



Appeal Decision

Inquiry opened on 11 November 2014

Site visit carried out on 13 November 2014

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 6 January 2015

Appeal Ref: APP/C3105/A/14/2220513

Land south of Broughton Road, Banbury, Oxfordshire OX16 9UL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gleeson Developments Limited against the decision of Cherwell District Council.
 - The application No 13/01758/OUT, dated 15 November 2013, was refused by a notice dated 7 March 2014.
 - The development proposed is described as 'Outline permission with some matters reserved for development for residential use of up to 117 residential dwellings with associated gardens, parking, landscaping, services and infrastructure and public open space, with access off Broughton Road. Approval for access, the development area and zones of building heights, with all other matters reserved.'
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Decision

1. For the reasons that follow, the appeal is dismissed.

Procedural Matters

2. The Inquiry sat for four days (11-14 November 2014). The accompanied site visit was carried out on the afternoon of 13 November 2014.
3. The appeal relates to an outline application with all matters other than access reserved for future consideration.
4. The second of the Council's reasons for refusal related to the absence of a planning obligation. However, an undated version of the obligation by deed of agreement was submitted (listed as Inquiry Doc 3 below) and the matter was not pursued by the Council at the Inquiry. With my consent, a dated version of the obligation was submitted after the close of the event (Doc 27). The obligation is a material consideration in this case.

Main Issue

5. The appeal site lies outside the development boundary for Banbury. However, the Authority accepts that, for the purposes of this appeal, it cannot demonstrate a five year supply of housing land. In such circumstances, the National Planning Policy Framework (the Framework) makes it clear that relevant policies for the supply of housing should not be considered up to date. Framework paragraph 14 sets out a presumption in favour of sustainable development confirming that, for decision taking, where relevant policies are out-of-date, this means granting permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when

assessed against the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted.

6. I therefore consider the main issue in this case to be whether the proposal represents sustainable development having regard to its potential contribution to the supply of housing, its effect on the character and appearance of the surrounding countryside, and its effect on the significance of Crouch Hill as a non-designated heritage asset.

Planning Policy

7. The development plan for the area includes the saved policies of the Adopted Cherwell Local Plan 1996 (ACLP). Work on a replacement for the ACLP was discontinued in December 2004 to enable work to begin on the preparation of a Local Development Framework. The then draft Cherwell Local Plan 2001-2011 was, however, adopted as interim planning policy for development control purposes at that time and became the Non-Statutory Cherwell Local Plan 2011 (NSCLP). Given its non-statutory status, it was agreed between the parties that the policies in the NSCLP should be afforded very limited weight.
8. In January 2014, the Submission Local Plan 2006-2031 (SLP) was submitted to the Secretary of State. On 6 June 2014, following an initial examination into the soundness of the SLP, the Hearings were suspended. The Inspector's preliminary findings indicated that main modifications were necessary, particularly in relation to housing land supply. The Council is now promoting main modifications to the SLP, including increased new housing delivery over the Plan period. The modifications, including those arising from the increase in new housing, will need to be fully and properly considered by the Local Plan Inspector in due course. Accordingly, it was agreed that only limited weight could be afforded to the policies in the SLP at this time.
9. The appeal site, which is not allocated for housing in the development plan, lies close to but outside the defined built up limits of this part of Banbury. Policy H18 of the ACLP indicates that planning permission will only be granted for the construction of new dwellings beyond the built up limits of settlements in particular circumstances (none of which are pertinent in this instance). The development proposed would conflict, therefore, with the development plan in this regard.
10. However, given that, for the purposes of this appeal, the Council accepts that it cannot demonstrate a five year supply of housing land, paragraphs 49 and 14 of the Framework are engaged and relevant policies for the supply of housing are thus not to be considered as up-to-date. During the Inquiry, the Council agreed that policy H18 was such a policy. The Council also agreed that policies C8 (Sporadic Development in the Open Countryside) C9 (Scale of Development Incompatible with a Rural Location) and C15 (Prevention of Coalescence of Settlements) were not up-to-date either.
11. Policy C7 of the ACLP resists development that would cause demonstrable harm to the topography and character of the landscape. For the appellant, it was argued that this is a policy relevant to the supply of housing. However, whilst it does apply to all countryside, it does not have the effect of a generic ban on general housing there (such policies would be relevant for the supply of housing). Rather, it seeks to ensure that development that does take place

retains and enhances the character of the countryside, taking account of matters such as changes in level or slope, and important views. To my mind, that is broadly consistent with two of the Core Planning Principles of the Framework, namely recognising the intrinsic character of the countryside and contributing to conserving and enhancing the natural environment. I do not find the justification to be similar to that for policy C8, as suggested by the appellant: whilst both C7 and C8 apply to all countryside, C8 resists general development there, whereas C7 only resists development where there would be a specific harm. There is no inconsistency therefore, in finding that policy C7 is not out-of-date, but that policy C8 is. In coming to this view, I am mindful of the case law drawn to my attention.¹ However, my reading of that judgement supports my conclusions in relation to policy C7 here. I also note that, in dealing with other applications for development in the District subsequent to the Barwood judgement, colleague Inspectors have also found that policy C7 is not inconsistent with the Framework and should be afforded due weight.²

