



Appeal Decision

Inquiry Held on 20, 21 & 22 March, 26 & 27 April 2018

Site visit made on 26 April 2018

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 04 June 2018

Appeal Ref: APP/Q3115/W/3182192

Land south of the High Street, Tetsworth

- 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 Terra Strategic (a subsidiary of BSL Strategic Limited) against the decision of South Oxfordshire District Council.
 - The application Ref P16/S2350/O, dated 5 July 2016, was refused by notice dated 23 March 2017.
 - The development proposed is erection of up to 60 dwellings with associated means of access, areas of open space and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with access for consideration at this stage. I have considered the appeal on this basis.
3. The then applicant also submitted an illustrative masterplan with the application which was amended during the consideration by the Council. At the appeal stage, the appellant sought to amend this further. Following a further round of consultation undertaken during the currency of the Inquiry I agreed to consider the appeal in light of the further amended illustrative plan as interested parties had had the opportunity of commenting on it and as such there would be no prejudice for me using it.
4. In addition, traffic calming measures in the form of a build-out on the High Street (the A40) were proposed. Local residents expressed their objections to this as they considered that this proposal would lead to highway safety concerns when the A40 was being used as a strategic diversion route for the M40. In a pre-Inquiry note I asked a series of questions about this and the appellant prepared a note in response. The effect of this was to remove the build-out from the proposal and to seek traffic calming by planning condition.
5. Among the reasons for refusal was one relating to noise effects from the M40. However, in lodging the appeal the appellants submitted additional information and this led to the Council no longer pursuing this issue subject to the imposition of an appropriate condition. Local residents continued to be concerned about this aspect.

6. The appeal was accompanied by a Planning Obligation by agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 12 April 2018 dealing with affordable housing, and contributions towards waste collection, street naming, bus services, home/school transport and on-site open space.
7. After the closing of the Inquiry the Council published a Housing Land Supply Statement based on the position as at 31 March 2018. The main parties made short representations on this.

Main Issues

8. The main issues are:
 - the relationship of the proposal to the development plan for the area;
 - the effect on the character and appearance for the area;
 - whether the location of the site is such that the need to travel would be minimised and the use of sustainable transport modes maximised;
 - whether there is sufficient primary education capacity in the area, and whether the effect of the development on primary education provision could be successfully mitigated;
 - whether the proposal makes appropriate provision for affordable housing, infrastructure and similar matters;
 - whether there are any other material considerations, including the housing land supply situation and benefits of the proposal, which would indicate that the proposals should be determined otherwise than in accordance with the terms of the development plan.

Reasons

Development Plan

9. The development plan for the area includes the South Oxfordshire Core Strategy 2012 (the CS) and the saved policies of the South Oxfordshire Local Plan 2011 (the LP).
10. Policy CSS1 of the CS sets out the overall strategy of the development plan. This is that proposals for development will be focussed on Didcot, supporting the roles of Henley, Thame and Wallingford and supporting and enhancing larger villages. It continues that other villages, including Tetsworth, will be supported by allowing for limited amounts of housing and employment, and that outside the towns and villages, any change will need to relate to very specific needs such as those of the agricultural industry or enhancement of the environment. It was agreed that the proposal would be contrary to this policy.
11. Policy CSH1 of the CS sets out the housing requirements and supply in Didcot and in the Rest of the District, but only down to the level of "larger villages". As a "smaller village" there is no specific provision for Tetsworth but Policy CSR1 of the CS allows for infill development in smaller villages on sites of up to 0.2 ha, equivalent to five to six dwellings. Again it was agreed that the proposal would be contrary to these policies.

12. Policy G4 of the LP indicates that need to protect the countryside for its own sake is an important consideration when assessing proposals for development. Although it was agreed that the proposal was contrary to this policy, the appellant argued that the policy was not consistent with the National Planning Policy Framework (the Framework), and thus should, in line with paragraph 215 of that document, be given lesser weight. I will discuss that aspect below.
13. Looked at as a whole, the proposal for a significant quantum of residential development is clearly contrary to the terms of the development plan as set out in Policies CSS1, CSH1 and CSR1 of the CS and Policy G4 of the LP. This weighs significantly against the proposal.

