



---

## Appeal Decision

Inquiry Held on 27 -29 March 2018

Site visit made on 4 April 2018

**by Helen Hockenull BA(Hons) B.PI MRTPI**

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

**Decision date: 29 May 2018**

---

**Appeal Ref: APP/Q3115/W/17/3186858**

**Land to the East of Benson Lane, Crowmarsh Gifford, Wallingford**

**OX10 8ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Bloor Homes and Hallam Land Management against the decision of South Oxfordshire District Council.
  - The application Ref P16/S3608/0, dated 28 October 2016, was refused by notice dated 4 April 2017.
  - The development proposed is up to 150 dwellings together with associated access, public open space, landscaping and amenity areas.
- 

### Decision

1. The appeal is allowed and planning permission is granted for up to 150 dwellings together with associated access, public open space, landscaping and amenity areas on land to the East of Benson Lane, Crowmarsh Gifford, Wallingford OX10 8ED in accordance with the terms of the application, Ref P16/S3608/0, dated 28 October 2016, subject to the conditions in the attached schedule.

### Application for costs

2. At the Inquiry an application for costs was made by Bloor Homes and Hallam Land Management against South Oxfordshire District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The appeal proposal is in outline with all matters reserved for later approval except for the matter of access. The submitted masterplan and parameters plan are for indicative purposes only and I have considered them accordingly.
4. Crowmarsh Parish Council and a local residents' group, Crowmarsh Residents' Action Group (CRAG), applied for and were granted Rule 6<sup>1</sup> party status in the Inquiry.
5. The Council refused planning permission citing four reasons for refusal on its Decision Notice. The first reason related to the harm to local character and the setting of the Chilterns Area of Outstanding Natural Beauty (AONB). The

---

<sup>1</sup> Rule 6(6) The Town and Country Planning (Inquiries Procedure)(England) Rules 2000

- second related to the lack of capacity in local schools and the third concerned the loss of Grade 2 agricultural land. The fourth reason related to the lack of a section 106 agreement to secure affordable housing and off site infrastructure.
6. The Council's Statement of Case confirmed that reason for refusal 2; concerning education provision was not being pursued. Following a further review of its position, the Council confirmed in its proof of evidence that it would not be defending the reasons for refusal, save for securing the appropriate planning obligations. The Council presented no oral evidence with the exception of contributing to the discussions regarding the planning obligation and appropriate conditions.
  7. A signed and dated planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) between the appellant and the Council was submitted at the Inquiry. The obligation related to the provision of affordable housing, the maintenance of public open space and financial contributions towards street naming, public art, recycling and waste provision. A separate executed section 106 agreement between the appellant and Oxfordshire County Council, the highway authority, was also submitted which related to the implementation of highway works, a bus service contribution and a travel plan monitoring fee. A further signed and dated agreement with the County Council was provided with my agreement immediately after the event. This related to the funding of a traffic regulation order should one be required by the highway authority.
  8. The Council and the appellant submitted an agreed Statement of Common Ground (SoCG) dated 27 February 2018 indicating all the areas of agreement between them.
  9. At the Inquiry, the appellant provided additional updated evidence with regard to air quality and transport matters in order to address the concerns expressed by the Rule 6 parties. These documents were considered during the event.
  10. After the close of the Inquiry, the Parish Council, one of the Rule 6 parties, made me aware that the Council published its updated Housing Land Supply Statement for 2017-18 on 30 April 2018. I asked the parties for views on the implications of accepting this evidence for the determination of this appeal. I have acknowledged this new information and shall explain later in my decision, the approach I have taken to whether or not it should be accepted into evidence and the bearing it has on my reasoning.

### **Main Issues**

11. Mindful of the above, I consider the main issues in this case are :
  - whether the Council can demonstrate a 5 year supply of housing land sufficient to meet the objectively assessed need (OAN) for housing and the consequences for national and local plan policy;
  - the effect of the development on the landscape character, visual amenity and local distinctiveness of the area;
  - the impact of the proposal on the local highway network and highway safety;
  - the likely impacts of the development on air quality;

- the likely impact of the proposal on local education infrastructure;
  - the effect of the development on Best and Most Versatile (BMV) agricultural land.
12. There are also other areas of objection raised, including health provision, flooding and drainage which I shall also examine.

## Reasons

### *Principle of development*

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
14. For the purposes of this appeal, the most relevant development plan policies are those contained in the South Oxfordshire Core Strategy 2012 (CS) and the saved policies of the South Oxfordshire Local Plan 2006 (SOLP).
15. Policy CSS1 focusses major new development to the Growth Point of Didcot, the market towns of Henley, Thame and Wallingford, the 12 larger villages in the District and other smaller villages. Crowmarsh Gifford is defined as a larger village. This designation is based on an assessment<sup>2</sup> of the local services and facilities that the village provides. Whilst this has been challenged by CRAG and third parties, the methodology was tested in the Examination of the CS and I am satisfied that it is robust.
16. Policy CSH1 sets out the housing requirements of the district for the period 2006-2026. This policy is derived from the now revoked South East Plan. There is common ground between the parties that the housing requirements of the district, and therefore Policy CSH1, which were not based on the Frameworks approach to housing need, are now out of date.
17. Furthermore, in outlining the amount and distribution of housing in the borough, Policy CSH1 provides for a total of 1154 dwellings to be allocated in larger villages and identified in the Site Allocations Development Plan Document (DPD). However work on this document was abandoned in favour of progressing the new Local Plan. Therefore there are no allocations for the village of Crowmarsh Gifford.
18. Policy CSR1 identifies an appropriate level of growth for the villages to support and enhance sustainable communities. This is to be achieved through allocations, allowing infill sites and rural exceptions where a need has been shown. The appeal site is located outside the village of Crowmarsh Gifford in the open countryside; it does not form an infill site and is not justified as a rural exception. The proposal therefore conflicts with this Policy.
19. In a recent High Court decision for a site in Chinnor<sup>3</sup> it has been found that Policy CSR1 is 'silent' in relation to housing in larger villages due to the lack of a Site Allocations DPD. Indeed the Council have accepted this position in a committee report<sup>4</sup> for a site in Benson. Having regard to this context, I have