12. Even had I found to the contrary, the appeal scheme would still need to be weighed against the relevant sections of the Framework, including the Core Planning Principle of taking account of the character of different areas, recognising the intrinsic character and beauty of the countryside, as well as the environmental aspect to sustainable development, which role includes contributing to protecting and enhancing the natural environment.
13. The site lies within a 'Green Buffer' proposed to be designated within the SLP (policy ESD15). The purpose of the Buffer is to maintain the distinctive identity and setting of Banbury and its neighbouring settlements, prevent coalescence, and protect the identity of valued features of landscape and historic value and important views. I am aware that other Inspectors have concluded that the policy should be given little weight, due to the early stage of the SLP.³ Whilst the SLP has now reached examination stage, it is still some way from adoption, with outstanding objections remaining to, among other things, the Green Buffer. In my view therefore, policy ESD15 still carries limited weight at this stage, although I find no apparent tension between the purposes of the Buffer and the Framework. That said, it was accepted for the Council that the appeal scheme would not result in coalescence with a neighbouring settlement.

Reasons for the Decision

Character and Appearance

14. The 10.5 hectare appeal site sweeps down from the summit of Crouch Hill to Broughton Road. In addition to the summit, the site includes two arable fields that are bounded by hedgerows, with a managed hedgerow also separating the two fields. The northern field rises from just below 129 metres AOD adjacent to Broughton Road, to some 141 metres AOD at the hedged boundary with the second field. The second (southern) field rises to some 160 metres AOD, just shy of the summit area of Crouch Hill. The land then rises more steeply to the summit itself, which comprises unmanaged grassland and scrubby vegetation and trees, and is marked by a trig point at 169 metres AOD.

¹ In particular *South Northamptonshire Council vs SSCLG and Barwood Land and Estates Limited [2014] EWHC 573 (Admin)*

² Appeal decisions included as Core Documents (CD58, 59, 64 and 70) and at Appendices F, and N to the proof of Miss Ford

³ Eg Appeal Refs 2203995 (CD58) and 2208385 (CD65)

15. To the east, between the appeal site and the rear of houses on Burns Road houses (which properties form the limit of the current development boundary here) lies a narrow field of unmanaged grassland. That land is the subject of a recent outline planning permission granted by the Council for residential development.⁴ To the west is Crouch Hill Farm and its associated 'Pick Your Own' business. To the north-east, on rising land on the far side of Broughton Road, is housing (Balmoral Avenue), whilst to the north, directly opposite the site, stretching away to the north-west, are open fields.
16. The dwellings proposed would be located largely within the lower (northern) part of the site, adjacent to Broughton Road, below the 140 metre contour. The more elevated southern part of the site would provide 6.3 hectares of informal managed public open space, including access to Crouch Hill summit and local public footpaths.⁵
17. The appeal site forms part of a larger site that was the subject of linked appeals for residential development in 1990.⁶ In dismissing those appeals, the Inspector commented that Crouch Hill was a particularly important landscape feature on the outskirts of Banbury, its distinctive shape giving it eminence as a landmark in many views of Banbury and the adjacent countryside. He commented that, whilst its significance in this regard was provided by the upper slopes and summit, which would remain free from development (as is the case in the current appeal scheme) a more localised but still significant landscape contribution was provided by the northern side of the Hill as a whole, as part of a 'gateway' feature on this approach to Banbury. He found that the open character of the northern slopes was an essential element in the landscape composition, uniting the 'outpost' summit of the Hill with the open countryside to which it has a natural affinity.
18. Although housing has since been developed on the lower south-eastern slope of the Hill (Waller Drive)⁷ that development does not intrude round onto the northern slopes. However, as noted earlier, Banner Homes has recently secured planning permission for residential development on part of the narrow field on the north-eastern slope.⁸ Whilst that site formed part of the land the subject of the previous appeals (referred to in the appeal decision as the Pony Paddock) the Inspector commented that, in views northward from the summit, the fields, *other than the Pony Paddock*, were very prominent. Although that consented scheme would extend the built-up edge of Banbury into the countryside, the site is well contained visually, being bounded by substantial hedgerows and hedgerow trees. So, whilst the edge of Banbury is encroaching onto the lower parts of the north-eastern/south-eastern flanks of Crouch Hill, I saw that the Hill is still a relatively dominant feature in the landscape here (particularly in views from the north, west and south, where it retains an open agricultural setting) marking a topographical transition between the Cherwell Valley and Banbury to the east, and undulating rural landscape to the west.
19. The site lies within the Ironstone Hills and Valleys Character Area, defined by the 'Cherwell District Landscape Assessment' (1995), wherein development should only be permitted if it is sensitively sited and is sensitively designed to

