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## Appeal Decision

Inquiry held on 14, 15, 16 and 21 October 2014

Site visits made on 13 and 20 October 2014

**by Neil Pope BA (Hons) MRTPI**

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

**Decision date: 18 December 2014**

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**Appeal Ref: APP/D3125/A/14/2213853**

**Land at West End Farm, off Churchill Road, Chipping Norton, Oxfordshire.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Sharba Homes (OP) Limited against the decision of West Oxfordshire District Council [LPA].
  - The application Ref.13/1223/P/FP, dated 28/8/13, was refused by notice dated 3/12/13.
  - The development proposed is the erection of a total of 60 market and affordable dwellings with new vehicular access, open space and other associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. At the Inquiry the appellant submitted a planning obligation under the provisions of section 106 of the above Act. This includes provision for 30 of the proposed dwellings to be made available as affordable housing units, as well as financial contributions towards infrastructure.
3. The main parties agree that the planning obligation accords with the provisions of paragraph 204 of the National Planning Policy Framework ('the Framework')<sup>1</sup> and Regulation 122 of the Community Infrastructure Regulations 2010 (CIL). The LPA informed me that the obligation overcame its fourth reason for refusal.
4. The LPA also informed me that it was unable to demonstrate five years worth of housing as required by paragraph 47 of 'the Framework'. As a consequence, it accepted that the relevant policies in the development plan for the supply of housing should not be considered up-to-date.

### Main Issue

5. Whether the benefits of the scheme, including the provision of dwellings that would assist in addressing the shortfall in the supply of deliverable housing sites within the district and its contribution towards meeting the housing needs of the community, would outweigh any harmful impacts, having particular regard to the likely effects upon: the Cotswolds Area of Outstanding Natural Beauty (AONB) and the setting of Chipping Norton; the Chipping Norton Conservation Area (CA) and; the setting of the Grade II\* listed Bliss Mill.

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<sup>1</sup> 'The Framework' is an important material consideration which has, at its heart, a presumption in favour of sustainable development.

## Reasons

6. The appeal site comprises a large field (about 3.1 ha) with some hedgerow boundaries. This parcel of rough pasture lies to the north of Churchill Road (B4450) and is part way up a broadly north facing valley within the AONB and CA. With neighbouring agricultural land the site forms part of a mosaic of fields on the western edge of Chipping Norton. There is residential development to the east (Tilsley Road) and on the opposite side of the B4450 (Cornish Road), whilst to the north and west there is open countryside.
7. The local landmark building at Bliss Mill is situated in the valley bottom to the north of the site with Chipping Norton Common (CNC) and the A44 beyond. Parts of this 3.1 ha field can be seen from sections of the public rights of way that bisect the countryside to the north and west, including CNC. In addition, the site can be glimpsed from the B4450 to the west and is visible in distant views, such as those from Cornwell Holt to the north west.

### *Planning Policy and Other Documents*

8. The development plan includes the 'saved' policies of the West Oxfordshire Local Plan (LP) which was adopted in 2006. The LP was intended to control the use and development of land over the period 1996-2011.
9. My attention has been drawn to numerous LP policies, including H7. This permits new dwellings within the Service Centre of Chipping Norton where, amongst other things, it would not extend the settlement into the open countryside. The proposal would be at odds with the provisions of this policy.
10. However, LP policy H7 relates to the supply of housing. I therefore concur with paragraph 5.28 of the Statement of Common Ground that has been agreed by the appellant and the LPA. This states that paragraph 49 of 'the Framework' is engaged and the Council's housing land supply policies, including LP policies H5-H7, are to be regarded as being out of date and of limited weight.
11. I have also taken into account other LP policies that have been referred to in the evidence. Of these, the most relevant to the determination of this appeal are: NE3 (local landscape character); NE4 (AONB); BE2 (development standards/quality); BE5 (conservation areas) and; BE8 (settings of listed buildings). These lack the 'cost-benefit' analysis set out within 'the Framework' but are otherwise broadly consistent with section 11 (NE3 and NE4), section 6 (BE2) and section 12 (BE5 and BE8) of 'the Framework'.
12. In October 2012 the West Oxfordshire Draft Local Plan (draft LP) was published for consultation. (A consultation document in respect of housing was produced in July 2014.) The draft LP is at an early stage and is not relied upon by the LPA. It is not determinative to the outcome of this appeal. However, some of the evidence base, including the 2014 Oxfordshire Strategic Housing Market Assessment (SHMA), the 2014 West Oxfordshire Strategic Housing Land Availability Assessment (SHLAA) and various landscape assessments can be given moderate weight in this appeal.
13. The most relevant landscape assessments are the 2004 Cotswold AONB Landscape Character Assessment (CLCA), the West Oxfordshire Landscape