---

<sup>2</sup> Settlement Assessment Background Paper 2011, Core Strategy Appendix 4

<sup>3</sup> South Oxfordshire District Council V SSCLG and Cemex Properties UK Ltd [2016] EWHC 1173 (Admin)

<sup>4</sup> Report to Planning Committee Application Ref P16/S3611/FUL, Land north of Littleworth Road, Benson dated 13 March 2017

no reason to disagree with this conclusion.

20. The final publication version of the emerging South Oxfordshire Local Plan was the subject of consultation in October/November 2017. Draft Policy H4 of the plan sets a minimum requirement of 1041 dwellings in larger villages to be achieved through neighbourhood plans and local plan site allocations, with 110 homes identified for Crowmarsh Gifford. I was advised at the Inquiry that the Council has decided to suspend progress with the Local Plan due to difficulties in bringing forward the proposed allocation at Chalgrove airfield. It is unclear how the emerging plan will now progress. In any event due to the stage in the preparation of the new Local Plan, it is common ground that very limited weight can be attributed to this document.
21. A neighbourhood plan is under preparation for Crowmarsh Gifford. Whilst work has commenced on the evidence base and consultation has taken place on potential site allocations and draft policies, the document is still at an early stage. I therefore consider that limited weight should be attributed to it.

#### Housing need and supply

22. At the Inquiry, whilst there was agreement between the parties that the Council could not demonstrate a 5 year supply of housing land, there was however disagreement between the appellant and the Council on the actual supply figure. The Council assessed housing land supply to be 4.1 years whilst the appellant submitted detailed evidence arguing the figure could be as low as 2.3 years.
23. After the close of the Inquiry, the Council published its updated housing land supply statement which concluded that the position had improved and a 5 year supply could now be demonstrated.
24. In terms of the approach I should take in this appeal, I have had regard to paragraph 14 of the Framework which sets out a presumption in favour of sustainable development and explains what it means for decision taking. In the first bullet point it states that this means approving development proposals that accord with the development plan without delay. In the second bullet point this means that where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted. This is known as the 'weighted' or 'tilted' balance.
25. In the context of paragraph 49 of the Framework, where a Council can demonstrate a five year housing land supply, the relevant policies for the supply of housing are not out of date. If the late evidence with regard to housing land supply is accepted, this would be the case here and the 'tilted' balance would not be engaged.
26. However I have also found that relevant development plan policies are silent and out of date. Therefore, irrespective of the position on housing land supply the 'tilted balance' would apply in any event. Therefore in the circumstances of this appeal, it is not necessary for me to determine the actual supply figure or whether the Council can demonstrate a 5 year supply of housing land. It is not determinative to my approach and subsequent reasoning.

*Landscape character and visual amenity*

27. The appeal site comprises an area of around 7.3 hectares located to the north east edge of Crowmarsh Gifford. At the northern edge of the site is Marsh Lane, an ancient byway set at a lower level to the site, enclosed by mature hedges and trees. Part of the western site boundary abuts the car park of the village community hall and the rear gardens of properties on Benson Lane. The remainder abuts Benson Lane itself and is screened by existing hedgerow and trees on the boundary of the highway. On the other side of Benson Lane lie existing housing and employment areas. The southern site boundary consists of the rear gardens of residential properties on The Street. The eastern edge of the site is undefined but follows the line of a public footpath which runs from Marsh Lane to the village boundary. Beyond that is a mature hedgerow and vegetation running along the A4074 Wallingford Bypass.
28. CS Policy CSEN1 aims to protect the district's landscape character and key features and gives high priority to the conservation and enhancement of the Chilterns and North Wessex Downs AONB's. It goes on to state that planning decisions will have regard to their setting.
29. Saved Policy G2 of the SOLP aims to protect the districts countryside, settlement and environmental assets from adverse developments. Saved Policy G4 seeks to protect the countryside for its own sake as an important consideration when assessing proposals for development. Both these policies were found to be out of date in the same appeal and subsequent High Court Decision I have referred to in paragraph 19 above. The above policies are restrictive of development in the countryside and were prepared in a different policy context. They do not accord with paragraph 17 of the Framework which seeks to recognise the intrinsic character and beauty of the countryside. I therefore conclude that they are out of date.
30. Saved Policy C4 of the SOLP is also a relevant landscape policy and seeks to protect important local landscape features and the setting of settlements. Saved Policy D1 aims to achieve high quality design and states that the protection and reinforcement of local distinctiveness should be taken into account in all new development.
31. The appeal site is not subject to any landscape designations but lies outside but close to two Areas of Outstanding Natural Beauty (AONB), the Chilterns AONB to the east and the North Wessex Downs to the north west. It is located in the Upper Thames Clay Valleys National Character Area which consists of low lying clay based flood plains to the River Thames. The County Landscape Character Assessment describes the site as being within the 'Terrace Farmlands' landscape type. This is characterised by broad flat gravel terraces with large scale regularly shaped fields predominantly in arable use. This character type is further sub-defined in the District Local Character Assessment, where the appeal site is described as being part of the 'River Thames Corridor' landscape type. This comprises mostly flood plain to the River Thames, with settlements located in close proximity to watercourses and busy transport corridors crossing through the area including the A4074.
32. CRAG made the case at the Inquiry that the site forms a valued landscape. Both the appellant and CRAG use the criteria set down in the GVLIA (3<sup>rd</sup>