Character and appearance

14. The appeal site is located to the northwest of the village of Tetsworth on open agricultural land. Tetsworth itself is set on land which rises to the parish church of St Giles which acts as a visual focal point for the village and surrounding area as the steeple rises above the prevailing landform. Although the church is a Grade II listed building it was agreed, and I concur, that its setting as a designated heritage asset would be preserved by the proposal.
15. The appeal site has an area of 3.98 ha and is located between the A40 and M40, although except from the proposed access point, it abuts neither. To the north is a row of housing which fronts the A40, and to the south are agricultural fields on rising ground up to the M40. The M40 runs in a cutting in this section, although it emerges a short distance to the west. To the northwest of the appeal site is an agricultural field with vegetation beyond separating it visually from the land further to the northwest. To the southeast are a paddock and then the buildings of the village and their curtilages.
16. The appeal site is at a similar level to the A40 along its northern side and continues at this level for a short distance. It then rises to the southeast and this rising land continues beyond the appeal site up to the church. The appeal site is a continuous piece of open land without vegetation with the land to the immediate west and south, but is divided by a number of white post and rail fences and there is a track immediately to the west. Apart from its agricultural use I was advised that the site is used occasionally for parking for car boot sales which take place on the land immediately to the west of the appeal site.
17. The appeal site is crossed by a number of rights of way and there are others in close and slightly further proximity. Two rights of way literally cross the site, another runs to the east of the appeal site between the appeal site and the paddock, a fourth runs from the access point in a southwesterly direction to join with a fifth that goes between the A40 and an overbridge of the M40. A sixth right of way runs from the bottom of the ramp to the overbridge outside but along the southern boundary of the appeal site and then turns south to follow the edge of a field, past agricultural buildings to come out near the church. There are further rights of way to the north of the A40 leading to viewpoints at Horsenden Hill, and the Oxfordshire Way extends to Lobbesdon Hill and beyond. It is no exaggeration to say that the area is very well served by public rights of way.
18. The appeal site lies in the Rolling Clayland Landscape Character Type as set out in the Oxfordshire Wildlife and Landscape Study published by Oxfordshire County Council (OCC) in 2004. The landscape strategy for this is to conserve

and enhance the pattern of grass fields, small woods, hedgerows and hedgerow trees.

19. At a district level in 1998 the Council undertook a South Oxfordshire Landscape Assessment (the 1998 Assessment) which was adopted as Supplementary Planning Guidance in 2003 and remains with this status. As part of the evidence base for the emerging South Oxfordshire Local Plan 2011-2033 (the eLP) the Council in 2017 produced a Landscape Character Assessment for the Local Plan 2033 (the 2017 Assessment). Although the 1998 Assessment is adopted as SPG I give more weight to the 2017 Assessment as it has been conducted in the light of current landscape assessment methodologies and best practice.
20. Under the 2017 Assessment the district is divided into 24 Landscape Character Types (LCTs) and 11 Landscape Character Areas (LCAs). The appeal site is located in LCA 3 "The Clay Vale" and within the Undulating Semi-Enclosed Vale LCT which runs parallel to the M40 in this vicinity with the M40 marking its southern boundary. A short distance to the north of the A40 and to the south of the M40 is the Undulating Open Vale LCT.
21. The key characteristics of the Undulating Semi-Enclosed Vale LCT refer back to the Undulating Open Vale LCT so it makes sense to describe that first. The key characteristics of the Undulating Open Vale LCT include that it is low-lying, undulating or gently rolling landform, weak structure of tightly clipped or gappy hedgerows, with few hedgerow trees, open, denuded and exposed character with high inter-visibility, distinctive elevated and expansive character on higher ground, with dominant sky and long views, predominantly rural character but some localised intrusion of main roads, overhead power lines and built development. For the Undulating Semi-Enclosed Vale LCT the key characteristics are similar to the open vale landscape type, but with a stronger structure of hedgerows and trees which provide a clearer definition of field pattern, some pockets of permanent pasture, particularly around settlements; again it has a predominantly rural character with the same intrusions as the Undulating Open Vale LCT, and moderate inter-visibility.
22. The village historically was essentially nucleated in form on the south side of the A40 leading up to the church with some development on the north side of the A40 at the top of the ridge. In the mid-twentieth century there was some linear development to the west along the A40 and at Marsh End. Since then, there has been development at Swan Gardens and the nucleated nature of the village will be consolidated by the development at Mount Hill Farm¹.
23. It was agreed that the proposed development would be harmful to the character and appearance of the area; the change from permanent pasture on the edge of a settlement to a housing estate. The dispute was about the degree of harm that would occur.
24. The evidence looked at a number of viewpoints, and I will explore a number of these. I will initially deal with viewpoints close to the site and then go on to consider further distance views, particularly to the north.
25. The extent of the rights of way shows that the appeal site is a resource for those undertaking informal recreation. The appellant emphasised that the

¹ A permission for 39 dwellings, school buildings and outdoor space allowed on appeal in June 2016 under reference APP/Q3115/W/15/3136319

routes themselves would remain and thus there would be compliance with Policy R8 of the LP which seeks the retention and protection of the existing right of way network, but this is a different consideration as to how they are or would be experienced. Currently, from within the village there is a route to the rear of the Red Lion public house, across a footbridge and arrival in the countryside at the eastern edge of the appeal site. The illustrative masterplan then shows a community orchard and then a walk along (or besides depending on the precise arrangement) an estate road. If permission were to be granted the appreciation of the countryside as a recreational resource would be significantly and demonstrably harmed by the proposal.