Assessment<sup>2</sup> (WOLA) and the Chipping Norton Landscape Assessment 2009 (CNLA). The CNLA updates and expands the WOLA.

14. The Cotswolds AONB Management Plan 2013-2018 (MP) was published by the Cotswolds Conservation Board in 2013. Amongst other things, the MP sets out the Board's objectives and policies<sup>3</sup> for this five year period, as well identifying the special qualities<sup>4</sup> of the Cotswolds. The MP has been subject to a process of consultation. Whilst it does not form part of the development plan it can be given significant weight in this appeal. I also note the duty under section 85(1) of the Countryside and Rights of Way Act 2000, wherein regard must be given to the purpose of conserving and enhancing the natural beauty of the AONB.
15. In 2013, and after a process of public consultation, the LPA adopted the Chipping Norton Conservation Area Character Appraisal (CACA). This describes the special interest and quality of the area and sets out proposals for preservation and enhancement. I agree with the appellant's planning witness that the CACA should be given significant weight in determining this appeal.
16. A Neighbourhood Plan is being prepared for Chipping Norton. However, this has not reached an advanced stage and my attention has not been drawn to any policies. This plan is not determinative to this appeal.
17. Whilst not planning policy, I have taken into account the Government's Planning Practice Guidelines (PPG) and various publications by English Heritage (EH) that have been drawn to my attention, including 'The Setting of Heritage Assets' (2011).

#### *Benefits and Housing Land Supply (HLS)*

18. It has been held<sup>5</sup> that where, as in this instance, the housing supply policies of the development plan are not up-to-date the full objectively assessed needs (FOAN or 'policy off' figure) for market and affordable housing should be identified. This is likely to be different to the housing requirement figure that may be adopted by the LPA following an Examination of the emerging LP and where policy considerations, such as AONB constraints, have been taken into account to determine the actual housing target for the area ('policy on').
19. Following another ruling<sup>6</sup>, the 'policy off' figure should be calculated using the SHMA. Although the LPA has a generally good record in the delivery of housing, in this instance, and having regard to the advice in the PPG and the need to boost significantly the supply of housing, the 'Sedgefield approach' should be used to calculate housing land supply. Whether reliance is placed on the LPA's figures (just over three years supply) or the appellant's (just over two years supply) there is a considerable shortfall in the supply of housing land within the district. This weighs substantially in favour of granting permission.
20. The proposed development would assist in addressing both the shortfall in housing land supply, as well as contributing towards meeting the needs of

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<sup>2</sup> Approved by the LPA for development control purposes in 1998.

<sup>3</sup> Including: conserving and where possible enhancing the key characteristics, principal elements and special qualities which form the natural beauty of the landscape [LP1]; conserving the historic environment and cultural heritage [HEP1] and; encouraging access and enjoyment of the countryside [EE1].

<sup>4</sup> These include: long-distance views; high architectural quality; accessible landscape for quiet recreation and; historic associations.

<sup>5</sup> Hunston Properties Ltd v Secretary of State for Communities and Local Government and St. Albans City and District Council [2013] EWHC 2678 (Admin)

<sup>6</sup> Gallagher Homes Limited and Lioncourt Homes Limited v Solihull MBC [2014] EWHC 1283 (Admin).

those who are unable to access the local housing market<sup>7</sup>. It would also add to the mix and choice of housing within the area. This further supports the appellant's arguments for approving the scheme.

