agricultural character, with the major threshing entrance infilled by glazing. The Chil Bridge (listed, Grade II) is a simple low single carriageway stone bridge with a central arch and two flanking smaller ones. It is located on a bridleway leading west out of the village.
  24. At its core Eynsham is still seen as an attractive and historic Oxfordshire village, typified by cream stone buildings, with occasional brick and render, and mainly slate roofs, with a mix of some stone slate and sporadic thatch. These domestic scale buildings front directly onto narrow streets; Acre End Street, the Square, High Street and Mill Street, (with Newland Street and Queen Street further to the north east). The intimate organic layout of buildings as well as their differing heights, styles and materials create a recognisable traditional quintessentially English village character. The heart of the conservation area lies close to the north and east of the appeal site; it borders the eastern part of its north boundary.
  25. The conservation area is a locally designated heritage asset of regional importance and its significance is heightened by the presence of the many listed buildings within it, including those identified above, as well as the Abbey SAM. The settings of all these heritage assets are varied in size and scope and necessarily overlap or 'nest' to a similarly varied extent. All of the listed buildings and the SAM are heritage assets of nationally designated importance. St Leonard's Church and the SAM are both of the highest degree of significance. Thus the setting of the conservation area where it overlaps with and includes the settings of these is of heightened importance.
  26. At the east side of Eynsham there is an extremely recent housing estate within the conservation area, close to the B4449 by-pass. Outside the conservation area, there is a substantial amount of post-1960s residential development mainly to its north and west edges. Also outside it small twentieth century housing estates, Merton Close and Blankstones Close, flank the western part of

the appeal site's north boundary. To the northwest of these is the Chil Bridge; due to groups of mature trees and hedges as well as new development now underway for a children's home at the edge of Merton Close, there is little if any inter-visibility between the appeal site and this bridge, which lies a considerable distance away from it. So, although the Chil Brook passes to the southwest of the site and forms a link back to the SAM, as described below, development on the appeal site would have little direct effect on the setting of the listed bridge.

27. The conservation area includes the open field, bounded to the road by a drystone wall, directly opposite the appeal site across Station Road. This field fronts and forms the direct setting of the listed Abbey Farm Barn, which is within a group of other farm buildings at the former farmstead, now all recently converted to residential use. The agricultural character of this field, which continues to be used for grazing sheep is an important reminder of the historic origin of the listed building here.
28. Beyond this, further to the east lie St Peter's Roman Catholic Church and its graveyard, and just to the northeast, the listed St Leonard's Church and its graveyard, and immediately east of these, the site of the former Abbey, which is a Scheduled Ancient Monument<sup>3</sup>. Whilst the historic links between the field surrounding the Abbey Farm Barn, the former farmstead, St Leonard's Church and the identified site of the Abbey SAM may not be obvious to a casual passer-by, they are easily understood from several local information boards, including one by St Peter's Church and the 'station' markers (built of remains of Abbey stonework) along the Eynsham Abbey Heritage trail. This is described in the accompanying leaflet as 'a walk into the past, around the precinct of Eynsham Abbey'.
29. In addition, the leaflet and trail identify and take in the Abbey fishponds area, just to the south, on the previous course of the Chil Brook. The fishponds area is owned by Fields in Trust and managed by Eynsham Parish Council. It now provides an extended footpath trail, with a car park, notice board and further walk leaflet.
30. The fishponds were developed by the monks of the Abbey and their relationship with the SAM has only recently been highlighted. Although they do not fall within the identified SAM, their historic links with it are clearly much valued locally, such that they are a non-designated heritage asset of considerable significance and this is heightened in that they provide a visible historic link to the SAM. The Government's *Planning Practice Guidance* (the Guidance) confirms that part of the public value of heritage assets is the contribution that they can make to understanding and interpreting our past. Thus the historic nature of the field around Abbey Farm Barn and of the fishponds area is tangible and the importance of the rural agricultural setting they provide, as well as their probable historic part in the domestic functioning of the Abbey is of high significance to an understanding of the SAM as well as the Abbey Farm Barn and is reflected in their inclusion within the conservation area boundary.
31. Given the prominence of the St Leonard's Church tower, the presence of the church is integral to the heart of the historic settlement and its conservation area, not only spiritually, but also physically. Both can be seen from close to

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<sup>3</sup> Although the SAM boundary is shown to the east of the churches, the Abbey Heritage Trail documentation (Mr Wood's LVI appendix 3) shows the abbey building lying between them.