26. This significant change would also occur from the other three corners of the site. Currently walking through an area of countryside; if permitted through a housing estate. While the proposed orientation of the roads may be designed to facilitate views of the parish church such inter-visibility would inevitably be interrupted to some extent by the proposed built development restricting views of the church as a landscape feature.
27. The two routes around the perimeter of the appeal site would also be affected to almost as great an extent notwithstanding the proposed landscaping around the perimeter of the site as would the route into the village from the M40 overbridge.
28. At the site visit I went into the rear gardens of two of the properties on High Street which back on to the site and into one of these properties. While nobody is entitled to a view, the proposed development would substantially and harmfully change the open outlook from those within these properties and their neighbours.
29. Taken together, the proposal would have significant and demonstrable harmful visual effects on the people and the amenity of those who would experience such a visual change.
30. From the northwest along the Oxfordshire Way, the village is approached via Lobbersden Hill. From here the village very much appeared as buildings within a treed environment, with only the church steeple protruding above the landscape. The upper section of the appeal site, while seen within a wider view, was clearly visible and provides part of the permanent pasture setting of the village identified in the LCT. This would be lost. The proposed open space within the appeal site and the land adjacent to the appeal site, individually or collectively, would be of insufficient visibility or size to provide an appropriate setting for the village to be in keeping with the identified attributes of the LCT. Even taking account of the proposed landscaping, which would take some time to mature, the proposal would be significantly harmfully intrusive.
31. From the northeast from Horsendon Hill the proposal would be less intrusive due to the existing development of the village. However, it would still intrude into the wider landscape from this point.
32. Therefore the proposal would be significantly harmful to the landscape since it would harmfully affect its character.
33. Local residents expressed their objections to the proposal on the basis that it would be separated from the village. It was stated that this would be the case as the vehicular access to the proposed development would be at the

northwestern corner away from the main centre of the village. While there would be pedestrian links to the village through the rights of way particularly past the Red Lion public house and along the A40, as I will explore below, these would not be particularly commodious. Certainly the location of the vehicular access to the site, at the far end of the linear development along the A40, would mean that the pattern of the proposal would be out of keeping with the nucleated pattern of development in the village.

34. The Council sought to demonstrate that the appeal site was a valued landscape for the purposes of paragraph 109 of the Framework. To be a valued landscape it has to have some demonstrable physical attributes² to make it in some way out of the ordinary rather than just popularity. Determining whether a landscape should be considered to be valued is likely to be based on a consideration as to whether the wider landscape of which the appeal site forms part is valued rather than whether the appeal site itself merits such a notation.
35. Paragraph 113 of the Framework indicates that local planning authorities should set criteria based policies against which proposals on landscape areas should be judged, with distinctions based on the hierarchy of international, national and locally designated sites. At present there are no policies of this effect in the development plan. Furthermore, as pointed out by the Courts³, designation means designation and valued means valued.
36. Both the landscape witnesses referred to Box 5.1 of *Guidelines for Landscape and Visual Impact Assessment: - Third Edition* which sets out a range of factors that can help in the identification of valued landscapes. While this is sectoral guidance being published by the Landscape Institute it does not definitively determine such a notation.
37. I am of the view that the appeal site could not be said to form part of a valued landscape. Certainly it has high recreation value through the public rights of way across the area, has beneficial scenic quality as it provides an important part of the setting of Tetsworth, and it is of reasonable landscape quality. However, it has not been demonstrated that the landscape character type is particularly rare, it does not have any particular conservation interests, and is adversely influenced by traffic noise from the A40 and, particularly, the M40.
38. Overall, the proposal would be significantly and demonstrably harmful to the character and appearance of the area. As such it would be contrary to Policy CSEN1 of the CS which requires that the district's distinct landscape features will be protected against inappropriate development and where possible enhanced. It would also be contrary to Policies G2 and C4 of the LP which require that the district's countryside and settlements will be protected from adverse developments, and that development which would damage the attractive landscape setting of settlements will not be permitted. In my view this weighs significantly and demonstrably against the proposal.

Locational accessibility

39. The Framework, in paragraph 34, notes that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and use of sustainable transport modes can be

² *Stroud District Council v Secretary of State for Communities and Local Government and Gladman Developments Limited* [2015] EWHC 488 (Admin), paragraph 16

³ *Ibid*, paragraph 13.