21. The proposals would create employment during the construction phase and incoming residents would provide some support for local services and facilities. It would have a limited beneficial impact upon the local economy. I note the contents of the 2011 Ministerial Statement 'Planning for Growth' and the duty to foster the economic and social well-being of residents of the AONB.
22. An area of public open space would be provided within the site and there would either be an enhancement to an existing off-site play area or the provision of a new play area for children within the site. These facilities would be available for use by existing residents as well as future occupiers of the scheme.
23. Landscape planting would be undertaken within the site and there would be the potential for a very modest biodiversity enhancement<sup>8</sup>. (I refer to the proposed permissive footpaths, design matters and the claimed landscape and heritage benefits below.)
24. As part of the scheme, the speed limit would be moved further out along Churchill Road reducing road traffic speed in the immediate vicinity of the site. Although there would be an increase in traffic along this section of the road, in all likelihood, there would be a very small overall improvement in highway safety.
25. There is nothing to show that there would be a direct connection between the payment of the New Homes Bonus and the proposed development. Moreover, the Government's 2013 Autumn Statement announced that consultation would take place to withhold payments where planning approvals are made on appeal. The 'direction of travel' therefore indicates that the New Homes Bonus should not be treated as a benefit in appeals. There is nothing to demonstrate how the increased council tax revenue from the scheme would benefit the area.
26. Notwithstanding my doubts in respect of some of the claimed benefits, overall, the range of benefits that would be derived from the appeal scheme can be given considerable weight.

#### *AONB and Setting of Chipping Norton*

27. The appeal site and Chipping Norton form part of the 'Farmed Slopes' landscape character type (LCT) and the 'Vale of Moreton Farmed Slopes' landscape character area (LCA) as defined in the CLCA. The key characteristics of this LCT include: the smooth gentle landform with a sense of exposure on some upper slopes and; productive arable and pasture farmland with a strong pattern of hedgerows. Bliss Mill is noted as a significant local landmark.
28. Within the WOLA, the site forms part of the 'Northern Valleys and Ridges' LCA. This area includes a network of valleys and ridges and an intricate patchwork of fields, hedges and woodland. Overall, this LCA has a very attractive and

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<sup>7</sup> The SHLAA states that there is a significant need for affordable housing in the Chipping Norton Sub-Area. I concur with the LPA and appellant that the affordable housing provisions of the planning obligation accord with the provisions of 'the Framework' and the CIL Regulations. I have therefore taken this obligation into account.

<sup>8</sup> Whilst noting the concerns of some neighbouring residents over the loss of wildlife, including the appellant's decision to not inspect a garden pond, there is no cogent evidence to indicate that the scheme would harm the habitat of a protected species or justify reaching a different conclusion/recommendation to the one contained within the Ecological Assessment that accompanied the application.

unspoilt rural character with few detracting features. At a finer grain, the site is within the 'semi-enclosed valleys and ridges' LCT where, amongst other things, a diverse field pattern and strong landscape structure exist.