- and from further away in many views, including from the appeal site (although this is not publicly accessed) and from public footpaths, including one south of the Chil Brook to the southwest – where the church tower can be seen in more distant views across the appeal site.
32. From this direction there is a changing, kinetic viewpoint as the path crosses in an east-west direction; the town and the church tower are seen in the context of a mainly agricultural rural landscape with fields and trees in the foreground. These views include the appeal site in the middle distance. In this view the church tower is seen as part of the town, with a limited amount of historic building roofscape immediately around and in front of it, with the eastern part of the town as a backdrop, with the more recent western housing at a distance from it and with the whole framed by the predominantly rural vista. The appeal site is a part of the setting of the St Leonard's Church tower.
33. Station Road, despite its more recent name, has been in place as the main southern approach to the town since the early 13<sup>th</sup> century, when the previous approach was moved to this position in connection with expansion of the Abbey precinct. The appeal site is bounded at the roadside by an attractive dry-built limestone wall around 1.2m high, and a wide grass verge. Behind the wall, south of the access in the northeast corner, is a semi-mature band of planting, in roughly three rows, that includes randomly occurring laurel type shrubs, fast growing evergreen cypress type trees, birches, an occasional oak and other native species. These are located on a slightly raised bank behind the wall that slopes down again to the generally flat site. This band of planting and the bank largely block views into the field, but its character as an open and rural edge to the village is nevertheless readily apparent seen through the gate and across the northern part of the boundary wall.
34. These views are experienced by vehicles and pedestrians passing the site. Although those from vehicles are likely to be fleeting, those by pedestrians are experienced over a much longer time period, and are also most likely to be seen by predominantly local people. Notably during both the prolonged accompanied site visit and my unaccompanied visit prior to the inquiry, at varying times of day, there was a steady pedestrian use of the footway opposite the site along the road, such that it was rarely unused.
35. On the other side of Station Road a matching but taller wall to the one bounding the appeal site retains the change in land levels into the field within the conservation area. There is a grass verge and a narrow tarmac footway. As a whole, the presence of the open appeal site field here, the distinctive paired stone walls, the grass verges, the single footway and the field gate into the appeal site, with traditional rough stone piers all combine to enhance the agrarian character of this rural approach to the conservation area and form a highly important component of the setting to one of its most historic parts as well as to the Abbey Farm Barn, St Leonard's Church, the Abbey SAM and the non-designated Abbey fishponds.
36. In my assessment the appeal site is an important part of the setting of all of these heritage assets. I reach this view having had regard to Heritage England's (HE) advice that setting does not depend on public rights or ability to access it, significance is not dependent on numbers of people visiting it; this would down play such qualitative issues as the importance of quiet and tranquillity as an attribute of setting.....and the importance of the setting to a

local community who may be few in number. HE's specific advice<sup>4</sup> in respect of the appeal site also supports my assessment – '...land between the edge of the village and the Chil Brook, both within and without the conservation area contributes to the significance of the conservation area as it preserves the historic context of the village, which can still be read as a small settlement that was closely linked both visually and economically with the surrounding countryside...'