- maximised. It is noted, however, that account should be taken of policies elsewhere in the Framework, particularly in rural areas such as here.
40. This is in accordance with the overall strategy of the development plan as set out in Policy CSS1 of the CS which indicates that the main focus of development will be in Didcot and the main towns and larger villages as these have a greater range of facilities reducing the overall need to travel.
 41. There are a number of facilities in Tetsworth which would be supported by the development if permission were to be granted; obvious examples being the primary school, the public house (with associated small convenience shop) and some social facilities. The appellant sought to show that a wider range of facilities in Tetsworth than this existed, but most of these are small enterprises which any residents would only use occasionally, if at all. The reality is that for the majority of facilities, such as employment, most shopping and secondary education, most residents would need to travel outside the village.
 42. The nearest higher order town is Thame some 5 miles to the north. However, this is no longer served by a linking bus service which is a different situation to when the Mount Hill Farm appeal was determined when it was hoped that a direct service would be retained. Thame is realistically too far to walk and the nature of the roads is unsuited to all but the most confident and experienced of cyclists. In reality the only realistic choice is the private car.
 43. Currently Tetsworth is on the bus route between High Wycombe and Oxford served by four buses each way during Mondays to Fridays (with no service at the weekend) at approximately 3 hourly intervals. Journey times are just over half an hour to each terminus. As part of the proposal the appellants are proposing making a contribution through the Planning Obligation towards enhancing this service so that it would offer a doubling of the service, that is every 90 minutes, although still only on Mondays to Fridays. In light of this the Council and OCC as Highway Authority agreed in the Highways Statement of Common Ground with the appellant that access by public transport to essential services and facilities is no longer to be considered poor. The enhanced service would, of course, benefit not only the occupiers of the proposed dwellings but also those of other dwellings and businesses in Tetsworth and along the whole route.
 44. In response to my questions the appellant provided a note showing that the improved bus service should be self-supporting in around five years bearing in mind the Travel Plan that should be introduced for the site. I am satisfied with this evidence.
 45. There is a considerable difference between public transport being no longer "poor" and such a service being "good". But, as paragraph 34 of the Framework makes clear account should be taken of other policies, particularly in rural areas as here.
 46. As noted above there is a footpath to the rear of the Red Lion public house which would link the development to the main facilities in the village. However, this route is not lit and involves crossing a narrow footbridge without handrails or other barrier, and then along a narrow path where people are required to walk in single file. Those accompanying children to the primary school would be concerned about crossing the bridge, and during night hours it would not be suitable for the vast majority of people. The more likely route

would be to the main access and then walking along the side of the A40, which again is not lit. Overall, neither pedestrian route is particularly commodious to encourage any new residents to use non-car modes to get to the existing facilities in the village.

47. Overall, due to the reliance on the use of the private car to get to most facilities I consider that the site is not located where the need to travel would be minimised and the use of sustainable transport modes maximised. Without the Planning Obligation this would have significantly weighed against the proposal, but with the Planning Obligation this is reduced so that it is only of limited weight against the development. To achieve this limited weight the contribution is necessary. However, taken as a whole the proposal would not comply with Policies CSM1 and CSQ3 of the CS which seek to support measures to enable modal shift to public transport, cycling and walking and to ensure high levels of accessibility and ease of use by all modes of transport with the wider area making sure any new development is properly integrated with existing development ensuring accessibility to local services.

Education

48. Tetsworth Primary School is located within the village. However, it has a physically constrained site, and pupils have to use the village green for outdoor recreation and also use the Tetsworth Memorial Hall on occasions. This situation was recognised in the Mount Hill Farm development which allows for the transfer of part of that site to OCC along with a contribution towards the construction of a new pre-school building. This would then allow for pre-school and reception year (Year R) to be moved to the new site freeing up space on the existing site to increase the capacity of the school.
49. The land transfer has not yet taken place, but this site should be considered to be deliverable in line with footnote 11 to paragraph 47 of the Framework and therefore this transfer can be reasonably assumed.
50. Currently the school has a Published Admission Number (PAN) of 8 and a total capacity of 56 pupils. However, it was accepted that when the pre-school and Year R move to the Mount Hill Farm site then the PAN would be likely to increase to 10 and the capacity would increase to 70 pupils.
51. It was agreed between the parties that the proposal would generate around 17 primary aged children, which would be spread across the seven years of Year R to Year 6.
52. OCC publishes forecasts for children numbers at schools in Oxfordshire. These are published in the summer of each year and do not include the final data for the number of children actually attending schools in that September. As with all forecasts they have margins for error and do not provide certainty, particularly the further into the future as the children have yet to be born. The Chair of Governors at the Primary School also provided information on the children actually on roll at present, and this will be dynamic in that it changes as children move to and from the school during the school year.
53. Because the number of children requiring education is dynamic I consider that to ensure consistency of judgement across the wider school planning area that I should use OCC's figures rather than those provided by the Chair of Governors.