- Edition)<sup>5</sup> to make their individual assessments but come to different conclusions.
33. The appeal site forms an agricultural field close to the edge of the village. It has no particular landscape features of merit and I agree with the appellants that it is of medium landscape quality. The Wallingford Bypass exerts an urban influence over the site and disconnects the site from the wider landscape. I observed on my site visit that the noise from the Bypass, and to a lesser extent from Benson Lane, adversely affects the tranquillity of the site. Reference was also made at the Inquiry to the noise from the Chinook helicopters which pass over the area on a fairly regular basis. The site does not include any rare landscape features and whilst there may be some heritage interest on the site, such as Bronze Age barrows, these are not considered to be so significant that they would prevent development. Any historic associations with particular people appear to me to be anecdotal and without substantive evidence.
34. In terms of recreational interests, public footpaths run along the northern, southern and eastern site boundaries of the site, not across the site itself. The site is in agricultural use and therefore does not have open access, even though I heard evidence that the site may be used in this way by local people. I acknowledge that the public footpaths provide a recreational value. As they are unaffected by the development, these recreational interests are maintained.
35. I acknowledge that the site is valued by the local community. However it has no particular landscape merit or significant scenic quality. Whilst it forms an area of attractive countryside, I conclude that it does not form a valued landscape in terms of paragraph 109 of the Framework.
36. With regard to landscape impact, the site is well contained by existing development in the village and the existing boundary hedgerows and vegetation on the site boundaries. The development of the site would result in the loss of an agricultural field and a significant change to the appearance of the land. However these impacts would be localised. In middle and longer distance views, intervening trees and hedgerows screen the site to a large extent, so that the development would not have a material effect on the wider landscape.
37. As I have stated earlier, the site lies close to two AONB's. The most significant in this case is the Chiltern AONB which includes a small part of the wider field to the east. This area of land was separated from the wider AONB when the bypass was constructed. CRAG have argued that whilst the boundary of the AONB needs to be hard and be able to be mapped, in effect it should be viewed as a fuzzy line. They consider that the appeal site lies within these fuzzy limits. However the appeal site is clearly outside the defined boundary, with the bypass providing a physical barrier between the site and the wider AONB.
38. I acknowledge that glimpses of the appeal site can be obtained from within the Chilterns AONB, for example from The Ridgeway. However the appeal site lies north of Newnham Manor, an approved development site, and would be seen in the context of built development in the village. Together with the existing boundary hedgerows and trees on intervening land, views of the site from the AONB would be limited. Furthermore the proposed landscaping scheme for the

---

<sup>5</sup> Guidelines for Landscape and Visual Impact 3<sup>rd</sup> Edition – Landscape Institute, IEMA. 2013

development would, when mature, screen the site and filter views. I therefore conclude that the development would not cause harm to the setting of the AONB.

39. Turning to the visual impact of the development, views into and of the site would be fairly localised. The proposal would be seen in the main from Benson Lane, the residential properties which bound the site and the village hall car park. Some partial views would be achievable from the A4074 to the east but these would be filtered by the mature planting on the highway and the proposed landscaping along the eastern site boundary.
40. Immediate residential occupiers would experience a significant change in view out of their properties. Whilst acknowledging that the proposal is in outline form, the set back of built development from the site boundaries as indicated on the submitted Masterplan, together with the proposed landscape mitigation and retention of the existing public footpath routes would, when established, assist to screen the development. These measures could be secured through the consideration of the detailed layout at reserved matters stage.
41. The appeal proposal would be viewed as a continuation of built development along Benson Lane and an extension to the village. With the retention and enhancement of existing landscaping and the provision of new planting, the development would be softened and any landscape and visual impacts would be appropriately mitigated.
42. I therefore conclude that the proposal would not cause any material adverse harm to the landscape character or visual amenity of the area. It would comply with Policy CSEN1 of the CS and saved policies G2, G4, D1 and C4 of the SOLP. The proposal would also comply with paragraphs 7, 17, 109 and 115 of the Framework, which aim to recognise the intrinsic character and beauty of the countryside and give great weight to conserving landscape and scenic beauty in areas with the highest level of protection such as AONB's.

*Local highway network.*

43. The Rule 6 parties and local residents have raised concern with regard to the traffic impact of the development. The appellant prepared a Transport Assessment as part of the submission at planning application stage. A further supplementary statement was provided at the Inquiry in order to address some of the concerns raised.
44. As part of the preparation of the Transport Assessment a formal scoping exercise was undertaken with the highway authority to agree the methodology to be used, including the junctions to be analysed and the trip rates to be applied. I am satisfied that the assessment has been carried out in a systematic and robust way. Whilst the assessment relies on survey data from one day, I have no evidence before me to suggest that it is not representative of a typical weekday under normal traffic conditions. I therefore conclude that it is robust and appropriate to be used as the basis for the assessment.
45. The appellant applied traffic growth assumptions of around 7% to the period 2021. CRAG raised concern that this level of growth did not take account of committed development in the area and therefore underplayed the likely cumulative impact on Wallingford. However having noted the location of many

of these sites<sup>6</sup>, the traffic generated would more than likely make use of the A4130 to the south, which would be a more convenient and reliable route. Consequently as little traffic from these developments would be likely to pass through the centre of Wallingford and subsequently Crowmarsh Gifford, I am satisfied that the transport assessment could not reasonably have been expected to consider the additional traffic movements from these developments on the highway network.