29. Principal factors identified in the WOLA as threatening the quality of the 'Northern Valleys and Ridges' LCA include the influence of built development around Chipping Norton<sup>9</sup>. In this regard, the landscape and visual characteristics of the land west of the town<sup>10</sup> ('Area A') include: its important contribution to the setting of Chipping Norton; moderate to high intervisibility within the valley and good views in all directions and; a soft urban edge. Within the 'key sensitivities and considerations' the landscape of 'Area A' is identified as being integral to the quality of views with changes likely to be highly visible. The CNLA reiterates the thrust of this and states that within 'Area A' development would not be appropriate.
30. As I saw during my visits, the appeal site forms part of the very attractive countryside to the west of Chipping Norton. Its unspoilt open qualities and hedgerows comprise an integral part of the pleasing patchwork of fields on the valley side and the high quality rural setting to the town. This is particularly evident when seen from CNC and some sections of the public rights of way leading off the Common (Refs. 166/24 and 166/25). These parts of the public domain are popular with residents and visitors and also reveal the important contribution that the site makes to the textural backdrop to Bliss Mill. The site features within this backdrop to Bliss Mill in various published photographs and illustrative material, including some of the above documents.
31. From the B4450, and in contrast to the rather stark appearance of some properties in Cornish Road, the undeveloped 'green' qualities of the site, including the boundary hedgerows/trees, provide an agreeable soft edge to the town and glimpses of Bliss Mill. The site makes a significant contribution to the generally rural appearance of the approach to Chipping Norton from along Churchill Road. In distant views to the north west, the pastoral character of the site and the boundary vegetation set it apart from the urban limits of the town and add to the natural beauty of the landscape. I agree with both main parties that the landscape and visual context of the site is of high sensitivity.
32. There is disagreement between the appellant and LPA as to whether or not the proposals comprise major development which should be considered under the provisions of paragraph 116 of 'the Framework'. The Glossary to 'the Framework' does not define major development and the PPG states that this is a matter for the relevant decision taker taking into account the proposal in question and the local context.
33. Importing the definition of "*major development*" from the Town and Country Planning (Development Management Procedure) (England) Order 2010, as suggested by the Cotswolds Conservation Board, has been held<sup>11</sup> to be inappropriate. I also note that elsewhere<sup>12</sup> in the AONB 39 dwellings were found by the Secretary of State to not comprise major development. However, that finding was made in the particular circumstances of that case.

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<sup>9</sup> Much of the town is included within the AONB.

<sup>10</sup> Including the appeal site.

<sup>11</sup> R (on the application of Aston) v Secretary of State for Communities and Local Government [2013] EWHC 1936 (Admin) and R (on the application of The Forge Field Society, Martin Barraud and Robert Rees) v Sevenoaks District Council [2014] EWHC 1895 (Admin).

<sup>12</sup> APP/F1610/A/12/2173305.

34. In my opinion, matters such as scale and character or nature are relevant to the consideration of major development. Depending on the context of a site, 60 dwellings with associated roads and other works may not amount to major development. In this regard, the appeal site is immediately adjacent to a main town and some housing that also lies within the AONB.
35. I note the appellant's argument that the proposal would represent a 2% increase in the overall stock of housing<sup>13</sup> in Chipping Norton, would be well designed and in scale with adjacent housing and the draft LP suggests larger housing schemes in the AONB. However, the proposal before me would be: built on a field that is clearly beyond the existing built-up limits of the town; about half way up the side of a valley and; irrespective of its AONB status, is in a part of the countryside that is of high sensitivity. Although finely balanced, taking into account the proposal and the local context, the scheme comprises major development to which paragraph 116 of 'the Framework' applies.
36. The proposals were accompanied by a detailed Landscape and Visual Impact Assessment (LVIA) and separate Design and Access Statement (DAS). I understand that the scheme has been formulated as a result of a landscape and heritage led approach. The LPA has not raised any objections to the design or layout of the proposed development.
37. The new buildings would be sited on the higher-lying landform (above the 172 metre contour) to reflect existing built form. The tree-lined frontage to Churchill Road would be retained with the dwellings following the established building line. The new access road would provide a view across the site towards Bliss Mill and the houses on the western edge would be designed to create a farmstead appearance. This new estate would include a series of landscaped open spaces and permissive paths across some adjoining farmland. The dwellings would be mainly two storeys with variation in the eaves heights. The external walls of the buildings would be a mix of natural stone and render with some brick. The roofs would comprise blue slate and artificial stone.
38. The appellant's architect has a very good local reputation and has given thoughtful consideration to the design and layout. As required by established planning policies relating to the AONB and conservation areas, the scheme would be designed to a high standard and would accord with aspects of LP policy BE2. However, it would not reach the high bar of excellence that would enable me to concur with the appellant's assertion that the proposals amount to outstanding design. Whilst the appellant has drawn my attention to paragraph 63 of 'the Framework' it is not lost on me that there was no reference to this within the DAS. Instead, that document, which was intended to inform the LPA and others, states that the development would accord with the principles of high quality design and best practice. In this instance, it would be inappropriate to afford great weight to the proposed design.
39. The proposals would introduce development across the site. Whilst hedgerows and some open space would be retained and new landscape planting would be undertaken, the development would considerably diminish the unspoilt open qualities of the site. This area of pasture, which is read as part of the countryside rather than the urban area, would be largely extinguished. The