37. I also note the conclusions of a previous inspector several years ago in respect of the same site, firstly in a 1990 appeal with regard to a proposal for 70 houses on it and then with regard to its proposed allocation in the 2005 Local Plan, which reflect my assessment above. He found that the 'site and the field on the opposite side of Station Road provide an attractive approach to the village. These open fields enclosed as they are by stone walls set the scene for the traditional Cotswolds buildings which line Station Road and which lead you to the historic core of the village. So, whilst the omission site is outside the Conservation Area, it makes a positive contribution to its setting.'
38. I am aware that there is a large area of industrial development just to the south of the Chil Brook, on both sides of the Stanton Harcourt Road. The whole development is heavily screened by mature planting and the buildings closest to the footpath have the appearance of offices rather than industrial buildings; their presence is low key and does not disturb the tranquillity of the countryside here. The industrial uses are mainly located to the south of the roundabout junction with the B4449 and in my judgement, as experienced in several visits both on foot and by car, the presence of the industrial estate has little bearing on the setting of the conservation area from this direction, which I have set out above. The previous inspector also concluded that the appeal site had some importance in creating a gap or buffer between the historic part of Eynsham and this development to the south. While this is not reflected in any specific development plan policy aim to protect this area of land, or in the emerging plan, this concern reinforces the importance of its function as part of the settings of the heritage assets that I have found.
39. By introducing two-storey houses, garages, boundary divisions, garden planting, estate roads, signage and domestic paraphernalia, the proposed residential development on the appeal site would fundamentally alter its open rural character. While the semi-mature boundary planting and intervening trees and hedges would limit views from the footpath to the southwest, nevertheless due to the plateau site, built development would be clearly seen above these and would be much closer and more prominent within much of these views than existing development at Merton Close and Blankstone Close. The quantum of 20<sup>th</sup> century development in the foreground of the St Leonard's Church tower would be substantially increased from these directions altering the perception of its historic context. Although HE suggested this would result in moderate harm, the advice relates only to the conservation area, the site and Station Road and does not take into account the several other heritage assets that I have considered.
40. The proposal would transform the character of the important southern approach along Station Road, which leads directly into the heart of the conservation area and so is a part of its setting. By providing the revised

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<sup>4</sup> Inquiry document 5



illustrative masterplan layout (Development Framework revision I) showing houses set much further back within the site than in revision D, the appellant has sought to demonstrate that a detailed scheme could be achieved without the visible presence of new houses along the road.

41. However, this would not diminish the visual impact of numerous other inevitable aspects of the proposal. None of the following are illustrated in any of the photomontage predicted view points: the proposed access through the drystone wall for the new 5.5m two carriageway estate road, flanked each side by paved footways, with radiused returns into the site; the provision of a new surfaced 2m footway replacing the generous grass verge; the provision of a new bus stop and real time display units; and the installation of two new pedestrian crossings on the road, with tactile paving at both sides<sup>5</sup>.
42. In addition, while not specified in the proposals, there would likely be additional warning road signage along this stretch, as well as directional signs for the estate entrance and for the proposed cycle/pedestrian route into it at the existing field entrance. There may also be additional street lighting certainly within the proposal, but also on Station Road, which at present is low key and along one side of the road only. These would all add to the intrusion of the proposed estate access and fundamentally alter the appearance of this pleasant rural road to one with a much more suburban engineered character and so directly harm the setting of the adjacent designated heritage assets, including all those identified above as well as that of the non-designated fishponds.
43. All in all I conclude on the first main issue that the proposal would cause moderate harm to the character and appearance of the surrounding area of open countryside, contrary to the development plan policies outlined above. While this is not of itself an overriding consideration, given the reduced weight attributable to these policies, it is inherent to the fundamental harm that would be caused to this part of the setting of the designated and non-designated heritage assets as set out above.
44. The proposal would fail to preserve the setting of nearby listed buildings (including Abbey Farm Barn, St Leonard's Church and the Eynsham Abbey Scheduled Ancient Monument), the setting of the Eynsham Conservation Area and the setting of the Abbey fishponds, a non-designated heritage asset, and so cause very serious, although less than substantial, harm to the significance of these heritage assets, contrary to LP policies BE5 and BE8 and national policy in this regard. This harm must be accorded considerable importance and weight.

**Second main issue – whether there is a five year supply of housing land in the district**

45. Prior to the inquiry, the Council's case was based on its position that it had a five year housing land supply and the Statements of Common Ground in respect of objectively assessed need (SoCG OAN) and housing land supply (SoCG HLS) were also based on this. For the reasons set out below this position changed during the inquiry.

