



---

# Appeal Decision

Inquiry held on 21, 22, 23, 24 May 2013

Site visit made on 24 May 2013

**by J.P. Watson BSc MICE FCIHT MCMi**

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

**Decision date: 11 July 2013**

---

**Appeal Ref: APP/V3120/A/13/2191911**

**Land east of Drayton Road, Abingdon, Oxfordshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Hallam Land Management Ltd against the decision of Vale of White Horse District Council.
  - The application Ref P12/V2266/FUL, dated 24 October 2012, was refused by notice dated 24 January 2013.
  - The development proposed is described as 160 residential dwellings, open space, a new access off Drayton Road, engineering (including ground modelling) works, infrastructure works (including drainage works, utilities provision and site reclamation), car parking and lighting.
- 

## Decision

1. The appeal is allowed and planning permission is granted for 159 residential dwellings, open space, a new access off Drayton Road, engineering (including ground modelling) works, infrastructure works (including drainage works, utilities provision and site reclamation), car parking and lighting; at land east of Drayton Road, Abingdon, Oxfordshire in accordance with the terms of the application, Ref P12/V2266/FUL, dated 24 October 2012, subject to the conditions set out in Schedule A to this Appeal Decision.

## Preliminary

2. The application was made in the terms set out above but subsequently modified to include 159 dwellings rather than 160.
3. Planning obligations prepared under section 106 of the Town and Country Planning Act were before the Inquiry as follows, and I have regard to them:
  - i) A deed of agreement between the local planning authority, the site owners and the Appellant. The deed is dated 23 May 2013.
  - ii) A deed of agreement between the Oxfordshire County Council, the site owners and the Appellant. The deed is dated 23 May 2013.
  - iii) A unilateral undertaking by the site owners and the Appellant in favour of Oxfordshire County Council. The deed is dated 30 May 2013. An unsigned draft of the deed was available at the Inquiry.
4. I agreed at the Inquiry to accept two late representations. One was a completed version of the unilateral obligation, the text of which was available

at the inquiry. The other was document 50, the appellant's response to a document submitted by the local planning authority immediately before its closing submissions (document 47). Both documents were delivered within the time allowed at the Inquiry and I consider no prejudice to have arisen.

5. Various changes were made to the proposal between its determination by the local planning authority and the Inquiry, as identified in the first Statement of Common Ground (23 April 2013) and the list of drawings at Schedule B to this appeal decision. The changes were minor and not such as to create the possibility of prejudice.
6. In addition to the accompanied visit that I made on 24 May 2013 to the appeal site and Stonehill House, I made unaccompanied visits before, during and after the Inquiry to publicly accessible places referred to in evidence, including among others Drayton Road, Ock Street, Marcham Road, Spring Road and public land off Masefield Crescent.

### **Main Issues**

7. Whether, in the light of the development plan, the National Planning Policy Framework and all other relevant considerations, the balance of the benefits associated with the appeal scheme compared with the harm associated with it is such that the appeal should be allowed. Particular considerations are:
  - a) The need for new housing in the area;
  - b) The site's location outside any established settlement;
  - c) The traffic implications of the scheme;
  - d) The scheme's landscape and visual effects;
  - e) The arrangements that would be made for water supply and drainage; and,
  - f) The provision that would be made for affordable housing and off-site infrastructure.

### **Reasons**

#### ***Introduction: Planning Policy***

8. The development plan consists of the Vale of White Horse Local Plan 2011 ("the LP").
9. The Council's decision notice refers to the following LP policies, which I consider in the light of paragraph 215 of the National Planning Policy Framework ("the Framework"):
  - GS1 Locational Strategy. Consistent with the Framework in this appeal except insofar as it relies on there being an up to date local plan (given the lack of a five-year housing land supply, as explained below).
  - GS2 Development outside existing settlements. While the Council cannot demonstrate a five-year housing land supply, this policy should be considered inconsistent with the Framework and little weight attributed to it.

- H10 Development in built-up areas. The appeal site is not in a built-up area and so this policy is not relevant to the appeal.
- H11 Development in built-up areas. The appeal site is not in a built-up area and so this policy is not relevant to the appeal.
- H13 Development outside built-up areas. As GS2.
- DC1 Design. Consistent with the Framework.
- NE4 Sites of nature conservation importance. Policy NE4 is inconsistent with Framework paragraph 118 in that NE4 sets a more demanding threshold of harm to sites of nature conservation importance. Relatively less weight should be attributed to Policy NE4.
- NE9 Development in the Lowland Vale. An expression of "recognising the intrinsic character and beauty of the countryside" in Framework paragraph 17, and consistent with that.
- DC8 Infrastructure and service requirements. Not now at issue in this appeal.
- DC9 Neighbouring amenities etc. Consistent with Framework paragraph 17.
- DC12 Water quality and resources. Consistent with but more limited than Framework paragraph 109 bullet 4.
- DC13 Flooding. Inconsistent with the sequential approach of the Framework paragraphs 100 to 104.
- DC14 Flooding. Inconsistent with Framework paragraph 103.
- TR9 Transport implications of development. Not a "saved" policy and so of very limited weight in any event. Not necessarily consistent with Framework paragraph 32 since TR9 does not establish the required "adequate" level of mitigation to be the avoidance of "severe" impacts required by the Framework.
10. The Consultation Draft Vale of White Horse Local Plan 2029 – Part 1 – "Strategic Sites And Policies" was published in February 2013. As it is at an early stage in its preparation I afford only limited weight to it. The Consultation Draft Local Plan proposes to safeguard land for a possible southern bypass for Abingdon, and a second Thames crossing. The bypass is not a strategic priority for the local highway authority. Its route would not be compromised by the appeal scheme. The Consultation Draft Local Plan focuses on strategic sites (of over 200 dwellings) and does not propose to allocate the appeal site for strategic scale housing or any other use.
11. There is no Neighbourhood Plan in existence or preparation for the area that includes the appeal site.

### ***The Need For New Housing In The Area***

12. Paragraph 49 of the National Planning Policy Framework ("the Framework") says that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It is common ground between the Local

Planning Authority and the Appellant that in the Vale of White Horse District there is less than five years' supply. The Council refers to its five-year housing land supply statement of July 2012, which shows a 3.3 year supply. The same report shows a continuously growing cumulative shortfall in housing supply throughout the period 2006 to 2012 and observes that that clearly constitutes "persistent under-supply" if measured in terms of the delivery of completed housing. The accumulated shortfall amounted to 1010 dwellings (that were planned to be built during 2006-12) not provided.

13. At its paragraph 47, the Framework says that where there has been a record of persistent under delivery of housing, local planning authorities should also allow for a buffer of 20% (moved forward from later in the plan period), so as to give a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. The 20% buffer should clearly be incorporated with the 3.3 year supply, which therefore reduces to 2.8 years (on the basis of the Council's 31 March 2012 figures). As to the accumulated shortfall, the Framework seeks to boost significantly the supply of housing and to defer dealing with the shortfall other than at a brisk pace would be contrary to that objective. The Appellant argues that the shortfall should be made good in the first five years – an approach that would be consistent with the buffer period established by paragraph 47. If that were to be done then the housing supply presented in the Council's July 2012 statement would reduce to some 2.3 years, a little less than one-half of the Framework requirement.
14. The Council monitors the housing market. Its 2007 Strategic Housing Market Assessment reported the local economy to be robust and buoyant, but reported the limited supply of dwellings on the market and the lack of sufficient new build to be likely to sustain high house prices. Much more recently, the Council's Local Plan 2029 Part 1 Strategic Sites and Policies consultation draft document continues to promote economic growth in the Science Vale UK area and refers to the need for associated housing growth. And historic and projected reductions in average household size (reported in the Council's Local Plan 2029 Part 1 Topic Paper 4 "Housing" March 2013 consultation draft) tend to increase the pressure on the housing stock. The shortfall exists not only in market housing but also in terms of affordable housing; it is common ground that in April 2013 there were 1175 households in the District on the housing waiting list and accepted by the Council to be in significant, urgent or exceptional housing need.
15. The Council remains optimistic, expecting a good level of supply in the medium term. But events often do not match expectations, and the Framework is clear that in circumstances such as those which obtain in the District now, with a substantial shortfall in the supply of new housing such that relevant housing policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework's policies taken as a whole.

#### *Abingdon*

16. Abingdon is closely related to the Science Vale UK employment sites and has (among others) its own employment sites at Abingdon Business Park and Abingdon Science Park. It is the largest town in the District and more people are employed at Abingdon than any other centre in the Vale. Although only about 26% of the District's population live at Abingdon, the 2008 Housing Needs Assessment found over half of those requiring market housing to prefer

locating in Abingdon; and 58% of existing households seeking affordable housing favoured Abingdon. At that time the Housing Needs Assessment reported requirements for some 1285 market dwellings and some 369 affordable homes in Abingdon over a three-year period.