⁴ Application No 13/01528/OUT

⁵ As illustrated on the Development Framework Plan No BMD.187.DRG.003 Rev B (CD8)

⁶ APP/C3105/A/89/142363 and /156748 Dismissed in July 1990 (Appendix A of Miss Ford)

⁷ As shown on the plan supporting Section 2 of the Statement of Common Ground

⁸ A condition on the permission contains housing to below the 140 metre contour

blend into the area. Within that Character Area, the site lies within what is referred to as a 'Repair' Landscape, being areas where the landscape character is still reasonably strong and worthy of conservation, but where some, or all of the individual features or overall structure is showing noticeable decline. They include, typically, most of the unspoilt rural landscapes to which the highest 'Conservation' category does not apply. The document notes that these landscapes should be able to absorb limited areas of sensitive development.

20. In September 2010, Halcrow Group Limited looked at the landscape sensitivity and capacity of land on the edges of Banbury and Bicester as part of the evidence base for the Council's Local Development Framework.⁹ The appeal site lies within one such area - Site H.¹⁰ The overall sensitivity of Site H was judged to be high for the upper, northern and intermediate slopes of Crouch Hill and the area around the farm, with a low capacity to accept development, but moderate, with a moderate capacity for development, for the southern part of Site H (namely the larger fields towards Wykham Lane).
21. A later Assessment by WYG Planning and Environment, in September 2013,¹¹ which supplemented and built upon the 2010 exercise as part of the evidence base for the SLP, included Site H. The Assessment found Crouch Hill to be of high sensitivity within the local context, with the sensitivity of Site H as a whole to be medium-high, with a low capacity for residential development due to the prominence of Crouch Hill.
22. In response to the need to identify land for an additional 8000 dwellings following the recent suspension of the Examination into the SLP, WYG prepared an Addendum for a number of the sites it had previously assessed, for which site boundaries were amended, alongside a number of additional sites.¹² Site 109 is one of the identified sites. It comprises the southern part of Site H, to the south of Salt Way (an ancient track way). It does not include the appeal site and Crouch Hill. Overall, the landscape character sensitivity for Site 109, and its landscape value, was assessed as medium, having a medium to low capacity for residential development (not hugely dissimilar to the conclusion of the Halcrow assessment for this part of Site H).
23. Although the appellant took issue with the fact that the appeal site had not been re-assessed as part of the Addendum exercise, it was recognised that that would be a matter for the Examination Inspector in due course.¹³ That said, the Halcrow Assessment (the only one to distinguish between different parts of Site H) found the southern part of Site H to be of lower sensitivity than the north, with greater capacity for development. It is not necessarily surprising therefore, that that part of Site H (which became Site 109) was identified for further assessment by WYG, but not the northern part (the appeal site). I am also mindful that, in September 2013, planning permission was granted on appeal for land to the east of Bloxham Road, Banbury, to the south of Salt Way, adjacent to Site 109.¹⁴

⁹ Cherwell District Council Landscape Sensitivity and Capacity Assessment September 2010 (CD46).

¹⁰ Ibid pages 56-61

¹¹ Cherwell District Council Landscape Sensitivity and Capacity Assessment September 2013 (CD47)

¹² Cherwell District Council Banbury Landscape Sensitivity and Capacity Assessment: Assessment Addendum 18 August 2014 (CD69)