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<sup>5</sup> Non of these are included on the revised illustrative masterplan, but all are shown on the access drawing that forms part of the application and would be listed as an approved drawing

46. The SoCG OAN records agreement that the 2014 Oxfordshire SHMA<sup>6</sup>, provides the most up to date, comprehensive objective assessment of housing need, including affordable housing needs, available for the Oxfordshire housing market area (HMA). It sets out the inspector's view from the Examination in Public (EiP) of the draft Local Plan in his *Preliminary Findings – Part 1*<sup>7</sup> that the 2012 household projection and the Council's 10 year projection based on migration are similar and both avoid being unduly influenced by untypically high migration such that, subject to his comments on household representative rates, they indicate an up to date demographic starting point of around 490 dwelling per annum (dpa)..... this may be embedding some suppression of household formation. He also comments that there is no evidence to indicate whether use of such a figure would result in a change to the figure recommended in the SHMA.
47. The parties agree from the SHMA that 274 affordable dpa are needed and that any uplift in market housing to deliver affordable housing should be included in the full OAN.
48. From the EiP findings they agree committed economic growth as the current basis for considering the alignment of jobs and homes and that it is open to the Council to bring further evidence forward on projected job growth for the resumed EiP. The SoCG OAN further records that the full OAN will need to reflect any apportionment of needs from Oxford City and that this would be in addition to the district's own identified needs.
49. It also notes that the EiP inspector has concluded that the housing requirement is likely to be between the 660dpa figure recommended in the SHMA and that put forward in the draft plan of 525dpa.
50. The appellant contends that the only current evidence base for the full OAN is the SHMA figure of 660dpa. The Council maintains that given that the EiP inspector did not reach a conclusion on this and that the Council is carrying out further work on it, a proportionate reduction to the SHMA target is appropriate as a generally reasonable broad estimate and for the purpose of this appeal inquiry adopts a full OAN estimate of 598dpa. (This is produced from a 9.4% reduction, derived from the difference between the 2011 interim projections used to calculate 541dpa used for the SHMA and the published 2012 household projections, which produces an outcome of 490dpa from the same baseline.)
51. The SoCG HLS records that the Council's most recent position statement on housing land supply (February 2015) is based on an OAN of 525 dwellings per annum (DPA). However, the parties' differing housing requirement figures given above are the position for this appeal. Based on these the respective shortfall in supply to end of March 2015 since the start of the plan period is 1,171 dwellings in the Council's view and 1,419 in the appellant's.
52. It is agreed that the five year supply period should be from start of April 2015 to end March 2020. The SoCG HLS sets out the areas of dispute between the parties relating to using either the Sedgefield or Liverpool calculation methods and applying either a 5% or 20% buffer depending on whether or not there is a record of persistent under delivery of housing. The resulting requirement is

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<sup>6</sup> Strategic Housing Market Assessment

<sup>7</sup> The emerging Local Plan was suspended for a year at the request of the Council in January 2015 following publication of the EiP inspector's initial findings. It is anticipated that it may resume in February 2017.

applied to the parties' respective supply figures arising from variations in respect of the anticipated delivery from four disputed sites and set out in comparison tables.