17. The Council refers to Core Policy 6 of the Consultation Draft Local Plan, which would set out a spatial strategy for the Abingdon on Thames and Oxford Fringe Sub-Area, which extends past Botley in the north, several miles west of Abingdon to Kingston Bagpuize and Southmoor, and south beyond Drayton. But, for the reason I have given in paragraph 10, I attribute little weight to that draft Policy; it does not outweigh Framework paragraphs 47 and 49.
18. I conclude that the appeal scheme would make a valuable contribution toward meeting a keenly-felt need for new market and affordable housing in Abingdon, and I attribute considerable weight to that.

### ***The Site's Location Outside Any Established Settlement***

19. Saved policy GS1 of the Vale of White Horse Local Plan 2011 (July 2006) ("the LP") set out the general locational strategy, which was to concentrate development at Abingdon and the four other main settlements all defined by the development boundaries on the proposals map; and to locate further development at other stated places in the District. The appeal site is outside the development boundary for Abingdon. LP saved policies GS2 and H13 forbid development outside the built-up areas of existing settlements except in particular stated circumstances, none of which can be found in the appeal proposal. The location of the development would not be compliant with those LP policies.
20. However, there is no dispute that, in view of the absence of a five-year housing land supply, paragraph 49 of the Framework establishes that policies for the supply of housing (including GS1, GS2 and H13) are not up to date; and that therefore the final bullet point of Framework paragraph 14 applies.
21. I therefore conclude that the fact that the appeal site is outside the development boundary of any settlement as shown in the LP is not of itself a consideration that weighs heavily against the appeal proposal.
22. Furthermore, it is instructive to consider, in the light of the final provision of Framework paragraph 14 and its footnote 9, the various designations attached to land around Abingdon. To the north, the town is constrained by the Green Belt; to the east, south and much of the west the land within the District boundary is in the food plain. Only to the south west of the town (an area that includes the appeal site) is there land which is free of the high level constraints identified by footnote 9 as areas in which specific policies in the Framework indicate development should be restricted; and even in that south-western sector there is a block of land, facing the appeal site across Drayton Road, designated as an ancient monument – and therefore in the lee of footnote 9. The appeal site is one of only a very limited number of locations contiguous with the town where specific policies in the Framework do not indicate development should be restricted. The Council drew attention to recent planning permissions for housing at Kingston Bagpuize and Marcham, both of which are rural locations. A conclusion of the Council's *Analysis of travel patterns of people living in new homes built between 2001 and 2007 in the Vale of White Horse* is that "the rural areas are generally the least sustainable

- locations in terms of travel patterns, being the areas most heavily dependent on the car and even in the villages with the best range of services and facilities a low proportion of new residents meet their needs there.”
23. Framework paragraph 34 requires developments that generate significant movement to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised, while taking account of other Framework policies.
24. The appeal site is at the periphery of the town and so its residents would be likely to exhibit travel patterns than are less sustainable than the average for Abingdon as a whole. Nevertheless, it is common ground between the Appellant and the Council’s officer report that the site is in reasonable distance of local neighbourhood facilities in south Abingdon, and to the town centre; and is suitably located to make use of and support the further provision of community and commercial facilities for the town. In Abingdon, Thameside Primary School and Caldecott Primary School are within walking or cycling distance. And, by virtue of those factors and the development constraints on other land around Abingdon which drive residential development to the villages, the need for residents of the site to travel would be likely to be less than is the case for development coming forward elsewhere in the area.
25. Bus services providing direct access to Oxford, Abingdon, Milton Park, Didcot, Wantage and Grove pass the site at reasonable frequencies during the working day, although these can be affected by congestion on Drayton Road. A travel plan (secured through the planning obligation with Oxfordshire County Council) would be introduced for residents, including measures to raise awareness, to help with travel planning, to encourage walking and cycling, to promote car sharing and to provide information about bus services. New bus stops would be provided on the site frontage. A cycleway passes the site. A car club has been considered but rejected because of the unsuitability of car clubs for conditions in Oxfordshire; car clubs are successful in densely populated urban areas with limited parking availability. The use of sustainable transport modes would be maximised within the constraints of the area.
26. Framework paragraph 34 would therefore be satisfied.

### ***The Traffic Implications of the Scheme***

#### *Policy*

27. Paragraph 32 of the Framework sets out transport-related considerations of which development control decisions such as this should take account. The third of those is whether...
- “improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”
28. LP saved policy DC5 addresses the same point in a different way, permitting development provided that...
- (ii) “the road network can accommodate the traffic arising from the development without causing safety, congestion or environmental problems”;

(v) "off-site improvements to the highway infrastructure (including traffic management measures), cycleways, footpaths and the public transport network can be secured where these are not adequate to service the development"; and,

(vi) "the scheme is designed to minimise the impact of vehicles and give priority to the needs of pedestrians, cyclists, the users of public transport and those with impaired mobility."

29. There is a clear difference between the two approaches; the framework sets a test of severe impact which is not present in policy DC5. This is a case in which application of paragraph 215 of the Framework should lead to greater weight being given to the Framework policy than to the policy in the existing plan. It is therefore germane to consider whether the residual cumulative impacts of the development would be severe.

#### *Development Traffic*

30. The development would take vehicular and pedestrian access from the B4017 Drayton Road. The new road junction at the access would be controlled by traffic signals which would incorporate a pedestrian crossing facility to give access between the site and the proposed northbound bus stop on Drayton Road. There would also be a southbound bus stop on the site frontage. The operation of the proposed signals has been checked with standard software and found to be satisfactory. The statement of common ground on transport matters (between the Appellant and Oxfordshire County Council, the local highway authority) says that the proposed junction layout is acceptable in principle subject to detailed design of the junction. Drayton Road has a speed limit of 50mph at the site and the necessary visibility would be available along the road and within the junction. I am satisfied that the site access would function satisfactorily and meet relevant current design standards.
31. The traffic generation of the appeal development has been assessed with the TRICS database in the usual way and the results are set out in the transport statement of common ground. The modelled vehicle trip distribution and assignment to the network are based on existing traffic flow patterns and that approach, and the approaches taken in the transport assessment in respect of general traffic growth and committed development, are agreed by the appellant and the County Council. Some interested parties report that drivers who turn right from Drayton Road into Preston Road then follow various routes (to the town centre via St Helen's Wharf, or returning to Drayton Road further north) but the numbers involved are small and I accept the development traffic distribution and other design flows shown in the transport assessment.
32. There is no contention that the appeal scheme would have any severe traffic-related effect to the south of the appeal site. The High Street/Abingdon Road junction in Drayton has been modelled with development traffic present and found to operate within capacity in the 2016 assessment year.
33. North of the site, Drayton Road passes through a number of junctions and then meets the A415 road immediately north of the River Ock. Drayton Road is the southern arm of the junction, Marcham Road is the A415 to the west, Ock Street is the A415 to the east and Spring Road is the continuation of the B4017 to the north. Colwell Drive meets Marcham Road a few hundred metres west of the Drayton Road/Marcham Road junction.

34. Mitigation measures are proposed by the Appellant and agreed by the County Council at the Drayton Road/Preston Road signal-controlled junction and on the eastern arm of the Marcham Road/Colwell Drive roundabout. The transport assessment estimates the combined effect of the scheme and the mitigation measures (compared with the 2016 design year baseline conditions) to be to bring the Drayton Road/Preston Road signals within capacity, and to reduce queue lengths on the eastern arm (Marcham Road) approach to the Marcham Road/Colwell Drive roundabout. The effect on the eastern approach to that roundabout would be to bring the eastern approach within capacity, with queuing substantially less than in the 2016 baseline situation. That would reduce traffic delay on the Marcham Road approach to the Colwell Drive junction, and reduce any tendency for that queue to extend so far back along Marcham Road as to reach the Drayton Road/Marcham Road junction or the pelican crossing on Marcham Road near that junction.
35. The transport assessment reports that two other roundabout junctions on Drayton Road, between the appeal site and Ock Street, would continue to operate within capacity with the development in place.

*Drayton Road/Marcham Road Junction*

36. This junction takes the form of a double mini roundabout, and there is a signal controlled pelican crossing on Marcham Road, reported in the transport assessment to be 20 metres west of the junction. Traffic from the site would approach this junction along Drayton Road. It is common ground that site-related traffic approaching the junction in that way would be maximised during the morning peak hour. During that hour northbound site-related traffic on this part of Drayton Road would be some 30 vehicles per hour, with a further 11 going the opposite way. In the 2016 assessment year, the "do-minimum" traffic flows, without the development, on the same part of Drayton Road in the morning peak hour are shown by the transport assessment to be 609 vehicles northbound and 627 vehicles southbound.
37. Long traffic queues currently form on the Drayton Road approach to this junction, particularly but not necessarily exclusively during the morning peak hour. Several interested parties report substantial travel times along Drayton Road that vary from day to day, according to the degree of congestion, and the same is borne out by the results of various travel time surveys brought to the inquiry.
38. By the end of the inquiry, the County Council's position was that the measure of severity in the scheme's traffic effects should be principally the delay to northbound traffic on Drayton Road in the morning peak hour, while being mindful of other effects. The County Council had gained access to information from the "Strat-e-gis" travel time database, which reported an average travel time of 566 seconds for the northbound journey along Drayton Road between Preston Road and Marcham Road, measured during the morning peak hours on Tuesdays, Wednesdays and Thursdays during school terms between September 2011 and June 2012. The corresponding distance is 922 metres and so the average speed of travel is about 1.63 metres per second.
39. The Appellant argues that its traffic survey carried out on 15 January 2013 is to be preferred to the "Strat-e-gis" data for the validation of microsimulation modelling. My current purpose is to establish a qualitative understanding of the effect the scheme, if there was no traffic mitigation at the end of Drayton



Road, would have on road transport in the area. In that, I rely on the "Strat-e-gis" data because they provide travel time information for a substantially greater length of Drayton Road (as far south as Preston Road) than do the January data (as far south as Caldecott Road).