54. Tetsworth Primary School is part of a wider Thame school planning area. It was agreed that the overall planning area had capacity at primary level, including allowing for parental choice and some flexibility. Where children live beyond the statutory walking distance limit to an allocated school then OCC is required to provide school transport.
55. Of course, not all children go to their own catchment school. Using OCC's figures in September 2017 a total of 54 primary aged children live in the Tetsworth Primary School catchment. Of these 18 do not attend Tetsworth Primary School. Conversely, 21 children live outside the Tetsworth Primary School catchment but attend the school. The reasons why parents choose a particular school are many and varied.
56. The appellant took the view that the number of children currently living in but educated outside the catchment should be assumed to continue. The Chair of Governors explained that in 2010 Tetsworth Primary School had been rated "Inadequate" by OFSTED, but had since improved so that in 2013 it had been rated "Good". Such a rating may have had an effect on admissions to the school in 2010 and soon thereafter, particularly to Year R, since parents may have wished their children to attend a better performing school. However, this would mostly have worked its way through the seven years of primary education by now. The distribution of children attending schools outside the catchment has no particular emphasis to any year. Consequently, I can see no reason why it would not be reasonable to assume that the number of children attending schools outside the catchment would be likely to continue at the current number. This would be a slightly lower percentage of the children living in the catchment than at present as the total number of children living in the catchment is likely to increase with the Mount Hill Farm and other development and therefore adds a degree of robustness.
57. OCC's forecasts undertaken in 2016 and 2017 have significantly different numbers as to the number of children for the end of their respective time periods. The 2016 forecast for 2020 is that there will be 60 children at Tetsworth Primary School, but the 2017 forecast had that year at 45 children⁴. The appellant sought to rely on the 2017 forecast but OCC considered that, due to the number of children who had actually attended in 2017, the 2016 forecasts were to be preferred. The 2017 forecast includes some of the children who would live at the Manor Hill Farm development at the end of its forecast period.
58. My view is that the correct approach is to use the actual number of children living in the catchment as the starting point and use, as a proxy, the number of dwellings that are likely to be constructed in the catchment and their primary school aged children occupancy rates. Thus it is appropriate to use the 54 children who live in the catchment at present as the base, deduct the 18 children who are, and who are likely to be, educated outside the catchment, and then add the, agreed, 10 additional children which are likely to be generated by the Mount Hill Farm development. This results in 46 children. If the 17 children from the appeal proposal are then added this results in 63 children. This is below the 70 of the prospective capacity. This difference allows for some flexibility, for example for children from the other permitted

⁴ This is repeated for 2021.

- dwelling in the catchment, fluctuations in births in any particular year, parental choice and the like.
59. The effect of this is that the number of children who currently live outside the catchment who would be able to attend will be reduced, but as I have identified there is existing capacity with the Thame school planning places area for these children to be educated and to allow for parental choice, so this would not result in an additional requirement elsewhere.
60. However, the evening out of in and out of catchment children will not occur at once, and when any new dwellings were to be occupied there may not be capacity in any particular year due to the existing children from out of catchment being on roll. It is, of course, not acceptable or appropriate to require children to move schools once enrolled. This may mean that children from the proposed development may not be able to attend Tetsworth Primary School, and OCC may be required to provide funding for school transport to that alternative school. All of these alternatives are beyond the statutory walking distance.
61. The need for this funding would be created by the development. The Planning Obligation makes for an agreed contribution in this event subject to me finding it complies with the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations). For the reasons given above I consider that such a contribution would be necessary to make the development acceptable in planning terms, it would be directly related to the development and fairly and reasonably related in scale and kind to the development. This contribution would not represent infrastructure as defined by the CIL Regulations and consequently the totting-up provisions are not engaged.
62. I am therefore of the view that there would be sufficient capacity at Tetsworth Primary School in the longer term should this development go ahead. As such the proposal would comply with Policy CSI1 of the CS which requires development to be served by appropriate off-site infrastructure with contributions secured where necessary in respect of education. Therefore, in the final balance the issue of education is neutral, as it would not make the current situation better or worse.
63. The appellant sought to show that in the event that there was insufficient capacity with 70 pupils that Tetsworth Primary School could be enlarged so that it could accommodate 84 children. This was disputed by OCC and the Chair of Governors. As I am satisfied that the children living in the proposed development could be educated with a capacity of 70 children I do not need to resolve this dispute.

Affordable housing, infrastructure and other matters

64. The Council has adopted the Community Infrastructure Levy (CIL) so that this would provide for most infrastructure required by the development. However, there are some matters, particularly relating to affordable housing and on-site infrastructure that are not covered by CIL and are covered by the Planning Obligation. I am satisfied that there would be no double counting within the provisions of the Planning Obligation.

65. Under the terms of Policy CSH3 of the CS 40% affordable housing will be sought where there is a gain of three or more dwellings subject to viability⁵. The Planning Obligation makes provision for this proportion of affordable housing. I am satisfied that this is necessary to meet the tests in the CIL Regulations, comply with development plan policy and policies in the Framework.
66. The appellant sought to argue that additional weight should be given to the provision of affordable housing within the scheme due to the poor record, as it saw it, of delivery of that type of housing over recent years. The Mount Hill Farm development should deliver 15 of its dwellings as affordable housing. Paragraph 54 of the Framework indicates that in rural areas local planning authorities should be responsive to local circumstances and plan housing developments to reflect local needs, particularly for affordable housing. While clearly there is a continuing need for housing and affordable housing in particular in the area generally, there is nothing to show that there is a specific need for affordable housing in Tetsworth itself which would not be provided for by the Mount Hill Farm development. This means that no additional weight should be given to this element of the proposal on top of that I identify below.
67. The Planning Obligation also makes provision for contributions towards waste and recycling bins, for street naming and for a contribution towards Travel Plan monitoring. I am satisfied that all of these matters are necessary and meet the tests in the CIL Regulations and the Framework. These matters comply with Policy CSI1 of the CS as set out above.
68. The Obligation also makes provision for the provision and management of open space on site including the provision of a Local Area of Play. This is necessary to make the development comply with Policy CSG1 of the CS which requires the provision of green infrastructure and Policy R6 of the LP which requires the provision of public open space with new residential development. This would be the first provision towards this infrastructure and complies with the requirements of the CIL Regulations.