¹³ Paragraph 2.36 of the proof of Mr Enderby

¹⁴ CD60

24. The housing on Balmoral Avenue and Burns Road does have an influence in views of the south-western edge of Banbury to some extent. However, the built up edge along the rear gardens of houses on Burns Road is poorly contained visually. The well vegetated western boundary of the adjacent Banner Homes site provides a much more robust edge to Banbury, containing this part of the town both physically and visually, and would mitigate intrusion into the landscape by the recently consented development there. Even allowing for that development, I consider that the appeal site is/would continue to be seen as part of a largely open rural landscape on the attractive approach to Banbury from the west, comprising an integral part of the character of Crouch Hill. Indeed, the appellant's LVIA specifically comments that the Hill is an acknowledged landscape feature, providing a rural backdrop to the town. The scheme proposed would not, therefore, be seen in the overt context of existing housing, as suggested by the appellant.
25. At the time of the previous appeal decision, the land fell within a defined Area of High Landscape Value (policy C13 of the ACLP). However, that designation is not carried forward in the SLP, in favour of the criteria-based approach. Whilst I fully appreciate that the landscape to which the appeal site belongs is not rare or of exceptional quality, and that the site itself has no particular landscape designation, that historical designation is an indication that the landscape here is of some merit. There was also consensus between the parties that the higher slopes of Crouch Hill are more sensitive than the lower slopes. I agree. I do not agree however, that the lower, northern field on which the dwellings proposed would be sited, has a medium-low landscape value and a medium high capacity for development – the view of the appellant.
26. Although the lower part of the appeal site is visually more contained than the upper slopes, boundary hedgerows, including that along the road frontage, only afford partial screening. As a consequence of the limited screening, and the rising ground levels, the site is seen when travelling along Broughton Road and from the elevated landscape to the north and west, as demonstrated by views 8-12 in the appellant's LVIA and in views MA1-7 appended to the evidence of Mr Askew for the Council. Indeed, visibility would increase with the removal and cutting back of quite a length of roadside hedge to facilitate road access into the site and the provision of visibility splays. The site is also entirely open to views from the summit of Crouch Hill, to the south, with the 1990 Inspector finding that the angle of view from the summit was such that no amount of landscaping could screen the housing proposed, although I recognise that the scheme before me is smaller than that considered previously. All in all however, I am not persuaded that likely planting at 15 years would be as effective as indicated on Plans 6.2 and 7.2 of the LVIA, which montages seem to suggest considerably more tree planting than might reasonably be accommodated within the development proposed. Moreover, the views northward from the Hill are taken from a point lower than the summit, affording a lower angle of view than that from the summit itself.
27. In my consideration, the site is still seen as an essential component of the rural setting of the Hill and, as a consequence, is very sensitive with a low capacity for residential development. I am in no doubt that the erection of up to 117 dwellings on the lower field would constitute a considerable intrusion into that setting and would not be a sensitive development in its context. There would be conflict, therefore, with policy C7 of the Local Plan and those parts of the

Framework which seek to ensure that new development adds to and improves the overall character and quality of the area, taking account of the different roles and character of different areas, the intrinsic character and beauty of the countryside, and the need to contribute to conserving and enhancing the natural environment.

Non-Designated Heritage Asset

28. Crouch Hill has recently been identified as a non-designated heritage asset,¹⁵ although it is not included on the current version of the Council's 'Local List.' However, the extent of the asset that is Crouch Hill is not defined anywhere. For the appellants, it was argued that the asset comprises simply the summit area: the Council, on the other hand, maintained that it was the Hill as a whole, including the lower slopes (which encompass the appeal site).
29. A heritage asset possesses significance which the Framework defines as its value to this and future generations because of its heritage interest, with significance deriving not only from the asset's physical presence, but also from its setting. The Glossary to the Framework then defines the setting as the surroundings in which the heritage asset is experienced. Appendix D to the WYG 2013 Assessment suggests that the Hill *was artificially raised in antiquity, possibly in either the Iron Age or Saxon period, and it is said to have been fortified by both Royalist and Parliamentary forces during the Civil War.* There are also *local legends and folk traditions associated with the Hill, so it has a cultural significance for the community beyond its purely archaeological associations.* It was brought to my attention, in this regard, that paragraph D1.5.1 of the Appendix to the WYG document confirms that the heritage assessment is not a comprehensive archaeological and heritage assessment. However, when read with the other paragraphs in that section, I take that to be an indication that the assessment might not capture all matters that might be of such interest, rather than undermining, necessarily, the interests that are identified. Furthermore, whilst the Appendix does appear to suggest that the presence of Salt Way is associated with Crouch Hill, with both the main parties agreeing that it is not, I am not persuaded that that inevitably undermines the other comments set out there in relation to the significance of the Hill.
30. The evidence before me on the heritage interest and thus significance of the asset is not wholly conclusive. For example, as set out in the CgMs Heritage Statement,¹⁶ whilst 'Beesley' suggests that the summit formed a platform for the positioning of guns for the defence of Banbury, with 'Little' noting that guns were placed on Crouch Hill, 'Potts' challenges that the site was fortified, suggesting that the fortifications surrounding the summit are field boundary ditches, and that the ground make-up is simply different geological formations. Other records suggest a medieval field ditch around the summit. Mr Askew for the Council also notes that it has been suggested that the Hill was used as a signal station or for observation (Johnson c.1870) and that the Battle of Cropredy (1644) was fought at the foot of the Hill. However, it seems likely, on balance, that Crouch Hill does have some significance as a heritage asset due to its historic interest.