46. I heard evidence that a traffic survey undertaken by the Parish Council in February 2018 found approximately 15% more vehicles heading north on Benson Lane than that indicated by the appellant's Transport Assessment. The two surveys used different methodologies. The Parish Council's survey was undertaken manually whilst the appellant used an electronic count. They were also undertaken on different days. These factors may have led to different traffic flows being recorded.
47. Putting these figures into context, the appellant's data amounts to around 9 vehicles per minute (542 vehicles per hour) and the Parish Council's figures equate to around 10 vehicles per minute (622 vehicles per hour) on Benson Lane. This difference is not significant. Even if I were to accept the higher level as being more accurate, I have no evidence before me to indicate that Benson Lane would be at capacity. I therefore have no reason to conclude that the development would result in unacceptable traffic impacts on Benson Lane.
48. Having regard to the lack of objection from the Highway Authority and the proposed off site mitigation measures to increase capacity at the Crowmarsh Hill roundabout junction and the A4074/A4130 roundabout, I conclude that the proposed development would not result in any significant adverse impacts on the wider highway network. The appeal scheme would therefore comply with paragraph 32 of the Framework which advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts would be severe.

#### *Air quality*

49. An Air Quality Management Area (AQMA) has been designated in Wallingford due to exceedances in the annual mean objective for nitrogen dioxide. The appellant submitted an Air Quality Assessment with the original planning application but also provided a revised assessment and Rebuttal Statement before the start of the Inquiry in response to the concerns raised by the Rule 6 parties.
50. All parties accept that development traffic would lead to increases in the annual mean objective for nitrogen dioxide within the AQMA. However such increases would be small, around 0.02 micrograms per cubic metre. This equates to a 0.1% change relative to the annual mean objective with a predicted impact of low to imperceptible with reference to the Council's Developer Guidance on Air Quality.
51. Dr. Upcraft representing CRAG provided evidence that recent published data has shown that nitrogen oxide levels have increased since 2015. He questioned the appellant's assessment that the impact of the development on the AQMA would be minimal and even if this were to be the case, the increase

---

<sup>6</sup> Plan attached to Mr Witt's Cumulative Transport Review document



in pollution in the AQMA would be at odds with the Council's statutory obligations to address such pollution. However Dr. Upcraft's analysis concerns nitrogen oxide rather than nitrogen dioxide. The latter is the key indicator with regard to air pollution and it is exceedances of nitrogen dioxide, not nitrogen oxide, upon which the AQMA designation is predicated and subsequently monitored.

52. In conclusion on the basis of the evidence before me, and the lack of objection from the Council in this regard, I am satisfied that, with the proposed mitigation measures, the proposed development would not result in unacceptable impacts on air quality.

#### *Education provision*

53. The Rule 6 parties and local residents have expressed concern that the existing schools in the area are at capacity and cannot cope with more pupils from the proposed development. Particular concern is raised with regard to primary school provision.
54. The appellant has provided detailed evidence on the availability of school places in 10 primary schools in a 2 mile radius of the appeal site. Whilst this data shows different levels of surplus places at individual schools, I am satisfied that in the area as a whole there would be sufficient capacity.
55. In terms of Crowmarsh Gifford Primary School, Oxfordshire County Council's data demonstrates that around half of pupils come from outside the village. Whilst this reflects parental choice, without these pupils the primary school would have surplus places for children from the village. It would therefore be able to accommodate pupils from the proposed development. The consequence of the appeal scheme may be that children travelling from further afield then have to attend schools closer to where they live.
56. The Local Education Authority do not oppose the proposed development and have withdrawn their original request for a financial contribution towards education provision through the section 106 agreement.
57. Accordingly, I am satisfied that the local education infrastructure has adequate capacity to accommodate additional pupils from the proposed development.

#### *Best and most versatile agricultural land*

58. The appeal site comprises 7.3 hectares of predominantly Grade 2 agricultural land. Land of such quality is classed as BMV and the proposed development would inevitably result in its loss.
59. The Framework in paragraph 112 advises local planning authorities to take account of the economic and other benefits of the BMV agricultural land. Where significant development of agricultural land is demonstrated to be necessary, authorities should seek to use areas of poorer quality land in preference to the higher quality.
60. I note that the appeal site would be less than the 20 hectare threshold for consultation with Natural England. Having regard to the numerous examples of development proposals involving the use of agricultural land provided by the appellant, I agree that appeal scheme, a development of just over 7 hectares of land, would not be significant.

61. There is a high proportion of BMV agricultural land in the South Oxfordshire District, particularly around Didcot and Wallingford. There are few areas of poor quality agricultural land in the district and the majority of these have been allocated for development. This means that in order to meet the need for development land around Didcot and Wallingford, BMV land would be required. A number of draft allocations in the emerging local plan involve BMV agricultural land.
62. In economic terms, the proposal would result in the loss of productive farmland. However it forms part of a larger farm holding and its development would not have a significant impact on the viability of the enterprise. It would not result in severance or result in other adverse impacts such as the loss of access to the wider field.
63. In summary, I conclude that whilst the appeal scheme would result in the loss of BMV agricultural land, for the reasons given above, this would result in limited harm.

### **Other matters**

#### *Housing Need*

64. CRAG put forward the case that the 5 year housing land supply is arguable and nebulous and that little weight should be given to it. In light of my finding that 5 year housing land supply is not determinative in this case, I do not address this matter further.
65. The Group also provided evidence that since January 2016, 1912 dwellings had been granted planning permission on sites in Crowmarsh Gifford, Wallingford and Cholsey. This represents 38% growth in the number of dwellings in these parishes, putting increased pressure on local services and infrastructure. However I understand that many of these sites are large strategic developments that will deliver housing over the plan period. I am advised by the appellant that around 409 dwellings are included in the five year land supply which equates to a population growth of 8% over the next 5 years. This does not in my view amount to significant growth.
66. CRAG has made reference to the figure of 110 dwellings allocated to Crowmarsh Gifford in the 2014 SHMA and draft Policy H4 of the emerging local plan as a numerical limit to new housing. The draft local plan, for the reasons I have explained earlier, has been put on hold and it may be that the distribution of housing in the district may need to be reviewed. The 110 dwelling figure has not been tested; it has not been adopted and therefore has no standing in policy terms. It cannot therefore be considered to provide a ceiling to development in the village.