Other considerations

Consistency with the Framework

69. The LP pre-dates the publication of the Framework. As the Framework states in paragraph 215 due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. In particular the appellant sought to challenge the weight to be given to Policy G4 of the LP which seeks to protect the countryside for its own sake considering that it goes further than paragraph 17 of the Framework which indicates that the intrinsic character and beauty of the countryside should be recognised.
70. The Framework changed national policy across a number of areas including in rural areas. There is a difference between "recognising" something, and then by implication taking it into account, and "protecting" that thing, which is a higher threshold. I therefore consider that Policy G4 is not totally consistent with the Framework and therefore should be given lesser weight.

⁵ Given the size of the proposal the restriction in the Written Ministerial Statement on affordable housing dated 1 December 2014 is not engaged.

71. The appellant also referred to the Taylor Review of Rural Economy and Affordable Housing as indicating a change in Government policy, but the Taylor review did not express Government policy, but rather fed into such policy including that set out in the Framework. The CS is, of course, a post-Framework plan examined and adopted in the light of the Framework and should be given full initial weight.

Emerging Plans

72. The Council is working towards the adoption of the eLP. This was due to be submitted to the Secretary of State for examination, but this has been delayed and the timetable is now uncertain.
73. Having said that, the overall strategy of the eLP continues that set out in the CS and I concur with my colleague in the Manor Hill Farm appeal decision⁶ that it represents an evolution of that plan. The appellant sought to challenge that approach by arguing that smaller villages, and in particular Tetsworth, should take a greater proportion or absolute number of dwellings than under the strategy set out in the CS for a variety of reasons. Taking a contrary view, local residents considered that Tetsworth had, through the Manor Hill Farm development and elsewhere, received sufficient housing. The resolution of this is not in front of me and will be for the examination of the eLP in due course. It is for these reasons I give this plan only limited weight in line with paragraph 216 of the Framework.
74. The Parish Council is producing a Neighbourhood Plan for the area. However, no document setting out any policies has yet been published and consequently this cannot have any weight in the determination of this appeal.

Housing Land Supply

75. At the Inquiry the Council accepted that it was unable to demonstrate a five year supply of land for housing. This was based on a consideration of the situation at 31 March 2017. The precise figure was not tested at the Inquiry but it was agreed that the Council could only demonstrate an approximately 4.1 years supply. The Council also accepted, in line with paragraph 49 of the Framework, relevant policies for the supply of housing were not to be considered up-to-date. Consequently, in line with paragraph 14 of the Framework, the position was that 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 as a whole; the so called 'tilted balance'.
76. With the publication of the 2018 Housing Land Supply Statement the Council considered that it could demonstrate a housing land supply of in excess of five years, suggesting that it could demonstrate an approximately 5.4 years supply. This would mean that the tilted balance would not apply. The appellant considered that the Council could not demonstrate this and set out various reasons why this was the case.
77. For reasons explored throughout this decision I have concluded that the adverse impacts of allowing the proposal would significantly and demonstrably outweigh the benefits. This means that it makes no difference whether the Council is able to demonstrate a five year supply of housing land or not to the

⁶ Paragraph 15.

final conclusion. Therefore I do not need to resolve this matter in the context of the current appeal.

Other benefits

78. The appellant put forward a number of other factors which it considered should be considered to be benefits of the development.
79. The introduction of additional dwellings will have economic benefits through the increase in expenditure in the local economy of new residents. This should be given significant weight. In addition, there would be expenditure during the construction period. This is also a benefit of the scheme, but as it would only be temporary should only be given limited weight.
80. The proposal would produce various financial considerations, particularly New Homes Bonus and CIL payments. The national Planning Practice Guidance states⁷ whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It continues that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.
81. As there was no evidence in front of me in which the scheme would be made to be more acceptable by the New Homes Bonus I give this contribution only limited additional beneficial weight as it would be a general benefit rather than relating to the specific proposal. The CIL payment is to provide the infrastructure needed to support the development and consequently I give this neutral weight in the balance.
82. The appellant also referred to the Council Tax receipts that would be paid by the occupiers. However, this seems to me to be payment in lieu of services to be provided at that time to those occupiers. Therefore Council Tax payments are of neutral weight in the balance.
83. While I have considered that the contribution towards the bus service is needed, I am able to give this additional beneficial weight as it would provide an improved service for existing residents and businesses along the route. This is only of limited beneficial weight economically, but is of more weight socially and I give it moderate weight.
84. Also from a social perspective, the provision of the housing and affordable housing is of significant beneficial weight, particularly if the Council were unable to demonstrate a five year housing land supply as it would help to boost significantly the supply of housing in the area.
85. The appellant maintains that the proposal would attract a younger population to the village where the population is otherwise aging, and therefore provide, overall, a more mixed community. The local population disputed this, noting the number of primary aged school children in the area as evidence that the population remains mixed.
86. The appellant's analysis did not appear to take fully into account the Manor Hill Farm development which I have determined should be considered to be deliverable. Further, it seems to me that the appellant's contention that the