¹⁵ The WYG Assessment of September 2013 refers to Crouch Hill as one of two non-designated heritage assets within Site H (see above). Main Modification 117 to the SLP also sets out that Crouch Hill (together with its setting) is considered to be a non-designated heritage asset (CD71 page 109).

¹⁶ Appendix 15 of the Appellant's Statement of Case

31. It also has an associated social and communal value, including likely use of the summit as a vantage point for steeplechase events around Banbury (which ceased in the late C19th – early C20th), its use as part of May Day rituals (which apparently ceased in the mid-C19th), its mention in a descriptive poem of 1789 by Philip Rusher, and a watercolour (and engraving) dating from 1839. I am not persuaded, however, on the basis of the evidence that is before me, that its significance is substantial in this regard.
32. As to its extent, it is the probable use of the summit as a platform during the Civil War that provides much of the significance of Crouch Hill as a heritage asset. However, without the hill itself, there would be no summit, so the summit cannot be seen in isolation. Guidance produced by English Heritage¹⁷ confirms that whilst views of, or from, an asset can be important, setting is also influenced by other environmental factors.
33. As already noted, Crouch Hill is experienced in its landscape setting over a wide area, particularly in views on the approach from the west along Broughton Road and from higher land to the north/north-west on the far side of the road. In those views, it is clear, despite the expansion of Banbury over the years, and taking account of the recent but as yet unimplemented Banner Homes permission and the trappings/shelter belt planting associated with the nearby 'Pick Your Own' enterprise, that the Hill is still bounded, in no small part, by agricultural land/countryside. In this regard, nothing challenges, to any material degree, the dominance of Crouch Hill in the aspect from the north and west and nothing precludes the appeal site from playing a valuable role in the setting of the Hill. To my mind, the open, undeveloped nature of the lower slopes on which the appeal site lies is inextricably linked to, and affords an appreciation of the significance of Crouch Hill, emphasising its relatively imposing nature (from which its significance as a heritage asset derives) even if they are not part of the asset itself.
34. The erection of up to 117 dwellings on the northern field would create a much stronger urban presence than is currently the case (and will be the case on implementation of the Banner Homes scheme) and would intrude into the experience of Crouch Hill when viewed from north and west, with the consequence that the rural foreground that now informs an appreciation of the heritage asset would be diminished. There would be some harm, therefore, to the setting of Crouch Hill, and thus its significance although, in the parlance of the Framework, I consider that harm to be less than substantial.
35. One of the overarching core planning principles within paragraph 17 of the Framework is to '*conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*' Framework paragraph 58 requires that decisions should, among other things, '*respond to local character and history*' with paragraphs 126 and 131 confirming that '*heritage assets are an irreplaceable resource*' that should be conserved '*in a manner appropriate to their significance*' with account to be taken of '*the desirability of sustaining and enhancing the significance of heritage assets*'. Among other things, policy C10 of the ACLP seeks to resist proposals that would have a detrimental effect on the character and appearance of historic landscapes. Whilst not reflecting exactly the language of the Framework, I consider that the thrust of the policy

¹⁷ The Setting of Heritage Assets (2011)

has some resonance with the Framework in this regard, and therefore continues to attract due weight.

36. The significant adverse harm to the character and appearance of the area that I have found would be a consequence of the development proposed, would be compounded, to some extent, by the level of harm that I have identified to the significance of the non-designated heritage asset, which offends policy C10 of the ACLP and does not meet the 'conserve and enhance' thrust of the guidance in the Framework. That harm will need weighing in the overall balance.

Benefits of the Scheme

37. Given the acknowledged shortfall in housing, the provision of up to 117 two, three and four bedroom properties, all designed to meet Level 4 of the Code for Sustainable Homes dwellings, at least 30% of which would be affordable, is a material consideration to which substantial weight should be given.
38. The scheme would also offer a number of social and economic benefits. These include the provision of direct and indirect jobs and increased local spend by future occupiers; the provision of some 6.3 hectares of public open space, together with proposals to improve public access to, and the management of, the summit of Crouch Hill and the provision of two Local Areas of Play and a Local Equipped Area of Play, all of which would be accessible to the local community, in an area where there is an existing deficiency in public open space and play areas. To the extent that there would be a net gain in ecological biodiversity, there would also be an environmental benefit. These are matters to which I also give considerable weight.
39. I am mindful too, that the site lies within Flood Zone 1, that the scheme involves no loss of high quality agricultural land (the fields within the appeal site comprise grade 3b agricultural land), and the land is not located within a Conservation Area, Area of Outstanding Natural Beauty, or any other statutory designation. However, these are not benefits as such; rather, they are an absence of harm.