40. Clearly, and as established at the Inquiry, the northbound queue on Drayton Road forms when traffic is able to emerge from the road's northern end only at a rate which is less than that at which traffic arrives at the southern tail of the queue. When that situation is reversed, the queue will start to get shorter. The length of the queue at any time after it has started to form is the difference between the total number of vehicles to arrive at the back of the queue and the total number of vehicles to emerge from the front of the queue. And the act of adding more traffic to the tail of the queue would not affect the capacity of traffic to emerge from the front of the queue.
41. Application of the agreed method of assigning development traffic to the network gives the result in the morning peak hour that 30 vehicles associated with the development would pass through the whole queue between Preston Road and Marcham Road.
42. Although those site-related vehicles would leave the head of the queue in due course, the traffic behind them would be further back than it would otherwise have been. And that would be the case if all the site-related traffic emerged together or, as is much more probable, if it was distributed throughout the morning peak hour. The overall length of queue to be discharged between the onset of queuing and the time when the queue cleared would be increased (due to traffic that left the development during the peak hour) by a queue length of about 180 metres.
43. Figure 1 on page 12 of appendix J to Miss Baker's Rebuttal proof of evidence shows that a northbound queue formed in Drayton Road before 07:30 on the survey day and remained there until at least 09:00; and the longer queue with the development would take longer to clear at the end of the peak period. Some vehicles would be delayed in the queue beyond the end of the peak hour. The 180-metre increase in the queue length would take about 110 seconds to transit and so the time spent in the queue would be increased by about 19%, on the basis of the "Strat-e-gis" monthly average data. And, if conditions at the head of the queue were unchanged, that delay would affect all following traffic until the queue cleared.
44. Drayton Road provides the main access into Abingdon from Drayton and other villages to the south west, and from the suburb of Caldecott. It is clear from written representations and statements by interested parties at the Inquiry that congestion on the road is often serious. For many trips there is no convenient alternative route. Interested parties report degrees of congestion that are greater than those reported from the various surveys that were given in evidence, and there were reports that the road serves as an alternative to the A34 trunk road for some traffic when the A34 is particularly congested. The Oxford Bus Company is concerned that the development traffic would increase travel time between Saxton Road and Stratton Way during peak traffic periods, and would reduce the reliability of bus services on Drayton Road (an effect of which would be to reduce the transport sustainability of the appeal proposal). If the appeal development were to proceed without mitigation of the effect it would have on transport conditions on Drayton Road, it is therefore clear that

the transport effects of the development on that road would significantly increase congestion that is already serious, and that would be a severe effect.

*Mitigation*

45. The Appellant proposes that the traffic effect of the appeal scheme on Drayton Road should be addressed principally by measures to increase the capacity of the Drayton Road/Marcham Road junction, an overall approach that I consider sound.
46. It has been observed for the appellant that traffic seeking to enter the Drayton Road/Marcham Road junction from Drayton Road is sometimes prevented from doing so by traffic held up by a red traffic signal at the pelican crossing across Marcham Road a short distance from the junction. When I visited this site I saw such a queue to form on several occasions when it had the effect described. The pelican crossing was seen to be called frequently during a survey conducted for the appellant in a morning peak hour. This is indicative of a level of pedestrian demand such that a signalled crossing facility should continue to be provided at or close to the road junction.
47. Accordingly, the junction has been modelled to test the hypothesis that alteration of the pedestrian facilities would provide sufficient relief to traffic entering the junction from Drayton Road so as to avoid a severe traffic effect arising from the appeal development. Three options were tested, referred to in the evidence as follows:
  - Option 2 – Introduction of an additional crossing of Ock Street to the east of Drayton Road (as shown on drawing VN50148-ECC-SK-0002 rev A), and retention of the existing crossing on Marcham Road;
  - Option 3 – Introduction of an additional crossing of Ock Street to the east of Drayton Road (as shown on drawing VN50148-ECC-SK-0002 rev A) and relocation of the existing crossing further west on Marcham Road (as shown on drawing VN50148-ECC-SK-0003); and,
  - Option 4 – Relocation of the existing crossing further west on Marcham Road (as shown on drawing VN50148-ECC-SK-0003).
48. The options were tested with the VISSIM microsimulation software. Pedestrian use of the proposed new crossing in Ock Street (Option 2) would, by interrupting the east-to-west flow through the junction, create gaps in the circulating traffic for vehicles from Drayton Road to enter; and by transferring some pedestrian activity away from the Marcham Road crossing (to the proposed Ock Street crossing) would reduce the frequency of tailbacks from the Marcham Road crossing into the junction across Drayton Road. Relocating the Marcham Road pelican crossing further west along Marcham Road (Option 4) would increase the queuing space between that crossing and Drayton Road and so would reduce the frequency of tailbacks into the junction across Drayton Road, but it would also make pedestrian access to the relocated crossing less convenient for those pedestrians who do not need to go so far along Marcham Road. Option 3 combines both traffic effects and makes more provision for pedestrians.
49. The test results are presented in the form of assessed journey times through the junction. Initially it was assumed that half the pedestrian activity would transfer to the new Ock Street crossing. In comparison with the “2016 do-

minimum" situation (i.e. without the appeal development), the modelling results for the AM peak show that all proposed with-development options would provide a significant benefit to the northbound route (which includes Drayton Road). During the PM peak the modelled northbound and eastbound movements through the junction would have similar journey times with or without the appeal scheme plus any mitigation option; the southbound and westbound movements would be noticeably slower. In terms of total journey time per vehicle passing through the junction in the AM peak, options 2, 3 and 4 were found by the model to provide improvements on the "2016 do-minimum" situation. In the PM peak options 2 and 3 are not found significantly different from the "2016 do-minimum" case, but option 4 would be worse by some 10 seconds per vehicle.

50. Subsequently, the modelling was repeated for the AM peak on the revised basis that only 25% of pedestrian crossing activity would transfer to the new Ock Street crossing. The result was that Option 2 with the development would then lead to a increase in northbound journey time, of the order of 25 seconds per vehicle. Journey times for other movements during the AM peak would be largely the same as in the "50%" case.

#### *Scrutiny*

51. The VISSIM model used in the assessment has been independently scrutinised. The consultancy AECOM found no error in the material that, in their view, would significantly affect its fitness for purpose. The consultancy Halcrow found some causes for concern, set out in summary form in the final section of a note dated 22 April 2013. It seems to me that the Appellant's reply dated 13 May is a sufficient response to those matters which it seeks to address. Halcrow also put the view that the model's apparently good degree of fit with journey time survey data from January 2013 is misleading, because January is not regarded as a "typical" month for traffic survey purposes; that the "Strat-egis" database shows a much higher degree of congestion on Drayton Road than does the VISSIM modelling; and that the proportion of pedestrian activity that would transfer to the mooted new pelican crossing in Ock Street cannot be reliably estimated. The Appellant's responses seem to me to go some way towards meeting those criticisms. They are that the particular survey day in January 2013 lacked anything to distinguish it in traffic terms from "typical" days in "typical" months; that respected technical guidance issued variously by Transport for London and the Highways Agency counsels against the use of journey time data sources that do not include a "floating car" (i.e. direct observation) component, and that the January 2013 survey included enough direct observations of journey time to be reliable; and that a sensitivity test has been undertaken with regard to the distribution of pedestrian activity at Ock Street and Marcham Road.

#### *Design Conclusion*

52. I am therefore satisfied that the Appellant's modelling gives adequately reliable predictions of the effects that the various options, with the stated pedestrian-crossing assumptions, would be likely to have on traffic conditions at the Drayton Road/Marcham Road junction with the development in place.
53. There remains uncertainty as to the proportion of pedestrian movements across the A415 that would be likely to transfer from the Marcham Road crossing to the new Ock Street facility. If 50% transferred, then the traffic

consequence of the development would not be severe and paragraph 32 of the Framework would be satisfied. If none transferred, and the Marcham Road pelican was not moved, then there would be no effective mitigation and the traffic consequences would be severe, as I have found. If the Marcham Road pelican was moved west (and no new crossing provided in Ock Street), as Option 4 proposes, then the traffic objective may well be served but pedestrians would be disadvantaged by the extra walking distance and perhaps tempted to try to cross the A415 other than at a crossing, with an attendant increase in risk. (The Appellant's survey shows the largest pedestrian movement over the existing crossing to be en route between Drayton Road and Spring Road).