53. The Council acknowledged at the inquiry that as it has not at this stage produced the additional detailed evidence base that the inspector for the EiP has indicated would be required to justify its preference for using the Liverpool method, then for the purposes of this appeal the Sedgefield method should apply. The tables set out in the SoCG HLS show that using this calculation method whether a 5% or a 20% buffer is applied, the Council cannot demonstrate a five year supply of housing land. As such, in accordance with paragraph 49 of the Framework the Council's policies for the supply of housing should be considered out of date. The Council has further acknowledged that this applies to all the countryside and housing policies set out above.
54. With a 5% buffer the supply would be 4.65 years. This is based on the Council's requirement figure of 598dpa and its version of the delivery to be expected from the disputed sites, which would produce a five year shortfall of 302 dwellings. With the same buffer, but based on the appellant's requirement of 660dpa and disputed sites delivery figures, the supply would be 3.21 years. Taking a 20% buffer the position would be worse. Using the Council's figures the supply would be 4.07 years and using the appellant's it would be 2.81 years.
55. In terms of whether or not there has been a persistent under-delivery of housing to lead to the need to use a 20% buffer, the Council has provided completions figures<sup>8</sup> for the last twenty-one years, since 1994. These show shortfalls of between 58 and 202 each year from 1995 – 2001, based on the then Structure Plan implied target of 450dpa to 2011, and surpluses of 0 – 500 from 2002 – 2010, based on first the same target and then the South East Plan reduced target of 365 from 2006. Since 2010, even against the lower target, there has been under-delivery for four consecutive years.
56. The EiP inspector stated in his report 'It is appropriate to consider whether there has been persistent under-delivery over a long time period, such as 10 years or more, to incorporate the full economic cycle. ....Delivery in recent years has been well below the requirement in the submitted local plan, but taking a 10 year period as a whole it would not be reasonable to conclude at present that there had been persistent under-delivery. Accordingly, only the normal 5% buffer is currently required. If delivery continues to be below that which is required, future decision makers may take a different view as regards the appropriate buffer to apply.'
57. Following requests by the appellant, the Council provided the inquiry with the completion figures for the second and third quarters of the year 2015 – 2016, which were not available to the EiP inspector. As these further two quarters still only total 178 homes in the first nine months of the year, it seems very likely there will be significant under-delivery in 2015-2016 against the current acknowledged target of 598dpa also, and the appellant considers that this therefore indicates the tipping point implied in the inspector's report. However, this does not seem to me to be a reasonable conclusion to draw from evidence arising only two – three months (at the time of this inquiry) after the preliminary findings. I do not accept that at this stage it would be appropriate

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<sup>8</sup> Mr Wood's housing land supply appendix 7c

yet to adopt the higher buffer, in the face of the EiP inspector's conclusion on this.

58. I heard detailed information regarding each of the disputed sites, with each party seeking to persuade me that their respective versions of the delivery to be anticipated should prevail and so increase or diminish the total for the five year supply. Some aspects of the Council's position on delivery are persuasive and other aspects of the appellant's case are also. From this it is likely that delivery would fall somewhere between the two extremes. All of this (both the analysis of the housing requirement figure and the delivery to be anticipated for allocated sites) is put forward in advance of the Local Plan Examination in public, which is not appropriate for this appeal. The range in the parties' positions at present regarding the housing land supply, taking the 5% buffer, is from 4.65 to 3.21 years and is likely to fall between the two. However, as case law has shown that the quantum of under-supply could be taken into account, and I have not come to a conclusion on a final figure I intend to consider the impact on the planning balance taking the 3.21 years put forward by the appellant.

#### **Other considerations**

59. Nearby residents have experienced recent flooding due to the low capacity of the bridge on Station Road when the Chil Brook swells. Their fear is that any development on the appeal site would increase run-off and exacerbate this problem. However, neither the Council nor the Environment Agency has raised an objection on this ground. On the basis of the submitted Flood Risk Assessment and Surface Water Drainage Strategy, I am satisfied that sufficient controls can be implemented to ensure that run-off rates from the development are not greater than those that currently occur from the undeveloped site.
60. Similarly, concerns regarding local traffic congestion arising from the development are not supported by the Transport Assessment, which concludes that it would have a minimal impact on the highway network. The Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. In the context of the relatively light traffic that I witnessed on Station Road and the ready access to the by-pass, it is not clear that any material harm would arise.
61. Identified deficiencies in local infrastructure arising through the proposed additional households in respect of education, library stock and public transport would be met by the planning obligations offered.