#### *Health care provision*

67. CRAG, the Parish Council and local residents have raised concern about the capacity of the local doctor's surgery to take on new patients emanating from the development. I have borne in mind that future occupiers of the appeal scheme may be local to the area and may be existing patients at the health centre. Furthermore not all patients will go to the nearest health centre; many will stay with their existing GP if they are moving house. This is demonstrated to an extent by the fact that the practice in Wallingford has around 16,500

patients of which about 11,000 come from north and south Wallingford and the Cholsey area.

68. I was advised that the Wallingford surgery is still accepting new patients and the Clinical Commissioning Group has not objected to the appeal scheme. Whilst I accept that existing patients may experience difficulty in getting an appointment to see their GP, I have no substantive evidence before me to suggest that the existing provision in the locality has reached capacity and that further patients could not be accommodated. I am therefore satisfied that adequate provision can be made.

#### *Flooding and drainage*

69. I also heard from a local resident concerned about flooding and drainage. The appeal site lies in the floodplain of the River Thames and there is a high water table. The appellant submitted a Flood Risk Assessment with the original planning application which notes that the site is located within Flood Zone 1, an area with the lowest probability of fluvial flooding. It is proposed that surface water drainage be dealt with through a sustainable urban drainage scheme (SuDS) including three attenuation ponds which would ensure that surface water run-off from the site is at the same rate as current greenfield run off. Furthermore the scheme has been designed to accommodate a 1 in 100 year storm event with a 35% allowance for climate change.
70. With regard to foul drainage, in consultation with Thames Water, a strategy has been developed that meets current regulatory requirements, discharging to existing sewer. The detailed design work is ongoing.
71. In light of the above I am satisfied that appropriate schemes to deal with surface and foul drainage can be provided and that the scheme would not cause an increased risk of local flooding.

#### *Employment*

72. CRAG have raised the issue of the housing/employment balance in Crowmarsh Gifford and the surrounding parishes arguing that there are limited job opportunities in the area. However the village is home to a number of significant employers with the specialist science companies on Howbery Park (one of the five largest employment sites in the district) and the adjacent Centre for Ecology and Hydrology. I acknowledge that due to the specialist nature of these jobs they may not suit local skills. However these organisations will also provide other non-specialist jobs which could be taken up by local people. Accordingly I am not persuaded on the evidence before me that there is a lack of employment opportunities in the area.

#### *Scout Group*

73. At the Inquiry I heard from Mr Edmunds from the local scout group informing me about the current lack of suitable accommodation in the village and that they would find it difficult to increase their numbers with new residents. Whilst I acknowledge the scout's position, it appears to me that potential solutions have yet to be fully explored with all stakeholders.

#### *Biodiversity*

74. The loss of biodiversity should the appeal site be developed was also raised as

a concern by local residents. I have noted the appellant's submitted Ecological Appraisal. There are no designated habitats of national, regional or local importance within or near the site and being a field in agricultural production; the ecological value of the site is low. I have had regard to the ecological enhancements proposed in the appeal scheme. These include the creation of new wetland habitat as part of the SuDS proposals, strengthening existing tree lines and hedgerow corridors and species rich planting in open space areas. Subject to appropriate measures to safeguard any protected species on the site such as bats, I am satisfied that the scheme would be acceptable in terms of biodiversity.

#### *Retail provision*

75. The limited retail facilities in Crowmarsh Gifford have been raised as a concern by CRAG. I acknowledge that the village has one small shop but nearby Wallingford has a considerable range of retail outlets. The appellant estimates that Wallingford Town Centre is about 15 minutes walking distance from the site and Benson Lane is a bus route, providing access to Wallingford and further afield including Oxford and Reading. Whilst there may be limited shopping outlets in Crowmarsh Gifford, there is good access by means other than the car to nearby centres. I am therefore satisfied that future residents of the appeal scheme would have adequate access to local shops, services and facilities.

#### **Planning obligation**

76. The appellant has provided three separate section 106 agreements. The first one made between the appellant and South Oxfordshire District Council secures the provision of 40% affordable housing and financial contributions in relation to street naming, public art and recycling and waste provision for the new dwellings. It also secures the maintenance of areas of public open space.

77. The Framework confirms that planning obligations should only be sought to mitigate the effects of unacceptable development therefore making it acceptable. The Framework in paragraph 204 and CIL Regulation 122 (2) set out 3 'tests' for seeking planning obligations. They must be necessary to make the development acceptable in planning terms, be directly related to the development and fairly and reasonably related in scale and kind to the development.

78. The 40% affordable housing contribution is required to ensure that the development accords with CS Policy CSH3. I am satisfied that the financial contribution to street naming and numbering is necessary in order to ensure that infrastructure as a consequence of development is provided in line with CS Policy CSI1. A recycling contribution is required to fund the provision of refuse bins to new properties and ensure adequate waste management is put in place. CS Policy R6 requires the provision of open space in all new residential developments. Measures to ensure its maintenance are necessary to protect the character and appearance of the area.

79. Turning to the requested financial contribution towards public art, this is supported by SOLP Policy D12. Whilst I accept that public art can contribute to place making and high quality design, I do not consider that in this case, it would be necessary to mitigate the effects of the development. It does not

therefore meet the Framework and CIL Regulation tests and I take no account of it in my decision.