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<sup>13</sup> On behalf of the appellant, I was informed that a scheme of over 100 dwellings would be major development. This would amount to about a 3.3% increase in the stock of housing in the town. I am unconvinced of the merits of the appellant's argument regarding the quantum of housing/major development in the AONB.

new buildings and estate road would erode the pattern of fields immediately to the west of the town and extend the limits of the settlement further west and across the valley side.

40. I agree with the LPA that the LVIA understates the magnitude of effect on landscape character. As a consequence, the significance of effects would be much greater than the appellant's prediction of neutral/slight adverse and slight adverse. The scheme would have a moderate/significant adverse effect on the character of the landscape and would be at odds with LP policy NE3. This harm to the character of the landscape carries considerable weight.
41. The development would be readily visible from many parts of the public realm. Whilst this would not in itself amount to harm, the LVIA and the LPA's landscape evidence reveal that there would be a number of adverse visual impacts. From large parts of CNC, including the area near the brown tourist sign on the A44, which are used by 'high sensitivity visual receptors', many of the new dwellings would be conspicuous on the valley side above Bliss Mill.
42. Notwithstanding the proposed landscape planting<sup>14</sup> and some properties in the backdrop of Cornish Road, from CNC the proposal would markedly extend the settlement limits along the northern side of the B4450. This unmistakable, major urban encroachment into the surrounding countryside would diminish the pleasing contribution that the patchwork of fields make to the setting of Chipping Norton and considerably detract from the picturesque qualities of the valley. The magnitude of effect would be high and the significance of effect would be major adverse.
43. When seen by high sensitivity receptors using sections of footpath 166/24, the development would appear disconnected from the urban edge of the settlement due to the existing well established vegetation that contains the town. In all likelihood, the scheme would be perceived as an unwelcome residential incursion into the countryside at odds with this attractive and largely unspoilt rural scene. It would comprise a major adverse visual impact.
44. The proposed 'farmhouse units' would be visible in the approach to Chipping Norton from along Churchill Road. The magnitude of effect would be medium. Whilst I have noted above that these units would be designed to a high standard they would comprise new urban elements within a mainly rural scene. By virtue of their form, scale, mass and texture these new dwellings would, to a limited extent, dilute the existing landscape structure. Although the landscape witnesses agreed that this existing approach to the town was "scruffy" it is not unattractive. The development would not reduce the impact of the properties in Cornish Road and the landscaping along the western side of the appeal site would not disguise this extension to the edge of the settlement. The significance of effect would be moderate adverse.
45. The proposed development would also be visible in distant views, including the public right of way at Cornwell Holt to the south of the A436. The scheme would appear as a very small part of this view but would be discernible as an urban extension into the countryside around Chipping Norton. It would detract from the scenic qualities of this view and the natural beauty of the landscape. The proposal would be inconsistent with one of the special qualities of the

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<sup>14</sup> This would take many years to establish and would have a limited impact in softening the appearance of the development especially during the winter months.

AONB and would not relate satisfactorily to its surroundings. In so doing, the development would conflict with the overall thrust of LP policy BE2.