54. I conclude that Option 3 should be provided, as necessary mitigation of the transport effects of the scheme. Alone of the options it would provide relief to the Drayton Road entry to the junction whether pedestrians choose to cross the A415 on Ock Street or on Marcham Road. Option 3 would make proper provision for pedestrians and reliably accommodate the development traffic while avoiding a severe transport impact. That would be compliant with Framework paragraph 32 bullet 3.

#### *Implementation Process*

55. Attention was drawn at the Inquiry to section 23 of the Road Traffic Regulation Act 1984. Local traffic authorities are authorised to establish, alter or remove pedestrian crossings on roads for which they are the traffic authority but before doing so the local traffic authority shall consult the chief officer of police about their proposal to do so, shall give public notice of the proposal, and shall inform the Secretary of State in writing. The necessary mitigation of the traffic effect of the appeal scheme includes the establishment of two new (pelican) pedestrian crossings and the removal of the pelican crossing currently in Marcham Road near Drayton Road.
56. The local planning authority put the view that the proposed work to pedestrian crossings should be the subject of consultation and notice through section 23, that the Courts have found (in *The Queen on the Application of Hilary Wainwright v Richmond upon Thames London Borough Council*) that responses made to the local traffic authority as a result of such consultation and notice should be considered by the local traffic authority and that such consideration might identify some matter that points away from the work being carried out. On that basis it was argued by the local planning authority that the works are not suitable for a Grampian condition relating to the pedestrian crossing work to be imposed.
57. The Appellant refers to the case of *R. v. Warwickshire County Council ex parte Powergen plc*, in which the Court of Appeal held that, following a successful planning appeal by a developer, the relevant highway authority had no option but to co-operate in implementing the planning permission by entering into a section 278 agreement. The matters at issue in that planning appeal included the adequacy and safety of the proposed site access, which had been a reason for refusal of planning permission by the local planning authority. Warwickshire County Council had contended that the proposed access would be unsafe but the planning inspector had found to the contrary. The Court's decision was based on three considerations, which I briefly summarise as follows:

- i) The highway works in question were (a) central to the planning application and (b) considered in full detail at the planning appeal;
- ii) The planning permission was granted on appeal to the Secretary of State rather than by the local planning authority;
- iii) There were no new facts or changed circumstances following the Inspector's determination of that appeal.

58. In the current case:

- a) There have been opportunities for the local traffic authority and the local planning authority to consider and make representations regarding the safety and other effects of the proposed new crossings. The proposed new crossing in Ock Street appears as figure 7.2 in the Transport Assessment which accompanied the planning application. The proposed new crossing in Marcham Road was first promoted by the Appellant in May, some days before the inquiry, and it seems to me that enough time was available for proper consideration (by those who were aware of it) of that proposal, which is straightforward, and the articulation of objections. Evidence was given for the Appellant that the proposed crossings would relate satisfactorily to their surroundings, and no specific criticism of the form of either was made by the local traffic authority. I have previously considered the evidence given with regard to modelling, and with regard to the effect on pedestrians. There were unsubstantiated suggestions that the alterations might interact adversely with the air quality management area in Abingdon, or with an extension to that Area that has been suggested to the District Council; but the changes in traffic volumes resulting from the development would be small and congestion would be likely to fall during the morning peak and remain substantially unchanged in the evening peak; which points away from harm to air quality.
- b) The Appellant has made a unilateral undertaking ("UU") through section 106 of the Town and Country Planning Act 1990 whereby contributions would be made to the County Council upon notification that the County Council intends to carry out the crossing alterations. The contributions would be, among other things, towards the design and implementation of the Marcham Road works, the Ock Street works, and towards a further detailed assessment of the proposals for the Marcham Road works and the Ock Street works to enable the County Council to determine whether to undertake those works. This countenances a degree of uncertainty as to whether the works would proceed.
- c) There is a requirement for consultation by the local traffic authority before carrying out the crossing alterations, whereas in the Powergen case there was no such requirement. Thus it is possible that new relevant facts or circumstances may emerge from the section 23 process, and there is no reason for me to conclude that such new facts or circumstances would or would not be such as to prevent the crossing alterations being carried out. It is therefore uncertain that the necessary mitigation of the scheme's traffic effects would be carried out; and, if they were not, then the scheme's traffic effects would be severe and therefore unacceptable in the terms of Framework paragraph 32. There might be no such matters; but if there were then it seems to me that the County Council should consider them before deciding whether to carry out the crossing alterations. Hence, if I were to allow the appeal then the resulting planning permission should recognise the possibility that some matter may

result from the section 23 process that renders the County Council unable to properly carry out the work. Since the crossing alterations would be a necessary prerequisite of the development, a Grampian condition would be appropriate. Its purpose would be to avoid severe transport effects that would otherwise arise from the development, and it would relate the development of the appeal site to the provision of the new pelican crossings.

59. I have considered representations made in correspondence after the Inquiry regarding the form that such a condition should take. The Local Planning Authority is concerned that such a condition might not be enforceable, because of the uncertainty I have described at 58c) previously; but it seems to me that if a connection between development and necessary mitigation, required by condition, was severed then subsequent enforcement would be practical and reasonable. Paragraphs 27 and 28 of the Annex to Circular 11/95 are relevant.
60. The Appellant firstly considers the Unilateral Undertaking to provide sufficient surety, and holds that no planning condition is necessary. The UU contains seven covenants: five relate to various payments, one to notification should the ownership of the site change, and one relates to notification of the intended date for implementation of the development. None of those establishes that the development would not be implemented if the necessary mitigation works were not carried out, and so a planning condition is necessary.
61. The Appellant points out that it would be the use of the appeal development that would give rise to the effects whose avoidance makes the pelican crossing works necessary; and concludes that development and mitigation should be connected in such a way as to prevent occupation of the development prior to completion of the pelican crossing alterations, rather than in such a way as to prevent the start of development prior to completion of the pelican crossing alterations. But, because of the uncertainty I have described, the approach the Appellant favours could result in development taking place at the appeal site while there is no realistic prospect of the necessary pelican crossing works taking place; indeed, those works might never take place if some insuperable impediment were to arise. The Appellant suggests that there should be a time limit after which the development might be occupied even if the pelican crossing works were not complete; but the passage of time would not mitigate the severe traffic effect that use of the scheme would have if the pelican crossing mitigation was not provided, and the outcome of the statutory consultation cannot be foreseen. Even if the development was built but not occupied, and no pelican crossing mitigation provided, the situation would be unsatisfactory not least in that there would be no benefit associated with the development to offset its associated environmental harm (which I summarise in my paragraph 113). But I see no reason to delay the start of development at the appeal site if the County Council gave written notice, as envisaged by the Unilateral Undertaking, that it intends to carry out the Ock Street works and the Marcham Road works.
62. I therefore conclude that a Grampian condition is necessary, and that it should preclude development at the appeal site until the earlier of these events:
- a) The local planning authority has received written confirmation, issued by Oxfordshire County Council, that the Ock Street Works and the Marcham Road Works are to be carried out;

- b) The Ock Street Works and the Marcham Road Works have been carried out and their signals are first in operation.

*Traffic Implications: Conclusion*

63. With the identified mitigation measures near the Drayton Road/Marcham Road junction (which should be the subject of a planning condition), the Drayton Road/Preston Road junction and the Marcham Road/Colwell Drive junction, the scheme would not have a severe effect on traffic conditions.

**Landscape And Visual Effects**

64. The site is a single field of semi-improved grassland. The northern side of the field abuts the back gardens of dwellings in Virginia Way, the urban edge of Abingdon. There is a tree belt to the east of the site, with farm land beyond, and Stonehill Farm with its associated land is to the south-east. The site's southern boundary is hedged and has some individual trees. The western side of the site faces Drayton Road through a screen of mature lime trees. The land here is generally level or nearly so (the site gently slopes down to the north east) except for the body of permissive access land on the opposite side of Drayton Road, which land rises to the west.
65. The landscape in this area is identified by the Oxfordshire Wildlife and Landscape Study as being of the Lowland Village Farmlands type, and the appeal site is typical of the land in that area. The Vale of White Horse Landscape Assessment, Advice on the Landscape Impact of further development south of Abingdon (2008) describes the site as being "partially visible from the B4017 [Drayton Road] through the lime trees on its western boundary. The southern and eastern boundaries are screened by tree belts. The field is fully visible from the southern edge of Abingdon. The small fields to the north of Oday Lane including the grounds of Stonehill House have strong boundary hedges and tree groups and areas of new woodland planting. This has created a small scale and enclosed landscape which is well screened on all sides. There are restricted views from Oday Lane."
66. The appeal site is not subject to any landscape quality designation at a national, regional or local level.
67. LP Policy DC6 requires all development to include hard and soft landscaping measures designed to (i) protect and enhance the visual amenities of the site and its surroundings including, where appropriate, existing important landscape features; and (ii) maximise the opportunities for nature conservation and wildlife habitat creation. Framework paragraph 58 aims to ensure that development is visually attractive as a result of good architecture and appropriate landscaping, paragraph 61 seeks the integration of new development into the natural, built and historic environment, and paragraph 109 advocates minimising impacts on biodiversity and providing net gains in biodiversity where possible. It seems to me that policy DC6 is broadly consistent with the Framework, but there are differences in emphasis: for example, in respect of biodiversity the Framework seeks net gains where the LP seeks maximisation. The only landscape feature on the site of any importance is the group of lime trees along the Drayton Road frontage; I consider the degree of that importance later.
68. The Council's reasons for refusal of planning permission include (among other things):

"1(iii) The site lies within an edge of settlement countryside area and having regard to the unsatisfactory nature of the proposal would lead to a progressive detracting in the rural character of the area and be detrimental to the visual amenity of the area, the rural landscape and to amenities of the locality"; and,

"3 The site lies within a rural fringe countryside area that clearly defines the built up area settlement boundary of Abingdon. The development would lead to a progressive detracting in the rural character of the area and be detrimental to the visual amenity, the rural landscape and to amenities of the locality and wildlife through the unsatisfactory nature of the proposals identified removal of mature boundary frontage trees along Drayton Road and from pressure and proximity of development on other boundary landscaping to the site."