#### **Planning Balance**

62. In this appeal as set out above I have found that the proposal would fail to preserve the settings of the conservation area, listed buildings and the Scheduled Ancient Monument.
63. I have assessed this failure as resulting from very serious, although less than substantial, harm that would arise to the settings of each of the following heritage assets: the non-designated Abbey fishponds, which are nevertheless important to the historic understanding of the Abbey Scheduled Ancient Monument; to the Abbey SAM itself, which attracts the highest degree of protection by its designation; to two listed buildings, one of which also

- contributes to the understanding of the SAM and one which is a landmark that denotes the spiritual and historic heart of the conservation area and also attracts the highest degree of protection; and the Eynsham Conservation Area.
64. The Framework at paragraph 14 states that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. At the final bullet point in the paragraph it records that where the development plan is absent, silent or out-of-date this means granting permission unless specific policies in the Framework indicate development should be restricted. Footnote 9 to this lists as one example, designated heritage assets.
65. At paragraph 134 the Framework confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
66. Several public benefits would result from the proposal. It would contribute both locally and nationally to the economy through employment and spending during two and a half years of construction. Taken together with the additional local spending by the increased number of households (even if only some households are new to the district) and their likely support for local services and businesses, these all combine as an economic benefit that attracts moderate weight for the proposal.
67. The appellant cites as an additional economic benefit the funding that would be attracted from the Government's New Homes Bonus. As such funding would apply to any proposal for which permission were granted, this does not seem to me to be a benefit that is unique to this case or a material consideration necessarily favouring approval of this proposal.
68. It would provide up to 49 new dwellings, half of which would be affordable. In the context of the acknowledged lack of a five year housing land supply in the district, which is serious and not marginal, this would not only assist to boost the supply of housing nationally, but would assist with meeting the serious unmet needs for market and affordable housing locally. The provision of affordable housing, in accordance with the development plan, could be secured by an appropriate condition. It would provide around 25 such homes, in the context of some 300 recorded households currently qualifying for these in Eynsham. Together these are a significant social benefit.
69. It would provide public open space as part of the development, including a local equipped play area. I agree with the Council that this would be unlikely to be readily accessed by non-residents of the proposal, given its indicative location at the edge of the appeal site furthest from the proposed pedestrian access, where its merits as a transition to the open countryside beyond are obvious, and where the proposed attenuation pond would most practically be located due to the flood risk status of adjacent land. Nevertheless, this too is a social benefit of minor weight.
70. The provision of an additional bus stop would largely serve the development but enhancement of the bus service would benefit the wider community and this adds weight to a small degree.

71. The proposal would provide a modest degree of ecology and biodiversity enhancements, secured by condition, over the site's current function through small interventions suggested in the Ecology Report submitted with the application, including inter-planting of existing hedges with berry bearing species, suitable species selection to promote wildlife habitats in proposed landscaping and the introduction of bird and bat boxes on existing trees or within new buildings. These would be managed in the long term through a Habitat and Landscape Management Plan. None of these is unusual or far-reaching and while a minor improvement over the biodiversity of grazing land, these benefits attract only a small degree of weight.
72. I have accorded moderate, significant, minor and small weight to the various economic, social and environmental benefits of the proposal. However, I have identified very serious, although less than substantial, harm that would result to the settings of each of the several heritage assets affected by the proposal, as set out above. The highest national designation of two of these and the totality of the harm arising to all of their settings, which are inextricably linked, heightens the seriousness of the impact, so that even taking all these public benefits together they do not, in my judgement, combine to outweigh the totality of the harm to the heritage assets.
73. The proposal would be contrary to the development plan as a whole and there are no material considerations to indicate that it should be allowed. Having regard to paragraph 134 of the Framework, the less than substantial harm identified above that would arise to the designated and undesignated heritage assets significantly outweighs the public benefits of the proposal.
74. Accordingly, for the reasons set out above and taking into account all other matters raised, the appeal should be dismissed.

**Unilateral undertakings**

75. As referred to at the beginning of this decision two unilateral undertakings have been provided. Most of the provisions are not contentious and have been supported by the respective Council's CIL compliance statements. Those relating to legal fees are contested by the appellant. However, as I am dismissing the appeal on the basis of the first main issue, it is not necessary for me to consider these matters in any further detail.