46. During the evenings and at night, lighting from the development would be visible from parts of the surrounding countryside. I note from the appellant's photographs that during these parts of the day existing lighting within the town can be seen from the rural surroundings. The scheme would have a very limited adverse impact upon an appreciation of the night sky and the tranquillity of the area. This lends some small weight to the argument for withholding permission but my decision does not turn on the matter of lighting.
47. Overall, the proposal would have a serious adverse impact upon the character and appearance of this part of the AONB and would detract from the setting of Chipping Norton. It would conflict with the provisions of MP policy LP1. The development plan (LP policy NE4) and 'the Framework' require great weight to be given to conserving landscape and scenic beauty in the AONB and only permit major development in exceptional circumstances and where it can be demonstrated to be in the public interest.
48. Given the shortfall in housing supply there is a need for the proposed market and affordable dwellings locally and a need nationally to boost significantly the supply of housing. I note that elsewhere<sup>15</sup> the Secretary of State has accepted that such need should be taken into account when assessing the public interest. I have also noted above the impact upon the local economy.
49. As assessment of the 2014 SHLAA sites in and around Chipping Norton has been undertaken on behalf of the appellant. This concludes that there is insufficient capacity to deliver the FOAN without releasing sites within the AONB such as the appeal site. The LPA accepts that some land in the AONB may have to be released to meet its housing requirements.
50. Although the appellant's assessment is a detailed report it has been produced for the purposes of the appeal and by the same firm of consultants that have been engaged to secure the release of the appeal site. It is not as dispassionate as the assessments undertaken as part of the evidence base for the draft LP by landscape consultants unconnected with this appeal. I attach more weight to the LPA's assessments.
51. A major option being considered by the LPA as it seeks to address the FOAN is the release of a sizeable area of land adjoining the town and outside the AONB. The LPA is acting appropriately by investigating options for housing growth in and around Chipping Norton. It is very far from certain that the appeal site would be required or that less sensitive sites would not come forward.
52. The detrimental effects upon the character and appearance of the AONB would not be adequately moderated by the proposed mitigation. The new footpaths would increase recreational opportunities and accord with provisions of the MP aimed at encouraging access and enjoyment of the countryside. However, this would not outweigh the serious harm to a part of the landscape which is of national importance in terms of scenic quality and natural beauty. As set out in the CNLA and as argued by the LPA and others, including the Cotswolds Conservation Board, in landscape terms, it would be inappropriate to undertake residential development within this part of the AONB.

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<sup>15</sup> APP/F1610/A/11/2165778



### Conservation Area

53. One of the Core Principles 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. In determining planning applications, paragraph 131 of 'the Framework' includes a requirement for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.
54. Furthermore, paragraph 132 of 'the Framework' states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harm or loss should require clear and convincing justification. There is also a duty<sup>16</sup> to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
55. The CA includes a sizeable part of the town and some of the surrounding countryside, including Bliss Mill which was built by George Woodhouse in 1872. This five storey limestone building with square belvedere staircase towers to the corners and a tall chimney in the form of a Tuscan column is now in use as apartments. As set out in the CACA, it occupies an especially fine and unspoilt landscape setting and is visible in a number of views, including those to/from the A44 and B4450. Some of these views are identified within the CACA.
56. The plan in the CACA also identifies the countryside around Bliss Mill, including CNC and the appeal site, as 'Significant Green Space'. This forms an important part of the landscape setting to Bliss Mill. As noted in the CACA, "*The exceptional quality of the landscape and mill buildings makes this area especially vulnerable to damaging change – both within the landscape setting itself, and within wider areas adjoining this sensitive context.*"
57. The significance of the CA includes the architectural qualities of its many listed and other notable buildings and structures, as well as the historic layout of the town and the pattern of fields and green spaces. The appeal site is integral to this pattern and is part of the surviving field enclosures and agricultural 'fieldscape' around the town. In all likelihood, this field enclosure existed when the current Mill was constructed. It adds to an understanding of the historic context of the Mill and the town and is of historic interest to the CA. Amongst other things, the above noted EH publication identifies the importance of the historic character of the landscape to the significance of heritage assets.
58. The 'Significant Green Space' is a very attractive rural feature within the CA and provides a charming landscape setting to Bliss Mill. It makes an important contribution to the character and appearance of the CA. The proposal would erode the pattern of fields and green spaces within the CA and spoil this field enclosure. From CNC the new buildings would be conspicuous in views of Bliss Mill and, to a limited extent, would diminish the ability to appreciate and understand the historic context of the town and the Mill. This loss of historic association would be inconsistent with another special quality of the AONB.
59. This harm to the historic landscape fabric and appearance of the CA would be less apparent in the more filtered views from the B4450. Nevertheless, some