69. I consider those matters one at a time, and then turn to other related matters raised at the Inquiry.

*Effect On The Rural Character Of The Area*

70. Clearly, the appeal proposal would change the rural field that is the appeal site into part of the urban settlement of Abingdon. That would change the outlook from the rear of properties in Virginia Way from an agricultural view to a residential view. I am satisfied that the new development would not have any unacceptable overbearing or other adverse visual effect on the Virginia Way properties. Nor, by virtue of intervening vegetation and distance, would there be any adverse effect on the setting of Stonehill House, reported to be a grade II listed building.

71. Views into the site from the east, south and west would be filtered by vegetation. Some of the line of lime trees would be removed, and that would reduce the screening effect of the group; but a strong screening effect would remain. From the north beyond Virginia Way, lengthening views toward the site are limited and obscured by intervening development. Because the site is well screened, the visual effect of its change of use from grazing to residential would be confined to viewpoints quite close to it. For the same reason, the scheme's effect on the landscape would be restricted to the site and its immediate environs. There would be no effect on existing long open views within or across the Lowland Vale to which LP Policy NE9 refers. Framework paragraph 61 requires planning decisions to address the integration of new development into the natural environment. The harm to the rural character of the area would be limited in extent and, where it would be experienced, slight in degree.

*Visual Amenity, and Boundary Frontage Trees*

72. The Council's evidence in respect of visual amenity is that the row of lime trees on the site's western boundary offers considerable visual amenity. The tree preservation order to which they are subject is made in respect of the group. The trees make a worthwhile contribution to the roadside scene. It was also argued that the penultimate bullet point of paragraph 118 of the Framework applies to the group. But there was no evidence that the trees constitute an irreplaceable habitat; rather they were agreed to be of no special biological merit and, in any event, not of such age as to be regarded as "aged or veteran". Evidence for the Council was that the group is of particular value because it screens the permissive access land and a playing field off Masefield



Crescent from views of Didcot Power Station several kilometres away. The evidence was that the cooling towers at Didcot are to be taken down in 2015. Any value added to the tree group by its screening of the power station would therefore be lost then. I conclude that the visual amenity value of the lime tree group should be considered for this appeal in terms of its contribution to the roadside scene.

73. The appeal scheme would remove ten adjacent trees of the 47 limes in the group in order that access could be taken from Drayton Road. The form of the access is such as to minimise the loss; which does not of itself make the loss acceptable, but does indicate that there is no scope for an alternative design to reduce the tree loss. There would remain two mature limes on the frontage north of the access and, to the south of the access, the remainder of the group, augmented by four new replacement lime trees of advanced nursery size. I have considered the visual effect that the modified tree group would have on the roadside scene, in comparison with that which is there now. Although there would be a net loss of six trees, and for some years the four new trees would be distinguishable from the mature members of the group, the current impression of a large body of similar trees at the roadside would remain. The public visual amenity associated with the frontage trees would be changed but the change would be slight and acceptable. The scheme would integrate into the natural environment while causing only slight harm (Framework paragraph 61).

#### *Wildlife*

74. It is common ground between the Council and the Appellant that the site is of low biodiversity value and that there are no significant ecological issues that would prevent the development of the site.
75. The Oxfordshire Badger Group reports that badgers regularly visit the gardens of properties that directly back on to the appeal site, and believe the appeal site to be important to badgers as it contains badger paths that lead to foraging areas. Others report badger setts and bat roosting sites on land near the site and badgers foraging on the site, and grass snakes have been found at Stonehill House and Virginia Way.
76. Bat surveys have been conducted on the site. No bat roost was identified to be lost as a result of the scheme. Bats forage in the group of limes and would be likely to continue to do so with the scheme; the gap that would be formed in the tree group would not be so large as to prevent them. The site boundaries are the main corridors for movement by bats. The scheme would strengthen and enhance those features. Further enhancements for bats are proposed in the scheme landscaping design, with plant species that attract night flying insects to provide new foraging opportunities for bats. The scheme would provide satisfactorily for bats, consistent with Framework paragraph 118 bullet 4.
77. The Ecological Appraisal reports that habitats within the site are of low ecological value and limited botanical interest. If the development were to proceed then the circumstances of the badgers that visit the site would change. The semi-improved grassland would be replaced with residential development, similar to that which badgers reportedly currently cross the site to reach. Measures are suggested in the Ecological Appraisal for the protection of badgers during construction of the development, and those should be

incorporated in a planning condition. Apart from that, there is no evidence that significant harm would come to the local badger population and so the requirement of Framework paragraph 118 in that respect would be met. Nor is there any evidence that grass snakes rely on the site or would be harmed by the appeal development.

78. The Environment Agency has suggested that a watercourse buffer zone should be provided where the site is close to a watercourse near its eastern boundary. The proposed development is set back from the boundary in a way that would accommodate such a zone, and a planning condition is needed to ensure that the part of this corridor that is on the site would be beneficial to wildlife.
79. Overall I conclude that satisfactory provision would be made for wildlife on the site.

*Pressure On Boundary Landscaping To The Site*

80. The Council is concerned that the scheme might cause harm to the trees on the site boundary, either through disturbance of tree roots or through design details that would lead to pruning of the trees.
81. Attention was drawn to proposed parking areas between plots 21 and 49 and between plots 77 and 78. The parking areas would overlap the root protection areas of trees that are to be retained. The advice of the relevant British Standard 5837:2012 is that structures (including parking areas) should by default be "located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the trees." The question of technical solutions is one that should be explored through a planning condition.
82. The same parking areas would also be in part beneath the canopy of lime or sycamore trees, where honeydew is likely to fall and be a nuisance. The Council says that the rear gardens of plots 18 to 21, which would be shorter than others nearby, would be beneath tree canopies to an inconvenient degree. And various properties near the site perimeter would look out onto mature trees at or close to the end of the garden, perhaps suffering loss of light in habitable rooms as a result. Attention was drawn to the potential for these circumstances to lead to repeated pruning of some trees, or felling, that might diminish their contribution to the character of the area. Only the group of limes on the site frontage is subject to a tree preservation order. In addition to that group, the Council draws attention in this context to trees at the rear of plots 78-84, and trees T23 and T24.
83. The appellant's assessment of sunlight availability at perimeter properties was prepared on the basis of summer conditions. During the winter the shadowing effect of the trees would be less as they are deciduous. The assessment allows for the shadowing effects of trees and the proposed houses. It shows the large part of each rear garden to be in a position to receive direct sunlight for several hours each day. The Council contends that the lime tree canopies are not shown accurately on the drawings, and I saw on site that there are some inaccuracies. I also saw that the canopy of the lime tree group relates to the carriageway in Drayton Road in broadly the same way as shown on the drawings, which provides a degree of general validation. It seems to me possible that there might be a need for limited pruning of some lime and other

trees on the site from time to time, but I am not persuaded that this would cause serious harm to protected trees if properly regulated.

#### *Other Landscaping On The Site*

84. Two main public open areas are proposed. Both are proposed to be grassed, with individual trees. Parking bays are set at the margins of both. The central area would include a children's play area, with various items of play equipment. The Council considers that this would be improved by the inclusion of more footpaths, benches and amenity planting. I agree that amenity planting adjacent to the parking bays would soften their appearance, particularly when in use. That can be the subject of a condition. But the addition of more footpaths, benches and other planting on what is in absolute terms a modestly-sized area would introduce an unacceptable degree of clutter.
85. A larger public open area would be in the north-eastern part of the site. This would incorporate an attenuation area into which surface water runoff from the site would discharge during rainstorms to be temporarily retained; at most times this area would be dry. Further interest would be added in the north-eastern area by the varying ground levels, the new trees in the site and the mature trees near the boundary. But, as in the central area, there should be amenity planting next to the parking bays; and this is an area which should accommodate seats and litter bins.
86. Attention was drawn at the Inquiry to general design principles set out in Appendix A of the supplementary planning document *Open Space, Sport and Recreation Future Provision*. The Council considers the third, fourth, sixth and seventh of those design principles to be not met, all of which are to do with children's play. I conclude that, in addition to the elements I have described, there should be elements in the north-eastern area that would offer children a varied, interesting and physically challenging environment; and that could be the subject of a planning condition.
87. The introduction of trees and native hedging to the site, which is currently semi-improved grassland of low biodiversity value, would satisfy Framework paragraph 109; and I have noted the enhanced foraging opportunities for bats.
88. Overall, I am satisfied that, subject to conditions and with the exception of possible future limited harm due to future pruning of the group of lime trees at the site's frontage, the scheme would be consistent with Framework paragraph 58's requirement that development should respond to local character and reflect the identity of local surroundings.