80. The second and third section 106 agreements are made between the appellant and Oxfordshire County Council and relate to off-site highway works, the bus service contribution, a travel plan monitoring fee and the funding of a potential traffic regulation order should it be required.
81. As I have set out in earlier in this decision, off site highway mitigation works to the Crowmarsh Hill roundabout junction and the A4074/A4130 roundabout, are necessary to increase capacity at these junctions. The bus service contribution is sought to improve the frequency and reliability of bus services in the day and extend the operation further into the evening. I am satisfied that this is necessary to promote non-car use and minimise air pollution. Additionally the contribution to improving bus stop infrastructure and provide real time bus timetable display is necessary to meet the same objectives. A fee for travel plan monitoring is required in order to ensure the implementation of the plan and monitor outputs. A financial contribution to fund the costs of promoting and consulting on a traffic regulation order for the proposed highway works, would be necessary should such an Order be required by the Highway Authority.
82. With the exception of the public art contribution, I am satisfied from the evidence before me that the above 3 tests are met and that the obligations comply with the Framework and the CIL Regulations. I am also satisfied that the contributions, which are site specific, meet that the pooling restrictions of Regulation 124 of the CIL Regulations. I shall therefore give them full regard in my decision.
83. The Parish Council suggested that financial contributions be sought for a number of local infrastructure projects including a pedestrian crossing on The Street, a new play area for the village and accommodation for the local scout group. Whilst such schemes may be desirable and would benefit the village, I have no evidence before me to demonstrate that these contributions are necessary to make the proposed development acceptable in planning terms. They do not therefore meet the tests of the Framework and the CIL Regulations and I consider them no further.

### **Planning Balance**

84. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine the appeal in accordance with the development plan unless material considerations indicate otherwise. I have concluded that whilst the proposal would comply with CS Policy CSH1 and SOLP saved Policies G2, G4, C4 and D1, it would not comply with CS Policy CSR1 as it lies outside the village in the open countryside. The appeal scheme would therefore not accord with the development plan.
85. I have already concluded that the 'tilted balance' is to be applied in this case as relevant development plan policies are silent and out of date. The proposal would provide 150 dwellings contributing to the housing need in the borough. I attach significant weight to this benefit. The proposal would also provide 60 affordable homes. The appellant has provided detailed evidence that there is a significant shortfall in affordable housing in South Oxfordshire. In Crowmarsh Gifford only 10 affordable homes have been delivered in the last 10 years. The

proposed development would assist to meet this deficit and I therefore attach significant weight to this benefit.

86. In relation to economic matters, I acknowledge that future occupiers of the dwellings would spend locally and support local shops and services. The construction of the dwellings would provide employment opportunities and support jobs in related industries and suppliers. However as these jobs would be short term during the construction period only, I attribute moderate weight to the economic benefits of the scheme.
87. I have found that the proposal would comply with the landscape policies of the development plan. Areas of existing green infrastructure are to be retained and enhanced in the scheme and existing public footpaths are maintained preserving the recreational amenity of the site and surrounding area. Biodiversity protection and enhancement proposals are also included in the scheme. These measures are primarily designed to mitigate the impact of the development or maintain existing provision and are therefore of neutral benefit. However as there is the potential for some environmental gain, I give them limited weight. I have found that the loss of BMV agricultural land as result of the development would not be significant and would therefore result in limited harm.
88. In regard to other matters, I have concluded that the scheme would not cause harm to the local highway network or air quality, that local infrastructure has capacity and the proposal would not cause increased risk of flooding.
89. Bringing all the above together, I consider that the adverse impacts of the development would not significantly or demonstrably outweigh the benefits. The proposal therefore constitutes sustainable development as defined in the Framework. The factors above provide the material considerations to grant planning permission other than in accordance with the development plan. I therefore allow the appeal.

### **Conditions**

90. The Council provided a list of agreed conditions at the Inquiry which I have considered having regard to the advice in the Framework. I have revised the wording as discussed at the Inquiry and where necessary made amendments in the interests of clarity and enforceability. The numbers in brackets relate to the conditions I have imposed in the attached schedule.
91. In the interests of good planning it is necessary to impose conditions setting out time limits for development and the submission of reserved matters (conditions 1-3). In regard to condition 2, an application for the approval of reserved matters is to be made within 1 year of the permission. The appellant expressed concern that this may not be achievable should the permission be challenged. He provided additional wording extending the time for the submission to the conclusion of any such process. I am satisfied that this is necessary. I also impose conditions defining the approved plans (condition 4) and restricting the number of dwellings to 150 (condition 5) for the avoidance of doubt.
92. In order to ensure that an appropriate mix of market dwellings is constructed, Conditions 6 is necessary. Condition 7 relates to the submission of reserved