Whether the scheme comprises sustainable development

40. In the housing supply circumstances that prevail here, paragraph 14 of the Framework makes it clear that permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted. It does not follow from paragraph 14, therefore, that the mere presence of a housing shortfall means that housing developments must automatically be allowed.
41. It is clear that, where development needs cannot be accommodated within the existing urban area, the periphery of that area is likely to be the most appropriate and sustainable location for new development. Indeed, it seems all but inevitable that some greenfield sites will be required to provide for growth and to sustain the longevity of the plan period. I recognise, in this regard, that although the appeal site is in a relatively poor location in terms of proximity to local services, the Statement of Common Ground confirms that it is a generally sustainable location for new housing. Moreover, although the nearest bus stops are some 330 metres from the site, the appeal scheme includes the

provision of two new bus stops in much closer proximity to the development. The scheme also includes footway/cycle path improvements along part of Broughton Road and developer contributions towards both the emerging Infrastructure Delivery Plan and a direct bus service to Banbury, all of which are secured via the planning obligation and will help maximise accessibility by means other than the private car. That said, the Framework embraces a much wider definition of sustainability, referring to its economic, social and environmental dimensions, which give rise to the need for the planning system to perform a number of roles.

42. I have set out above the benefits that would accrue from the development proposed. They are substantial and would accord with the economic and social roles. However, whilst there would be some benefit in terms of the environmental role (as a consequence of the increase in biodiversity) the environmental dimension of sustainability is also concerned, among other things, with protecting and enhancing the natural and built environment. I have found that there would be a significant adverse impact on the character and appearance of this part of the District, which impact would be compounded by some harm to the significance of the non-designated heritage asset that is Crouch Hill. There would be substantial environmental harm therefore, in allowing unjustified development in the countryside. There would also be conflict with the economic dimension of sustainability, which seeks to ensure, among other things, the delivery of land in the right place.
43. Paragraph 8 of the Framework makes it clear that the dimensions to sustainable development are not to be undertaken in isolation, as they are mutually dependent. Having regard to the policies of the Framework as a whole, the significant shortcomings of the scheme in terms of the environmental dimension lead me firmly to the view that the appeal scheme cannot be considered as sustainable development. Moreover, and notwithstanding the shortfall in housing land supply, such benefits that I have found do not outweigh the harm.

Conclusion

44. For the reasons set out above I conclude, on balance, that appeal should not succeed.
45. Given my conclusion, there is no need to look at whether the provisions of the planning obligation meet the statutory tests set out at Regulation 122 of the Community Infrastructure Levy Regulations.

Jennifer A Vyse

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant, of Counsel	Instructed by Nigel Bell, Solicitor for the Council
He called	
Mr Max Askew	Managing Director of Askew Nelson Limited
MA(Hons), DipLA, CMLI	Landscape Architects
Miss Caroline Ford	Senior Planning Officer with the Council
BA(Hons), MA, MRTPI	

Mr Nigel Bell (Solicitor for the Council) attended the Inquiry to assist in the discussion on the planning obligation. In addition, Mr Ian Prosser, representing the County Council, attended on day one of the Inquiry. He was there to answer any questions I might have had in relation to the contributions being sought by the County Council. He left contact details with the Council so he could be recalled if necessary. In the event, it was not necessary to ask any questions of him and he was not recalled.

FOR THE APPELLANT:

Miss Mary Cook	Instructed by Planning Potential Limited
She called	
Mr Chris Enderby	Enderby Associates
DipLA, CMLI	
Mr Jason Clemons	GcMs Consulting
BA(Hons), DipUD, MA,	
MSc, MRTPI, IHBC	
Mr Stuart Slatter	Planning Potential Limited
BTEC TRP(SA), MRTPI	
Mr Mark Stead*	Principal Consultant at i-Transport LLP
BA(Hons), MSc, MCIHT	

*Although Mr Stead submitted a written proof of evidence and Appendices, he did not appear at the Inquiry and his evidence was not tested by cross-examination.