#### ***Water Supply and Drainage***

89. The Council's statement of case confirmed in respect of the fourth reason for refusal that the main issue in respect of drainage is the capacity of the foul water system. Thames Water has been consulted and has confirmed that there is sufficient capacity at Abingdon Treatment Works to accept the proposed foul water flows from the 160 dwellings off Drayton Road, Abingdon without any upgrade to the works itself. Thames Water has also confirmed that there are adequate clean water supplies in the area to serve the appeal development. The fourth reason for refusal was not pursued at the Inquiry.

90. It is common ground between the Council and the Appellant that this matter can be properly dealt with by a planning condition, and I find no reason to differ.

### **Affordable Housing And Off-Site Infrastructure**

#### *Affordable Housing*

91. LP policy H17 requires 40% of the dwellings provided at the appeal site to be affordable to local people who are unable to rent or buy a house appropriate to their needs on the open market, and describes necessary characteristics of such housing. That approach is consistent with Framework paragraph 50 and so I attribute full weight to it.
92. The planning obligation between the site owners, the Appellant and Vale of White Horse District Council makes provision for affordable housing at the site in accordance with LP policy H17. I am satisfied that the planning obligation meets the three tests in Framework paragraph 204 in that respect, and so I attribute full weight to it in that respect.

#### *Off-Site Infrastructure*

93. LP Policy DC8 provides for the making available of the necessary social and physical infrastructure and service requirements for the use of future occupiers of the development. That approach is consistent with Framework paragraph 203 and so I attribute full weight to it.
94. The planning obligation between the site owners, the Appellant and Oxfordshire County Council provides for contributions to the provision of local school accommodation, youth services, libraries, waste management, and the County Museums as well as off-site highway works and bus stops at the site entrance, modification of the Marcham Road/Colwell Drive roundabout (described in my paragraph 34), and for a travel plan and its implementation. I am satisfied that in all these respects the planning obligation meets the three tests in Framework paragraph 204, and so I attribute full weight to the planning obligation in those respects. The planning obligation also makes provision for a transport contribution toward the Science Vale UK and, while I note paragraph 7.6 of the Transport Statement of Common Ground, I find insufficient evidence to support that element of the obligation; and so I attribute little weight to that element of the obligation. But that has no bearing on my decision.
95. The planning obligation between the site owners, the Appellant and Vale of White Horse District Council makes provision for various on- and off-site elements. The on-site elements include a work of art, street nameplates and waste and recycling bins and the off-site elements include sports facilities and equipment for the Police. I find insufficient evidence to support the work of art contribution and so I attribute little weight to it. I am satisfied that in all other respects the planning obligation meets the three tests in Framework paragraph 204, and so I attribute full weight to the planning obligation in those respects.
96. The unilateral undertaking given by the site owners and the Appellant in favour of Oxfordshire County Council provides a mechanism for payment to the County Council in relation to the pelican crossing works in Ock Street and Marcham Road, which I find in my paragraph 54 to be necessary. I am satisfied that the unilateral undertaking meets the three tests in Framework paragraph 204, and so I attribute full weight to it.

97. In my paragraph 58 I have considered potential constraint on the execution of the pelican crossing works in Ock Street and Marcham Road. Subject only to that (which is the subject of a planning condition), I am satisfied that the planning obligations and unilateral undertaking I have described would make all necessary provision for off-site infrastructure associated with the scheme.

### **Other Matters Raised**

98. Many of the matters raised at the Inquiry or in written representations by interested parties were also the subject of evidence given by the Council or the Appellant.

99. The dwellings that would be built would comply with the Building Regulations and would comply with the Code for Sustainable Homes level 3. Mr Scharf argues from bases such as *The Carbon Plan: Delivering Our Low Carbon Future* that a higher level should be required, in anticipation of future requirements. The sustainability of the development would thus be improved. A draft planning condition was tabled at the conditions session. Core Policy 30 of the Consultation Draft Local Plan would require all new residential development to meet at least level 4 of the Code for Sustainable Homes.

100. I attribute little weight to the Consultation Draft Local Plan because it is at an early stage in its preparation. The Building Regulations are the medium through which the Government promulgates sustainability standards for new-build homes and I do not criticise the Appellant's intention to comply with them.

101. Attention was drawn to the illustrative mix of groups in the community in Framework paragraph 50, which identifies actions that local planning authorities should take. The Council provided no demand assessment to show the mix of housing types proposed in the appeal to be inappropriate and it seems to me that, with apartments and houses to accommodate households of between 1 and 6 people, and with different types of tenure, the development would offer a reasonable degree of choice.

102. Several interested parties were concerned that local GP surgeries lack capacity to serve the development. But the evidence was that the three surgeries nearest the site are all taking on patients. Each practice's website extends a welcome to new patients from Abingdon and an area that includes the appeal site.

103. The owner of Stonehill House refers to additional issues:

i) Drainage: the flood risk assessment includes sections on drainage. Surface water drainage of the appeal site would be via an infiltration basin, which would add to the existing natural processes for ground water purification. The development would have no significant environmental impact in relation to water.

ii) Amenity in the grounds of Stonehill House, sometimes used as a retreat for people suffering from trauma: There are trees on the common boundary and treatment of the site perimeter, including the section between the grounds of Stonehill House, is the subject of a condition.

104. Nothing in these or other matters raised leads me to change my decision.

## **Conclusion**

105. Paragraph 49 of the Framework is clear that:

Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

106. The Council and the Appellant agree that, notwithstanding the Council's aspirations, the supply of deliverable housing sites in the District is significantly less than a five-year supply and it seems to me that the supply is of the order of one-half of the Framework requirement. Relevant policies for the supply of housing in the District are therefore to be considered out-of-date.

107. It remains the case that section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be in accord with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions, and I have previously considered the relationships between development plan policies and the Framework.

108. The Framework tells us in its paragraph 6 that the purpose of the planning system is to contribute to the achievement of sustainable development. The policies in Framework paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means in practice. The Framework identifies at paragraph 14 a presumption in favour of sustainable development, which means that, in making development decisions where the development plan's relevant policies are out-of-date, 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; or
- specific policies in the Framework indicate development should be restricted.

109. Framework footnote 9 sets out examples of specific policies in the Framework that might indicate development should be restricted. None of those applies in this case, and no other such policy in the Framework was identified as doing so at the Inquiry (although much other land near Abingdon is subject to such constraints). The second proviso in my paragraph 108 therefore falls away.

110. I therefore consider the balance between adverse impacts and benefits associated with the appeal proposal, when assessed against the policies in the Framework taken as a whole.

111. In assessing the adverse impacts of the appeal scheme I make allowance for mitigation measures that would accompany the scheme, and for planning conditions in Schedule A.

112. There are six particular considerations in this case:

- i) The need for new housing in the area. There is in the District a housing land supply of at most 2.8 years (my paragraph 13). I have

found a keenly-felt need for market and affordable housing in Abingdon, to which I attribute considerable weight (18).

- ii) The site's location outside any established settlement. Although the location would not comply with LP Policies, I have found that Framework paragraph 14 applies and that Framework paragraph 34 would be satisfied.
  - iii) The traffic implications of the scheme. I have found that, subject to the carrying out of various specific off-site works, the traffic implications of the scheme would not be severe.
  - iv) The scheme's landscape and visual effects. There would be limited slight harm to the rural character of the area (71). There would be slight harm to the group of lime tree on the site frontage and the risk of pruning (73, 83).
  - v) Water supply and drainage. This can be dealt with by a planning condition (90).
  - vi) The provision that would be made in respect of affordable housing and off-site infrastructure. Subject to a planning condition, I have found that the planning obligations and undertaking given would make all necessary provision in these respects (92, 97).
113. The Appellant, the Council and interested parties drew attention to the effects the scheme without mitigation might have on traffic and on the social and physical infrastructure and service requirements of future occupiers of the development. Those matters would be addressed through the planning obligations and through planning conditions and so do not figure in the balance. The residual harm would include:
- i) Limited slight harm to the rural character of the area; and,
  - ii) The creation of a gap in the line of protected lime trees on the site's Drayton Road frontage, and the possibility that other trees in the group might be harmed by pruning.
114. I have assessed those harms against relevant individual policies in the Framework and have found the harm to be slight (my paragraphs 71 and 73).
115. The benefit associated with the scheme would be the provision of 159 units of market and affordable housing, in the context of continuing housing provision shortfall.
116. The Framework emphasises the importance of housing development: for example, its paragraph 47 refers to boosting significantly the supply of housing, and to meeting the needs for affordable and market housing. For that reason and for the reason given in my paragraph 18 I therefore attribute significant weight to the housing provision the scheme would bring.
117. I conclude that the adverse impacts of granting permission for the appeal scheme would not significantly or demonstrably outweigh the benefits, when assessed against the policies in the Framework.