- matters to ensure that the details submitted provide a satisfactory form of development.
93. Conditions requiring that the means of access to the site and the proposed dwellings be completed before first occupation and to prevent surface water discharging onto the carriageway are required in the interests of highway safety (conditions 8, 9 and 10). Condition 11 requiring the submission of a travel plan is necessary to promote non car means of travel and to minimise the effects on air quality. Control over the emissions of gas boilers to be installed in the dwellings is also necessary to mitigate any impacts on air pollution (condition 13).
94. In order to protect the living conditions of future occupiers, condition 12 is necessary to safeguard against potential noise nuisance from Wallingford bypass and nearby employment areas.
95. The submission of a Landscape Management Plan and a Biodiversity Enhancement Strategy and Management Plan are necessary to ensure the protection and enhancement of biodiversity and to assimilate the development into the landscape (conditions 14 and 15). Condition 16 is required in order to protect existing trees on the site during construction. In order to ensure a satisfactory sustainable surface water drainage scheme condition 17 is necessary.
96. Conditions 18 and 19 require the submission of a Construction Management Plan and control over the hours of construction. These are necessary to protect the living conditions of existing and future residents. A condition requiring a scheme of archaeological recording is necessary (condition 20) in order to appropriately record any finds on the site. A requirement for the provision of electric vehicle charging points is required in order to reduce pollution and minimise the impact on the nearby AQMA (Condition 21). In the interests of providing sustainable living environments and to promote home working, condition 22 regarding the provision of superfast broadband is also necessary.
97. I have omitted the suggested condition requiring 10% of market dwellings to be built to lifetime homes standard or equivalent. It is unnecessary because those matters should be adequately covered in the Building Regulations, given the Government advice on housing standards in its Written Ministerial Statement of 25 March 2015. A further condition relating to foul drainage was suggested by the Rule 6 parties however in light of the water authority's obligations in this regard this is not required. The highway authority suggested a condition protecting the public rights of way on the site boundaries. This is also unnecessary as this is a matter covered by highways legislation. I do not impose it. Discussion took place regarding the need to impose a condition to control building heights. I consider this matter can be addressed by the Council at reserved matters stage when a detailed layout has been prepared.

### **Conclusion**

98. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should succeed.

*Helen Hockenhull*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Tom Cosgrove QC	Instructed by Ian Price, Head of Legal, South Oxfordshire District Council
He called	
Phillipa Jarvis <sup>7</sup> BSc (Hons) DipTP MRTPI	PJPC Ltd
Dr Paul Yoward <sup>8</sup>	Senior Engineer, Oxfordshire County Council

### FOR THE APPELLANT:

Mr Christopher Young QC	Instructed by Douglas Bond, Woolf Bond Planning
He called	
Mr Matthew Spry BSc (Hons) DipTP (Dist) MRTPI MIED FRSA	Lichfields
Mr Mark Hewett	Intelligent Land
Mr James Stacey BA (Hons) DipTP MRTPI	Tetlow King Planning
Mr Stephen Clyne LCP DipSMS Cert Ed MAE	EFM Partnership Ltd
Mr Lee Witts BEng(Hons) MICE	Brookbanks
Mr Brian Duckett BSc (Hons) BPhil CMLI	Hankinson Duckett Associates
Mr Tony Kernon BSc (Hons) MRICS FBIAC	Kernon Countryside Consultants Ltd
Mr Douglas Bond BA (Hons) MRTPI	Woolf Bond Planning
Mr Alexander Bennett BSc (Hons) MCIHT MTPS	M-EC Consulting Development Engineers

---

<sup>7</sup> Contributed to discussions on planning obligation and conditions only

<sup>8</sup> Contributed to discussions on planning obligation and conditions only



FOR THE CROWMARSH PARISH COUNCIL

Mr Nigel Hannigan	Vice Chair Parish Council
Mrs Ford	Chair of Governors Crowmarsh Gifford Primary School

FOR THE CROWMARSH RESIDENTS ACTION GROUP (CRAG)

Mr Nick Robins	Local resident
Mr Ian Gunn	Local resident
Cllr Elaine Hornsby	Ward Member for Wallingford
Mr Lee Upcraft	Local resident
Cllr Adrian Lloyd	Wallington Town Council
Mr Steven Brown	Local resident

INTERESTED PERSONS:

Mr John Farrow	Local resident
Mr Trevor Cotton	Local resident
Mrs Lucia Gunn	Local resident
Mr Ross Edmunds	Chair 1 <sup>st</sup> Crowmarsh Scout Group

Richborough Estates

## DOCUMENTS SUBMITTED DURING THE INQUIRY

1. Crowmarsh Parish Neighbourhood Plan Baseline Reports and draft policies.
2. Opening statement on behalf of the local planning authority
3. Statement from Mr Gunn
4. Statement from Dr. Upcraft
5. Statement from Cllr Lloyd
6. Revised list of conditions
7. Thames Water Developer Guidance
8. Signed and dated section 106 agreement between the appellant and South Oxfordshire District Council.
9. Further revised list of conditions
10. Secretary of State Decision Ref APP/W1715/W/15/3130073, Land to the north West of Boorley Green, Winchester Road, Boorley.
11. Secretary of State Decision Ref APP/P2395/V/16/3158266, Land at Highthorn, Widdrington, Northumberland.
12. Extract from Parish Council Traffic Count data
13. Supplementary Note by Mr Witts, Cumulative Traffic Review.
14. Response by Mr Bennett to Dr Upcrafts' evidence on air quality.
15. Core Strategy Policy Map extracts.
16. Plan of areas from which the appeal site can be viewed.
17. Plan for site visit
18. Signed section 106 agreement between the appellant and Oxfordshire County Council.
19. Closing submissions on behalf of the appellant
20. Stratford on Avon District Council v SSCLG [2013} EWHC 2074 (Admin)
21. Application for costs made by the appellant.
22. Appeal decision and costs decision Ref APP/E3525/W/17/3183051, EMG Group site, Tayfen Road, Bury St Edmunds.
23. Response to costs application by the Council.

## DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. Reply by the appellant to the Council's response on costs.
2. South Oxfordshire Council's Housing Land Supply Statement 2017-18 published 30 April 2018

## SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission or one year from the conclusion of any subsequent Section 288 process, whichever is the later.
- 3) The development hereby permitted shall take place not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 2079-32-05A – Site Location Plan, Drawing No. 10423-HL-01/A- Proposed Site Access Plan, Drawing No. 2079-32-06B – Parameters Plan.
- 5) The development hereby permitted shall comprise no more than 150 dwellings.
- 6) The reserved matters for the scheme shall be designed to secure a mix of market dwellings as set out in the supporting documents as follows:
  - 1 bed - 6.6%
  - 2 bed - 24.4%
  - 3 bed - 44.4%
  - 4 bed - 24.4%or in accordance with a mix that shall be set out for approval as part of the reserved matters submission to reflect the latest housing needs assessment.
- 7) The details to be submitted in compliance with condition 1 shall include:
  - i. details of internal estate roads, access and footpaths;
  - ii. samples of all materials to be used in the external construction and finishes of the development;
  - iii. details of vehicle and cycle parking facilities for all dwellings;
  - iv. details of all street lighting and street furniture;
  - v. details of recycling / waste storage facilities;
  - vi. location of fire hydrants.The development shall be implemented in accordance with the approved details.
- 8) No dwellings shall be occupied until the means of access onto Benson Lane has been constructed in accordance with the approved details as indicated on the proposed site access plan Drawing No. 1023-HL-01/A and made available for use.
- 9) No surface water from the development shall be discharged onto the adjoining carriageway surface.

- 10) No dwelling shall be occupied unless there is pedestrian, cycle and vehicular access to the highway serving that dwelling.
- 11) Prior to the occupation of the first dwelling a Residential Travel Plan for the encouragement of the use of sustainable modes of transport for the development shall be submitted to and approved in writing by the local planning authority. It shall include a Travel Plan Statement and details of a Travel Information Pack to be provided to the first residents of each dwelling upon occupation. The Travel Plan shall be implemented upon occupation of the first dwelling and thereafter updated upon 50% occupation (75<sup>th</sup> dwelling). It shall be monitored and reviewed in accordance with details to be set out in the approved plan.
- 12) Prior to the occupation of the first dwelling a detailed scheme for protecting the dwellings from the external noise environment of the area in particular from the A4074, has been submitted to and approved in writing by the local planning authority. The scheme shall incorporate, as a minimum; the specifications detailed in Appendix B to the report prepared by Brookbanks Consulting Ltd, ref. 10423/DM/01 dated 9 January 2017. Thereafter the development shall be carried out in accordance with the approved scheme, which shall be completed before any of the dwellings hereby are occupied.
- 13) Any gas fired boilers to be installed in any of the dwellings hereby permitted shall meet a minimum standard of <40mgNO<sub>x</sub>/kWh.
- 14) Prior to the commencement of development, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, including replacement planting in the event of failure and details of soil handling, for all landscape areas other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.
- 15) Prior to the commencement of development (including groundworks and vegetation clearance) a Biodiversity Enhancement Strategy and Management Plan (to include the construction period) shall be submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority. Thereafter the agreed enhancement strategy shall be implemented and maintained in accordance with the approved plan.
- 16) No development or site clearance works shall take place until an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the local planning authority. The approved protective measures shall be in place prior to commencement of any site works including demolition. The matters to be encompassed within the arboricultural method statement shall include the following:
  - i) a specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities;
  - ii) the specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the

- vicinity of trees to be retained, in accordance with the recommendations of the current edition of BS 5837 "Trees in relation to construction", and details of the timing and duration of its erection;
- iii) the definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
  - iv) the means of demolition any existing site structures, and of the reinstatement of the area currently occupied thereby;
  - v) the specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees; Consideration will be made to avoid the siting of utilities and service runs within the Root Protection Area (RPA) of all trees to be retained. Only where it can be demonstrated that there is no alternative location for the laying of utilities, will encroachment into the RPA be considered. Methodology for any installation works within the RPA will be provided and must be in compliance with NJUG Volume 4, 2007 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees';
  - vi) the details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels;
  - vii) the details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the RPA, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage;
  - viii) provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the local planning authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the local planning authority.
- 17) Sustainable drainage details, based on the Brookbanks Flood Risk Assessment Rev 3 of 24 Oct 2016, should be submitted to and approved in writing by the local planning authority prior to the commencement of development. These should include:
- i) full details of a sustainable surface water drainage system based on ground permeability tests including a full consideration of groundwater flooding issues, including historic events, and off-site implications;
  - ii) design calculations relating to the approved run-off rates, storage / attenuation areas sizing, and suitable off-site drainage outfalls;
  - iii) full Suds proposals based on the above;
  - iv) exceedance flood flow routing;
  - v) timescale for the works including phasing;

- vi) a full future management and maintenance plan for the Suds features, including arrangements for any off-site watercourses which are required to ensure the efficient functioning of the on-site Suds.
- 18) Construction works shall not take place outside the hours of 07:30 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. Works shall not take place at all on Sundays or Public Holidays without the prior written approval of the local planning authority.
- 19) No development shall commence on site until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be complied with throughout the construction period, and shall provide details of the following:
- i) a construction traffic management plan; including access and haul routes;
  - ii) vehicle parking facilities for construction workers, other site operatives and visitors;
  - iii) site offices and other temporary buildings;
  - iv) loading and unloading of plant and materials;
  - v) storage of plant and materials used during construction;
  - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - vii) wheel washing facilities;
  - viii) measures to control the emission of dust and dirt during construction;
  - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - x) measures for the protection of the natural environment.
- 20) Prior to the commencement of the development, an Archaeological Written Scheme of Investigation, relating to the application site area, shall be submitted to and approved in writing by the local planning authority. The Written Scheme of Investigation shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication. The development shall be implemented in accordance with the agreed scheme.
- 21) All dwellings shall be provided with access to electric vehicle charging points in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved details are operational for that property.
- 22) Prior to first occupation, details of the means by which the dwellings hereby approved may be connected to the utilities to be provided on the site to facilitate superfast broadband connectivity shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.