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<sup>16</sup> Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

of the new buildings would disrupt existing views of the Mill and detract from an appreciation of the historic landscape qualities of the CA. Whilst the scheme would create a view along the new estate road towards Bliss Mill this would be at the expense of existing views and the loss of a field enclosure. There is no convincing evidence to support the argument that this new view would result in significantly greater awareness/appreciation of the Mill or the CA. The proposal would conflict with MP policy HEP1 and LP policy BE5. In the context of 'the Framework' this would amount to less than substantial harm to the CA.

### *Setting of Bliss Mill*

60. In addition to the above noted provisions of 'the Framework', when considering development within the setting of a listed building there is a duty<sup>17</sup> to have special regard to the desirability of preserving the setting of that building.
61. The significance of Bliss Mill lies primarily in its inherent architectural and historic qualities. The appeal site forms part of the surroundings in which this heritage asset is experienced. As set out in the Glossary to 'the Framework', significance for heritage policy derives not only from a heritage asset's physical presence, but also from its setting.
62. The appellant and the LPA agree that the reference to "park-like" setting in the List Entry description for Bliss Mill is inappropriate. Whilst my decision does not turn on this matter, I disagree. CNC also forms part of the setting to this listed building and the avenue of mature trees adjacent to the A44, the roadside railings and the expanse of common which is accessible (and well-used) by the public with footpaths leading to/from the wider countryside is akin to a country park. I note that in addition to EH, others have remarked that the Mill "was built to resemble a great house in a park"<sup>18</sup> and "the relationship between the mill and the area of open, park-like regulated pasture to the north (Chipping Norton Common)."<sup>19</sup>
63. As I also noted during my visits, Bliss Mill can be experienced from wide surroundings. Its setting includes both the rural landscape to the west of the town and part of the town itself. However, the significance of the setting to the Mill is chiefly derived from the countryside and rural backdrop, including CNC and the mosaic of fields which incorporate the appeal site. When considered in isolation the site is not in itself a key element of the setting. However, it forms an integral part of this backdrop, where the unspoilt open qualities greatly enhance the architectural qualities of the Mill. I concur with EH that the site makes a valuable contribution to the setting of the Bliss Mill.
64. EH has carefully considered the role and importance of the rural backdrop to Bliss Mill and has remarked that "*The aesthetic power of the grand mill juxtaposed with idyllic pastoral surroundings is undeniable and one of the defining images of the industrial revolution in Britain.....The way in which the Mill takes its architectural cues from a country house and relates to the landscape in a very similar way obliquely alludes to the way in which industry was replacing land as the basis for wealth and power at the time it was built.*" Whilst the contribution made by the pastoral character of the landscape is fortuitous rather than a designed setting, it does not diminish its importance to

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<sup>17</sup> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>18</sup> 'The Buildings of England: Oxfordshire' (*Part of the Pevsner series*).

<sup>19</sup> Cotswold Archaeology Heritage Statement (August 2013).

the setting of Bliss Mill. I have also found above that the appeal site adds to an understanding of the historic context of the Mill.