118. I have considered all other matters raised, but nothing leads away from the conclusion that the appeal should be allowed and planning permission granted, subject to conditions.

**Planning Conditions**

119. I have described the need for some planning conditions elsewhere in this appeal decision. Others were considered at the Inquiry. Schedule A to this appeal decision sets out the necessary planning conditions.

120. The local planning authority suggested a time limit of one year for the start of development, to ensure that the housing shortfall is swiftly met. In view of the various approvals that are needed for this scheme, too short a deadline might have a contrary effect. Also, it is not the commencement of development that would necessarily help to address the shortfall, but the completion of at least some of the development. Yet a condition requiring completion of development is not acceptable in the terms of Circular 11/95. I therefore apply the standard 3-year maximum.

121. I have shortened suggested condition 6 as details of internal boundary treatments are shown on drawing 832-002 revision C. Article 3.14 of the planning obligation with Oxfordshire County Council has the same effect as the first sentence of suggested condition 8, and so that part of that condition is not necessary. Suggested condition 11 would be unenforceable in respect of the suggested repair regime since it would require the cause of a highway defect to be established beyond dispute. In respect of contamination, this is a greenfield site and the submitted Geo-Environmental desk study found only a low risk of contamination, which is not in dispute. A precautionary condition is therefore appropriate rather than the approach suggested in suggested condition 20, which would require the unnecessary duplication of work already undertaken. In other respects I have acted on suggestions made at the Inquiry.

*J.P. Watson*  
INSPECTOR



## Schedule A: Planning Conditions

1) Commencement

The development hereby permitted shall begin not later than three years from the date of this decision.

2) Approved Drawings

The development hereby permitted shall be carried out in accordance with the approved drawings listed in Schedule B, except as controlled or modified by conditions of this permission, or as approved in writing by the local planning authority.

Reason: to define the permission.

3) Materials

The exterior surfaces of the development hereby permitted shall be constructed only in the materials specified on the drawings hereby approved or in materials which have been previously approved for the purpose in writing by the local planning authority. Full details of the design, materials and finishes of all windows, window sill and lintels, external doors and rainwater goods and the treatment of all verges and eaves of the new buildings shall be submitted to and approved in writing by the local planning authority. The development shall be built in accordance with the approved details.

Reason: to ensure a satisfactory appearance.

4) Landscaping

(i) Other than as provided elsewhere in this condition, all hard and soft landscaping works shall be carried out in accordance with the details set out in the drawings hereby approved or in accordance with details which shall previously have been approved in writing by the local planning authority.

(ii) No building shall be commenced within 30 metres of the western boundary of the site until a scheme for the Drayton Road frontage landscaping treatment has been approved in writing by the local planning authority and new planting carried out in accordance with that approved scheme.

(iii) No development shall take place until a scheme for the provision and management of a watercourse buffer zone, on those parts of the site that are within 8 metres of the watercourse near the eastern edge of the site, have been submitted to and approved in writing by the local planning authority. The watercourse buffer zone shall contain elements conducive to wildlife associated with the watercourse and shall be protected from recreational use. Development shall take place as approved.

(iv) No development shall take place until proposals for the provision of litter bins and seating at the open space at the north-eastern corner of the site, for elements in the north-eastern area that would offer children a varied, interesting and physically challenging environment and for amenity planting adjacent to the parking bays on that open space

and on the central open space, have been approved in writing by the local planning authority. Development shall take place as approved.

v) The landscaped areas shall be maintained for a period of 5 years from completion of the development. Any trees or shrubs which die or become seriously damaged or diseased within 5 years of planting shall be replaced by trees and shrubs of similar size and species to those originally planted. Any replacements are to be maintained for a period of five years.

Reason: to secure the environmental quality of the development and to comply with the General Design Principles in the Supplementary Planning Document "Open Space, Sport and Recreation Future Provision" July 2008.

5) Tree Protection

Prior to the commencement of any site works or operations relating to the development hereby permitted, an arboricultural method statement, which must include a tree protection plan, to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the local planning authority. Work shall be carried out as approved. The arboricultural method statement shall include the following:

- i) A specification for any tree surgery to trees to be retained in order to prevent accidental damage by construction or other activities prior to the occupation of the new dwellings;
- ii) The specification of the location and type of protective fencing and/or ground protection near trees to be retained during the construction period, as recommended by the current edition of BS 5837 "Trees in relation to design, demolition and construction", and details of the timing and duration of its erection;
- iii) Identification of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
- iv) Drawings to show the root protection areas of all trees to be retained;
- v) The position specification and the means of installation of drainage and any underground service routes near retained trees. Drainage and service runs shall not be placed in the root protection area of any tree to be retained, unless previously approved in writing by the local planning authority. Underground installation works in the RPA shall be in accordance with a method statement previously approved in writing by the local planning authority, which statement shall comply with the NJUG *Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees*, 2007, volume 4.
- vi) Details of the materials and method of construction of any roadway, parking, pathway or other surfacing in the root protection area of any tree to be retained, which shall be of a "no dig" construction method in accordance with the principles of Arboricultural Practice Note 12 *Through the trees to development*.
- vii) Provision for and the timing of the supervision and monitoring of all works in the root protection areas of trees to be retained, to ensure

compliance with the protective measures specified, by an appropriately qualified arboricultural consultant; and arrangements for notifying the local planning authority of the completion of each stage and for the regular reporting on the works to the local planning authority.

Reason: to safeguard trees which are visually important.

6) Boundary treatment

No development shall take place until details of the site perimeter boundary treatment have been approved in writing by the local planning authority. Treatment of the common boundary with Stonehill House shall be such as to maintain seclusion along that boundary. Development shall take place as approved and shall be maintained thereafter.

Reason: to maintain visual and residential amenity.

7) Tree management plan

No development shall taken place until the local planning authority has issued written approval of a post-development tree management plan for all retained trees in open spaces on the site. This shall include an operational plan for the scheduled and ad-hoc tree maintenance required and shall comply with BS3998:2010 *Recommendations for tree work*. The management plan shall be implemented as approved.

Reason: to safeguard trees which are visually important.

8) Access

(i) All of the roads and footways shown on the approved layout drawing and all of the ancillary highway works and street lighting shall be provided in accordance with the specification in Oxfordshire County Council's Residential Road Design Guide or as may otherwise be approved in writing by the local planning authority.

(ii) No dwelling shall be occupied until it is connected to Drayton Road by such of the roads footways and street lighting as are necessary to provide such a connection (other than the wearing course).

(iii) Before the first dwelling on the site is first occupied the visibility splays at the site access to Drayton Road (shown on drawing VN50148-SK-001 rev F in the planning agreement with Oxfordshire County Council dated 23 May 2013) shall be established and thereafter shall be permanently maintained free from obstruction to vision.

Reason: in the interest of highway safety and to provide reasonable living conditions for residents during construction of the development.

9) Car Parking Spaces

No dwelling shall be occupied until the car parking spaces for that dwelling have been constructed, surfaced, drained and marked out. Thereafter, the spaces shall be kept free of any obstruction to such use. The parking spaces shall be built to prevent water discharging onto the highway.

Reason: in the interest of highway safety.

/over

10) Construction Traffic Management Plan

Prior to the commencement of any development (other than any works agreed in writing by the local planning authority) a Construction Traffic Management Plan for the development shall be submitted to and approved in writing by the local planning authority. The approved Plan shall be complied with throughout the construction period, and shall provide details of the following:

- (i) Routing protocol for vehicles entering the site from the nearest "A" road;
- (ii) Parking facilities for construction workers, other site operatives and visitors;
- (iii) Loading and unloading of spoil, materials and plant;
- (iv) Vehicle wheel washing facilities.

All construction traffic serving the development shall enter and leave the site direct from Drayton Road and not via any other access point.

Reason: in the interests of highway safety and residential amenity.

11) Children's Play Space

The area of land designated on the approved drawings as a play space for children shall be used exclusively for that purpose. Equipment shall be provided as shown on the approved drawings. A management plan shall be submitted to and approved in writing by the local planning authority before any dwelling on the site is first occupied. The management plan shall include the stage at which the play area shall be provided relative to the occupation of the development and the management and maintenance of the area for a minimum period of five years from its first provision.

Reason: to meet the need for children's play space.

12) Archaeology

No development shall take place until an archaeological investigation has been undertaken by a professional archaeological organisation in accordance with a written scheme of investigation that has previously been approved in writing by the local planning authority. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the local planning authority.

Reason: to safeguard the recording of archaeological matters.

13) Refuse Bin Storage

No dwelling shall be occupied until it has been provided with adequate space to accommodate a 240 litre wheeled bin, a 180 litre wheeled bin and a 23 litre bin (or as may otherwise be agreed in writing with the local planning authority) on a solid surface.