⁷ Reference ID: 21b-011-20140612

additional population would add to volunteers in the area rather counteracted the assertion that the proposal would bring in more families. While volunteers can be of any age, retired people are often able to contribute more simply because they have more available time. In any event an appropriate response to the housing needs, including the population mix, for the area should be properly considered as part of the eLP process, which I have discussed elsewhere.

87. The provision of the open space will provide the opportunity for recreation and thus health improvements, but I give this only very limited weight as the connecting public rights of way exist and any increase would be marginal at best. Overall, in addition to the benefits derived by the dwellings themselves, I give the social benefits identified by the appellant only moderate weight.
88. From an environmental perspective, the appellant identified a number of benefits. However, those relating to the open space were products of the development and required to make the proposal policy compliant and are therefore neutral in the balance. For the reasons given above I do not consider the proposal would create a positive interface between the built-up area and the countryside. That the site is of low-risk of flooding is a product of the site; had it been otherwise it would have been to add to the harm, and is thus a neutral consideration.

Other matters

89. As set out towards the top of this decision local residents had objected to the proposed build-out to create a chicane on the A40 to reduce traffic speeds. In the note provided by the appellant it was admitted that no analysis had been undertaken of its effects when the A40 was being used as a strategic diversion route for the M40. The A40 is used as a strategic diversion route both on a planned, such as for roadworks, and unplanned occasions, but I was provided with no information as to how frequently this occurred despite having asked for this information.
90. I note that the Highway Authority has raised no objection to the proposal subject to a condition to introduce speed-calming in the area. This speed calming is now undefined, but this could be resolved by way of a planning condition, and could take account of the traffic when the diversion is in place. With such a condition I am satisfied that the proposal would not result in severe residual cumulative impacts, which is the test set out in paragraph 32 of the Framework if development is to be prevented.
91. The site is affected by noise, principally from traffic on the M40. Local residents noted this and stated that it adversely affected their living conditions. However, I note that the Council's Environmental Health officers consider that subject to an appropriate planning condition that the living conditions of the occupiers would be satisfactory. I sought clarification as to the necessary height of any fence forming part of such a mitigation scheme and was advised that it needed only be 1.8 m high. Such a fence would not add to the visual harm of the development and I am satisfied that with such a condition the development would be prevented from being put at unacceptable risk from noise pollution in line with paragraph 109 of the Framework.
92. Local residents expressed concern about surface water drainage on the site and I noted that the northern part of the site suffered from pooling. The illustrative

Masterplan showed two sustainable drainage ponds in this area and local residents were concerned that this may conflict with a sewer in the area. Even if the development were to take place in general accordance with that Masterplan I am satisfied that there would be sufficient latitude to allow for a satisfactory drainage solution for the development to be designed, including to ensure that it did not have any adverse effects on existing local residents.

93. Concerns were also expressed about the potential to extend the site to the west on the land where the car boot sales are held. Each case needs to be considered on its own particular planning merits based on the planning situation at the time of the decision. I have undertaken this exercise based on the current situation and this would not affect the planning considerations which may be applicable if that adjoining piece of land were to be promoted for development.
94. The local community produced the Tetsworth Community-Led Plan which indicated that residents would be comfortable with housing growth of between 11 and 50 new dwellings in the period between 2011 and 2033. While this is material, I can give this plan only limited weight as it does not form part of the development plan for the area, rather it should form part of the evidence base for the eLP which I have discussed above.

The Planning Balance

95. The determination of this appeal should be in accordance with the terms of the development plan unless other material considerations indicate otherwise.
96. The appeal proposal would be contrary to the terms of the development plan as a whole. In particular it would be contrary to the overall strategy for the plan area which indicates that smaller villages, such as Tetsworth, should only be suitable for infilling of sites of up to five or six dwellings. It would be significantly and demonstrably harmful to the character and appearance of the area, with particular harm to those undertaking recreation on the public rights of way network, to the outlook of local residents and would be out of keeping with the pattern of development in the village. This judgement is based on recognising the intrinsic character and beauty of the countryside rather than protecting it for its own sake. The site is not located where the need to travel would be minimised and the use of sustainable transport modes maximised.
97. There are significant benefits from the proposal, particularly the delivery of 60 dwellings including a significant proportion of affordable housing, along with the moderate benefits of the enhancement to the bus service to the benefit of all those along its route, and the limited beneficial weight of the financial contribution of the New Homes Bonus.
98. However, the economic and social benefits of the scheme are significantly and demonstrably outweighed by the social and environmental harms I have identified above. Therefore it matters not whether the Council is able to demonstrate a five year supply of housing land. As such the proposal would not represent sustainable development and the appeal should be dismissed.