*Wenda Fabian*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Connah, of Counsel	Instructed by Ms B Patel Joint Head of Legal Services, West Oxfordshire District Council
He called	
Mr B Martin (heritage)	Consultant architect, West Oxfordshire District Council
Mr C Wood (housing need, housing land supply, landscape & visual, planning)	Senior Planning Appeals Officer, West Oxfordshire District Council

### FOR THE APPELLANT:

Mr P Goatley, of Counsel	Instructed by Gladman Developments Ltd
He called	
Mr B Wright BA(Hons) DipLA CMLI	Aspect Landscape Planning Ltd
Mr D Beardmore MSc MA Dip LD(Dist) Dip LArch (Dist) Dip UD Dip Bldg Cons FRTPI CMLI IHBC	Beardmore Urban
Mr M Taylor BSc MSc MRTPI MIED	Nathaniel Lichfield & Partners
MR R Lomas BSc (Hons) Dip TP MRTPI	Hourigan Connolly
Mr CP Still BSc (Hons) MRICS	Gladman Developments Ltd
Mr M Heming (re conditions)	Gladman Developments Ltd

### INTERESTED PERSONS:

Mrs J Baldwin	Eynsham Parish Council
Mrs J Hoare	Local resident

## DOCUMENTS

- 1 Council's inquiry notification letter, circulation list and Oxford Times notice
- 2 Council's appearances list
- 3 Appellant's appearances list
- 4 Photomontages, view points 2, 3 and 9 Rev D and Rev I – two bundles
- 5 Email from Historic England 9 September 2014
- 6 Revised Core Document 11.3 Character Area 11 Eynsham Village
- 7 Draft Unilateral Undertakings, in respect of District Council and County Council
- 8 Council's opening statement

- 9 Appellant's opening statement
- 10 County Council's CIL compliance statement
- 11 Merton Close estate extension layout
- 12 Proposed children's home site plan
- 13 Estate to east of Eynsham layout
- 14 Agreed extent of Abbey Farm Barn listed building
- 14a Map from Mr Wright's appendix BW4 with black line superimposed
- 15 Committee report proposed children's home development 2 March 2015
- 16 Appellant's draft conditions
- 16a Plan with agreed viewpoints for site visit
- 17 High Court Judgement 4 March 2016: Forest of Dean DC v SoS and Gladman Developments Ltd
- 18 Draft Unilateral Undertakings
- 19 High Court Judgement 16 March 2016: Cheshire East v Renew Land Developments Ltd
- 20 Email exchange 11 March 2016 re viability
- 21 District Council's CIL compliance statement
- 22 Council's draft conditions
- 22a Email 22 March 2016 completions first 9 months info
- 23 Hillier Nurseries, quotation for yew trees
- 24 Foul drainage condition note and information
- 25 Responses by appellant to contributions sought (CIL compliance statement)
- 26 Local Plan Policy TLC7
- 27 Email 22 March 2016 re public art contribution
- 27a Eastleigh BC Planning Obligations background document 2008
- 27b IFLA/UNESCO Guidelines Public Library book collection standards
- 28 Verified copy of Unilateral Undertaking dated 23 March 2016 in favour of Oxfordshire County Council
- 29 Verified copy of Unilateral Undertaking dated 23 March 2016 to West Oxfordshire District Council
- 29a Court of Appeal judgement 17 March 2016 Suffolk Coastal DC v Hopkins Homes & SSDCLG and Richborough Estates v Cheshire East BC & SSDCLG
- 30 Council's closing statement
- 31 Appellant's closing statement

### **PLANS – application drawings – bundle A**

- |                 |   |
|-----------------|---|
| 5443/SLP/ASP001 | Site Location Plan  |
| C14051/003      | Proposed Access Arrangement                               |
| 5443/DF/ASP3    | Development Framework                                     |
| Rev D           |   |
| 5443/IM/ASP4    | Illustrative Masterplan (also at 4.2 of Design and Access |
| Revision A      | Statement)  |

### **PLANS – post application drawings – bundle B**

- |                          |   |
|--------------------------|---|
| 5443/DF/ASP3             | Development Framework (CD 13.2)               |
| Revision F               |   |
| CD 13/3 page 40<br>of 60 | Illustrative Masterplan at 4.2 of revised DAS |



5443/DF/ASP3  
Revision I  
5443/IM/ASP4

Development Framework  
Revised Scheme Illustrative Masterplan

Richborough Estates