Reason: to make adequate provision for the storage and removal of domestic waste.

/over

14) Fire Hydrants

No development shall take place until details of a scheme to provide fire hydrants in the development has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the hydrant serving it has been provided in accordance with the approved details.

Reason: to secure a satisfactory level of fire hydrants in the interests of fire safety.

15) Flood Risk and Drainage

No development shall take place until a detailed scheme for the surface water and foul water drainage of the development has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme. The drainage scheme shall be based on sustainable drainage principles and on an assessment of the hydrological and hydro-geological context of the development. The drainage strategy shall following the principles detailed in the flood risk assessment ("FRA") produced by Brookbanks Consulting ref. 10200/FRA/01 dated 23.10.12 and the following mitigation measures detailed in the FRA shall be followed:

- (i) Limiting the surface water run-off generated by the 1 in 100 year (including a 30% allowance for climate change) critical storm through the use of infiltration so that it will not exceed the runoff from the undeveloped site following the corresponding rainfall event and not increase the risk of flooding off-site.
- (ii) Finished floor levels are set no lower than 150mm above the surrounding ground level.
- (iii) A management and maintenance plan for the lifetime of the development (i.e. arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the system throughout the lifetime of the development).

The mitigation measures shall be fully implemented prior to occupation of the relevant phase and subsequently in accordance with the timing/phasing arrangements embodied in the scheme, or within any other period as may subsequently be agreed in writing by the local planning authority.

Reason: to ensure the effective and sustainable drainage of the site in the interests of public health and the avoidance of flooding either on or off site, in accordance with Framework paragraph 103.

16) Contaminated Land

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the local planning authority has received and approved a remediation strategy detailing how this unsuspected contamination is to be dealt with. The remediation strategy shall then be implemented as approved.

Reason:

- 17) While the development is under construction, the measures summarised in paragraphs 4.11 and 4.12 of the Ecological Appraisal shall be implemented.

Reason: For the protection of badgers while the development is under construction.

- 18) Pedestrian Crossing Alterations

No development shall take place until the earlier of these events has taken place:

a) The local planning authority has received written confirmation, issued by Oxfordshire County Council, that highway alterations are to be carried out comprising the introduction of an additional crossing of Ock Street to the east of Drayton Road (as shown on drawing VN50148-ECC-SK-0002 rev A and including any alterations thereto arising from the detailed design of the works) and the relocation of the existing crossing further west on Marcham Road (as shown on drawing VN50148-ECC-SK-0003 and including any alterations thereto arising from the detailed design of the works);

b) Highway alterations have been implemented comprising the introduction of an additional crossing of Ock Street to the east of Drayton Road (as shown on drawing VN50148-ECC-SK-0002 rev A and including any alterations thereto arising from the detailed design of the works) and the relocation of the existing crossing further west on Marcham Road (as shown on drawing VN50148-ECC-SK-0003 and including any alterations thereto arising from the detailed design of the works), and the associated traffic signals are first in operation.

Reason: to avoid severe transport effects that would otherwise arise from the development.

## SCHEDULE B: APPROVED DRAWINGS

Drawing Number	Revision	Title
HLM028-16	-	Site location plan
832-001	C	Site plan
832-002	C	Boundary treatments
832-003	-	Perspective view
832-004	B	Street elevations
5182-L-01	C	Landscape
10020-PL-01	E	Levels drawing
VN5148-SK-01	D	Site access
5182-L-02	B	Trees to be removed
HLM028-017	B	Affordable housing provision
HLM028-018	B	Open space provision
832-1A-100	-	Apartment 1A
832-2A-100	-	House 2A: Plans and elevations
832-2B-100	-	House 2B: Plans and elevations
832-2LTH-100	-	House 2-LTH: Plans and elevations
832-3A-100	-	House 3A: Plans and elevations
832-3B-100	-	House 3B: Plans and elevations
832-3C-100	-	House 3C: Plans and elevations
832-3E-100	-	House 3E: Plans and elevations
832-3F-100	-	House 3F: Plans and elevations
832-3LTH-100	-	House 3-LTH: Plans and elevations
832-4A-100	-	House 4A: Plans and elevations
832-4B-100	-	House 4B: Plans and elevations
832-4C-100	-	House 4C: Plans and elevations
832-4E-100	-	House 4E: Plans and elevations
832-5A-100	-	House 5A: Plans and elevations
832-GAR-100	-	Garages: Plans and elevations

## **ANNEX 1: APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Ground, of Counsel      Instructed by the Solicitor to the Council

He called:                                      Mr Steven J Sensecall BA(hons) DipTP MRTPI  
Mr Tim Stringer  
Mr Roy Newton BEng MSc MCILT  
Mr David Lear BSc IEng FIHE

### FOR THE APPELLANT:

Mr Ian Dove, QC                              Instructed by Mr Nicholas Freer, David Lock Associates Limited

He called                                        Mr Nicholas Freer MSc MRTPI  
Miss Jennifer Baker BSc MSc DIC IEng AMICE  
Mr Brett Coles BA(hons) DipTP DipLA MRTPI

### INTERESTED PERSONS:

Ms Nicola Blackwood MP

Mr Mark Chattoe                              Abingdon-on-Thames Town Council

Mrs Anthea Eno

Dr Bob Eeles

Cllr Neil Fawcett

Mr Daniel Scharf MA MRTPI

Mrs Janet Moreton

Mrs Anne Dodd

Cllr Michael Badcock

Dr Les Clyne



## ANNEX 2: DOCUMENTS

- 1 Extract from urban capacity study.
- 2 LPA note: Local Development Scheme 2012-2016
- 3 Pedestrian Survey report: Marcham Road/Drayton Road, and summary
- 4 Extract from TfL "Traffic Modelling Guidelines"
- 5 Journey time surveys summary
- 6 Extract from Highways Agency "Guidelines for Microsimulation Modelling"
- 7 VISSIM seed run diagrams
- 8 NDC Journey Time Model Summary
- 9 Journey time: latest model results
- 10 Journey time comparison: 75/25 pedestrian sensitivity
- 11 Increased journey time sensitivity
- 12 Opening submissions on behalf of the appellant
- 13 Explanation of additional AM peak sensitivity tests
- 14 Note: Cumulative housing figures
- 15 Appeal Decision 2169598: Land at Preston
- 16 Section 106 agreement: Vale of White Horse DC, Hallam Land Management Limited and others
- 17 Section 106 agreement: Oxfordshire County Council, Hallam Land Management Limited and others
- 18 Aecom Technical Note: Base and Proposed VISSIM model review, Issue 1
- 19 SKM Technical note: VISSIM modelling – update 3
- 20 Extract from TfL "Traffic Modelling Guidelines"
- 21 E-mail from Oxford Bus Company to Oxfordshire County Council
- 22 Appeal Decision 2163208: Land at Westergate
- 23 Secretary of State's Decision Letter: Redevelopment of Reynard Mills Business Park
- 24 DMRB extract: Vol 12 section 2 part 1 chapter 3 para 3.1.4
- 25 Consistency of development plan policies with the NPPF: Appellant
- 26 Plan of tree details, south-west corner of site
- 27 Planning Advisory Note: Broad Landscape Zones
- 28 Public access to information relating to the appeal
- 29 Assessment of Saved Local Plan policies for consistency with the National Planning Policy Framework: LPA
- 30 Statement of common ground on transport matters
- 31 Unilateral Undertaking: Hallam Land Management Limited and others (version at the Inquiry: not completed)
- 31A Unilateral Undertaking: Hallam Land Management Limited and others (completed version)
- 32 Note to the Inquiry: Strat-e-gis Data Volume used for Drayton Road Northbound Journey Time Figures: LPA
- 33 Note on Non-strategic planning applications referred to in Mr Sensecall's evidence in chief
- 34 Procedure for viewing paper copy of application file
- 35 Note to the Inquiry: Strat-e-gis Data Volume used for Drayton Road Northbound Journey Time Figures: Appellant
- 36 Revised figures to Appendix 3 of Mr Coles's proof of evidence: figure 1 revA, figure 2 revA, figure 3 revA, figure 4 revA.
- 37 Note: Legal background to proposals for pedestrian

- crossings/speed limit zone extensions
- 38 Road Traffic Regulation Act 1984: extracts
- 39 The Queen on the Application of Hilary Wainwright v Richmond upon Thames London Borough Council
- 40 R. v Warwickshire County Council ex parte Powergen plc
- 41 Statement by Abingdon-on-Thames Town Council
- 42 Statement by Mrs Anthea Eno
- 43 Statement by Mrs Anne Dodd
- 44 Bundle of papers by Dr Les Clyne
- 45 Bundle of papers by Mr Daniel Scharf
- 46 Table of GP List sizes in Oxfordshire
- 47 E-mail timed at 14:39 on 24/5/13: "Strat-e-gis note"
- 48 Draft planning conditions: 23 May 2013
- 49 Revision A to draft planning conditions: 23 May 2013
- 50 Appellant's response to document 47
- 51 Closing submissions on behalf of Vale of White Horse District Council
- 52 Closing Submissions on behalf of the Appellant

Richborough Estates