Conclusion

99. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robin Green	of Counsel, instructed by the Solicitor to South Oxfordshire and Vale of White Horse District Councils
He called	
Ms Michelle Bolger BA PGCE BA Dip LA CMLI	Director, Michelle Bolger Expert Landscape Consultancy
Ms Barbara Chillman BSc PGCE MA	Pupil Place Planning Service Manager, Oxfordshire County Council
Mrs Tracy Smith BA(Hons) BTCP MRTPI	Principal Appeals Officer, South Oxfordshire and Vale of White Horse District Councils

In addition, Mrs Judith Coates, Principal Section 106 Negotiating Officer Oxfordshire County Council, and Mr Geoffrey Arnold, Principal Engineer Oxfordshire County Council, both took part in the discussions relating to the Planning Obligation.

FOR THE APPELLANT:

Mr Jeremy Cahill	of Queens Counsel, instructed by Mr Simon Handy, Strutt & Parker
Assisted by	
Mr Howard Leithead	of Counsel
He called	
Mr Alister Kratt BA(Hons) CMLI	Board Director, LDA Design Consulting Ltd
Mr Robert Hindle BSc(Hons) MRICS	Director, Rural Solutions
Mr Simon Handy BA(Hons) MPlan MRTPI	Associate, Strutt & Parker
Mr Oliver Nicholson BA(Hons)	Strategy Director, EPDS Consulting Ltd

INTERESTED PERSONS:

Cllr Marjorie Sanders	Vice Chair, Tetsworth Parish Council
Mr John Gilbert	Chair, Tetsworth Neighbourhood Plan Steering Group
Mr John Copsey	Local Resident
Mr Adrian Cannon	Chair of Governors, John Hampden and Tetsworth Schools' Federation
Mr Steve Thornton	Local Resident
Mrs Gillian Copsey	Local Resident
Mrs Caroline Cann	Chair, Village Hall Committee and Local Resident
Mr John Simmons	Local Resident
Mr Luke Ponte	Local Resident
Mr Martin Davey	Local Resident

INQUIRY DOCUMENTS

ID1	Response from appellant to Inspector's Pre-Inquiry Note
ID2	Draft Planning Obligation under Section 106 Town and Country Planning Act 1990 (as amended)
ID3	Appellant's List of Appearances
ID4	Bundle of Local Residents' Appeal Statements
ID5	a. Note from Council relating to School site area calculations b. Email from Mr Oliver Nicholson responding to ID5a
ID6	Section 14 Education Act 1996 (as amended)
ID7	Extract from South Oxfordshire Landscape Assessment
ID8	Note on Appellant's Visualisations prepared by Ms Michelle Bolger, with visualisations and appendices
ID9	Statement by Mr Adrian Cannon
ID10	Opening Statement on behalf of Appellant
ID11	Opening Statement on behalf of Council
ID12	Response from Oxfordshire County Council as Highway Authority to Inspector's Pre-Inquiry Note
ID13	Agreed note on current and forecast spare primary school places in the area (v2)
ID14	Drawings showing primary school catchments in vicinity of Tetsworth
ID15	Note by Mr Alister Kratt on Visualisations
ID16	Photographs of appeal site and adjoining land showing car boot sales
ID17	Extract from Guidelines for Landscape and Visual Impact Assessment (GLVIA3) – Box 5.1
ID18	Letter of Representation by Mr Peter Stevens
ID19	Note on Noise by Cundall dated 21 March 2018
ID20	Oxfordshire County Council: Addendum Note to Regulation 122 Compliance Statement
ID21	Note from Head Teacher, Tetsworth Primary School relating operation of school with PAN of 12

ID22	Draft of letter to third parties inviting comments on amended plans
ID23	Extract from PPG relating to Rural Housing
ID24	Extracts from Taylor Review
ID25	Final letter to third parties inviting comments on amended plans
ID26	Supplementary Note to ID19
ID27	Agreed Schedule setting out main parties landscape assessments
ID28	Appellant's Note relating to highway issues raised by local residents as set out in Inspector's Pre-Inquiry Note
ID29	Note on quantum of open space on site
ID30	Appellant's response to ID9 and ID21
ID31	Final completed Planning Obligation dated 12 April 2018
ID32	Bundle of correspondence received in response to ID25
ID33	Errata Sheet for Proof of Mr Nicholson
ID34	Revised draft condition relating to highway works
ID35	Plan showing routes and viewpoints for Site Visit
ID36	Note from Tetsworth Parish Council relating to ownership of Village Green
ID37	Draft condition on air quality matters
ID39	Closing Submissions on behalf of the Council
ID40	Closing Submissions on behalf of the appellant

POST-INQUIRY DOCUMENTS

PID1	Housing Land Supply Statement for South Oxfordshire District Council, April 2018
PID2	Email from Council in respect of PID1
PID3	Response on behalf of appellant in respect of PID1