CORE DOCUMENTS

CD1	Site Survey, Drawing no. P2132 (Healer Surveys) April 2013
CD2	Illustrative Composite Plan, Drawing no. BMD.187.DRG.006_C (BMD) 14 May 2014
CD3	Application ref. 13/01528/OUT Committee Report
CD4	Appeal Decision ref. T/APP/C3105/A/89/142363&156748/P5 July 1990
CD5	Completed application form and payment of the planning application fee
CD6	Covering Letter (Planning Potential) 15.11.13
CD7	Site Location Plan, Drawing no. MD-215-DRG-001_A (BMD) 11.07.13
CD8	Development Framework Plan, Drawing no. BMD-187-DRG-003_B (BMD) 25 October 2014
CD9	Illustrative Masterplan, Drawing no. BMD-187-DRG-004 (BMD) 07.11.13

- CD10 Planning and Affordable Housing Statement and Statement of Community Involvement (Planning Potential) November 2013
- CD11 Design and Access Statement (BMD) November 2013
- CD12 Landscape and Visual Impact Assessment (Enderby Associates) November 2013
- CD13 Transport Assessment (i-Transport) 08.11.13
- CD14 Proposed Site Access Arrangement, Drawing no. ITB8227-GA-002_D (Transport) October 2013
- CD15 Proposed Bus Stop Locations, Drawing no. ITB8227-GA-003_A (i-Transport) November 2013
- CD16 Potential Relocated Speed Limit Drawing no. ITB8227-GA-004 (i-Transport) November 2013
- CD17 Interim Residential Travel Plan (i-Transport) 08.11.13
- CD18 Archaeological Walkover Survey (CgMs) November 2013
- CD19 Geophysical Survey (CgMs) November 2013
- CD20 Habitat Survey (PJC Ecology) January 2013
- CD21 Protected Species Survey (PJC Ecology) October 2013
- CD22 Flood Risk Assessment (Fortridge/Amazi) 22.10.13
- CD23 Sustainability Statement (Daedalus) 06.11.13
- CD24 Arboricultural Implications Assessment (Tree Research Ltd) November 2013
- CD25 Section 106 Agreement Draft Heads of Terms (Planning Potential) November 2013
- CD26 Desk-Based Assessment (CgMs) February 2013
- CD27 Landscape Institute Advice Note (Landscape Institute) 01/11
- CD28 Public Rights of Way Statement (Enderby Associates) 06.12.13
- CD29 Application ref. 13/01758/OUT Committee Report
- CD30 CDC Landscape Officer Initial Consultation Comments - email 09.01.14
- CD31 Response to CDC Landscape Officer's questions (Enderby Associates) & Drawing no. BMD 187.DR.005 (BMD) LEAP Access and Location 23.01.14
- CD32 Brief response on 1990 Appeal – email 23.01.14
- CD33 Response to Public Consultation (Planning Potential) 23.01.14
- CD34 Confirmation of agreement in principle to S106 obligations and short-term delivery condition (emails dated 24.01.14)
- CD35 1990 Appeal position statement (Planning Potential) 04.02.14
- CD36 CD36 CDC Landscape Officer Final Consultation Comments – email 06.02.14
- CD37 Response to final landscape and planning officer comments (Planning Potential) 13.02.14
- CD38 Decision Notice 13/01758/OUT 07.03.14
- CD39 Oxfordshire Strategic Housing Market Assessment (GL Hearn) April 2014
- CD40 Oxfordshire Strategic Housing Market Assessment Summary – Key Findings on Housing Need (GL Hearn) March 2014
- CD41 Cherwell District Council: Housing Deliverability (Montagu Evans) May 2014
- CD42 Cherwell District Council Housing Land Supply Update (CDC) June 2014

- CD43 Conservation Principles, Policies and Guidance (English Heritage) 2008
- CD44 The Setting of Heritage Assets (English Heritage) 2011
- CD45 Good Practice Guide for Local Heritage Listing (English Heritage) 2012
- CD46 Landscape Sensitivity and Capacity Assessment (Halcrow Group Limited) September 2010
- CD47 Banbury Landscape Sensitivity and Capacity Assessment (WYG) September 2013
- CD48 Banbury Environmental Baseline Report (LDA Design) September 2013
- CD49 Banbury Green Buffer Report (LDA Design) September 2013
- CD50 Banbury Analysis of Potential for Strategic Development (LDA Design) September 2013
- CD51 Strategic Housing Land Availability Assessment (Peter Brett Associates) October 2013
- CD52 Annual Monitoring Report 2013 (CDC) December 2013
- CD53 Local Heritage Assets Overview and Guidance (CDC) 2014
- CD54 Design and Conservation Strategy for Cherwell 2012-2015 (CDC) 2012
- CD55 Appeal Decision at Land south of Milton Road, Bloxham (2189191)
- CD56 Appeal Decision at The Green, Chesterton (2183183)
- CD57 Appeal Decision at Barford Road, Bloxham (2189896)
- CD58 Appeal Decision at Land west of Warwick Road (2203995)
- CD59 Appeal Decision at Land to the south west of Tadmarton Road (2204000)
- CD60 Appeal Decision at Land east of Bloxham Road (2178521)
- CD61 Appeal Decision at Land North of Gaveston Gardens (2201339)
- CD62 Appeal Decision at Land at Station Road, Enslow (2192506)
- CD63 Appeal Decision at Land north of the Bourne, Hook Norton (2184094)
- CD64 Appeal Decision at Ambrosden Court, Merton Road (2206998)
- CD65 Appeal Decision at Land off Fringford Road, Caversfield (2208385)
- CD66 Appeal Decision at Adjoining south of Milton Road, Adderbury (2200827)
- CD67 CDC Section 106 Agreement Regulation 122, Community Infrastructure Levy Regulations 2011 Compliance Statement
- CD68 Illustrative Composite Plan (showing topographical context based on Ordnance Survey Data) Rev A, Drawing no. BMD.187.DRG.007 (BMD) 24.09.14
- CD69 Banbury Landscape Sensitivity and Capacity Assessment Addendum (WYG) August 2014
- CD70 Appeal Decision at Land off Banbury Road, Adderbury (2213263)
- CD71 Schedule of Proposed Main Modifications to the (Submission) Local Plan (Part 1) (CDC) August 2014
- CD72 Schedule of Proposed Main Modifications to the (Submission) Local Plan (Part 2) (CDC) August 2014
- CD73 Strategic Housing Land Availability Assessment Update 2014 (CDC) August 2014: Extract of Appendix E, Site BA365

DOCUMENTS TABLED AT THE INQUIRY

- Doc 1 Appearances for the Appellant
Doc 2 Appearances on behalf of the Local Planning Authority
Doc 3 Undated Planning Obligation
Doc 4 Plan CE.8 - Aerial view of the appeal site based on 3D model used for the photomontages of Mr Enderby (Drawing No 319/08) (AID1)
Doc 5 Plan CE.9 Development Framework Plan (No BMD.187.DR.003B) showing 140m contour relative to the appeal site and the adjacent Banner Homes site based on topographical surveys (AID2)
Doc 6 Photograph comparison (Rev A) (AID 4)
Doc 7 Comparative table based on Mr Askew's Assessment (based on the WYG Landscape Sensitivity and Capacity Assessment) and Mr Enderby's Assessment as set out in his proof at Appendix 7(rev B) (AID5)
Doc 8 Comparative Landscape and Visual Effects Tables (AID6)
Doc 9 Summary of the key obligations secured by the S106 Agreement (AID7)
Doc 10 Opening submissions for the Appellant
Doc 11 Opening remarks for the Local Planning Authority
Doc 12 Council's Supplementary Planning Document on Planning Obligations (July 2011)
Doc 13 Extract from the Hedgerow Regulations 1997
Doc 14 Plan CE.10 Development Framework Plan (No BMD.187.DR.003B) showing the 136m and 140m contours relative to the development proposed on the appeal site and the adjacent Banner Homes site based on topographical surveys (AID3)
Doc 15 Note submitted by the Council in relation to the rationale for the selection of site 109 for assessment following suspension of the Examination into the SLP (see also Docs 18 and 18A)
Doc 16 Policy H2 of the Banbury Local Plan Review Consultative Draft May 1989; a copy of the Decision Notice relating to residential development on land off Bloxham Road (No CHN.181/91) and subsequent appeal decision (APP/C3105/A/92/200925)
Doc 17 Appellant's objections to the Cherwell Local Plan Submission
Doc 18 Cherwell Local Plan Submission SA Addendum for Main Modifications (October 2014)
Doc 18A Cherwell Local Plan Submission SA Addendum for Main Modifications (October 2014) Appendices part 2- Appendix 5-8
Doc 19 Additional/revised suggested conditions
Doc 20 Letter from PJC Consultancy (12 November 2014) following assessment of the hedgerow that cross the appeal site
Doc 21 Extract from the Cherwell Local Plan Submission January 2014
Doc 22 Copy of Policy ESD 16 of the Submission Cherwell Plan
Doc 23 Email (13 November 2014) in relation Banner Homes and the company's commitment to implement the extant planning permission on land adjacent to the appeal site.
Doc 24 Details on improvements required to the Willy Freund Centre
Doc 25 Outline of Closing on behalf of the Local Planning Authority
Doc 26 Closing Submissions on behalf of the Appellant

DOCUMENT SUBMITTED AFTER THE INQUIRY

- Doc 27 Signed and dated Planning Obligation