65. I have already found that the loss of the appeal site as a field enclosure would diminish the ability to appreciate and understand the historic context of Bliss Mill. In addition, from CNC the perception of the proposal would be an outward extension of the town towards this listed building. The stretched-out limits of the urban area would intrude into a key view and disrupt the mosaic of fields. The new buildings and roads would harmfully alter the textural backdrop to Bliss Mill and mar the attractive, unspoilt qualities of the landscape setting to a building which is particularly important and of more than special interest. To a lesser extent the development would also detract from views along the B4450. For the reasons set out above, this harmful impact would not be off-set by the proposed view of the Mill through the new estate.
66. Although the scheme would result in much harm to the setting of Bliss Mill, I agree with EH that having regard to the advice in the PPG which states that substantial harm is a high test which may not arise in many cases, the proposal would not, in the context of 'the Framework', amount to substantial harm. Nevertheless, I also concur with EH that the adverse impacts would be at the upper end of the scale of 'less than substantial harm'. The proposal would conflict with the provisions of LP policy BE8.

#### *Other Matters*

67. The proposals would alter the outlook from some neighbouring properties. However, the new buildings would be sited and designed to avoid any overbearing impact or significant loss of amenity for those living alongside.
68. As noted above, the development would increase the volume of traffic along the B4450. However, there is no cogent evidence to refute the findings in the appellant's Transport Statement that the scheme would be acceptable in traffic and road safety terms. I note that neither the LPA nor the Highway Authority raised any such objections. Whilst I acknowledge that those already living alongside are likely to be very familiar with local traffic conditions, withholding permission on highway/transport grounds would not be justified.
69. The Agricultural Statements supplied on behalf of the appellant indicate that the proposed loss of Grade 3b agricultural land would be unlikely to have any significant impact upon food production or the agricultural industry.
70. I note the criticisms of aspects of the proposed design and layout by the Crime Prevention Design Advisor for the local constabulary. I do not set these concerns aside lightly. However, I concur with the LPA and the appellant that some of these concerns could be addressed during the construction stage whilst others would be likely to diminish the 'aesthetic qualities' of the scheme and result in a design which would not reflect local distinctiveness in the built environment.
71. I note the findings of the Secretary of State and some Inspectors in the numerous planning/appeal decisions and reports that have been drawn to my attention. The circumstances of these other cases are different to the one before me. Each case must be determined on its own merits and these other decisions do not set a precedent that I must follow.

72. The appellant has drawn my attention to some comments made in support of the proposals at the pre-application stage. However, I note from the officer's report to committee that after the application was submitted many letters of objection were received and there were no letters of support. The Town Council and a neighbouring parish council also objected and a representative from the Town Council gave evidence at the Inquiry. Letters of support or objection are not in themselves grounds for granting or withholding permission. From all that I have heard and read, it appears to me that there is more local opposition to the scheme than there is support. As I have found above, there is substance to some of these local concerns.

*Planning Balance/Overall Conclusion*

73. The LPA does not have a five year supply of deliverable housing sites and the development plan policies for the supply of housing are out-of-date. The conflict with LP policy H7 would not therefore be a sound basis for withholding permission. However, there would also be conflict with other LP policies. The proposals would not protect and enhance the natural and built environment and there is no cogent evidence to demonstrate that releasing this site for housing would have the least adverse impact upon the character and appearance of the area. The scheme conflicts with the overall thrust of the development plan.
74. I have also found that the proposals would comprise major development within an AONB and would cause harm to designated heritage assets. As a result, footnote 9 of 'the Framework' is triggered and the special emphasis in the presumption in favour of sustainable does not apply. In this instance, specific policies in 'the Framework' indicate that development should be restricted.
75. The benefits of the scheme carry considerable weight. Mindful of the relevant duties regarding heritage assets and the ruling in Barnwell Manor Wind Energy Limited v East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137, considerable importance and weight must be given to the desirability of preserving the setting of a listed building when carrying out the planning balance. Less than substantial harm does not equate to a less than substantial planning objection. There is a presumption that preservation is desirable. When weighed together, the public benefits of the scheme do not outweigh the harm to the CA and the setting of Bliss Mill that I have identified.
76. When the adverse impacts upon the AONB are included within the planning balance and regard is given to the purpose of conserving and enhancing the natural beauty of this designated landscape, there are very strong grounds for withholding permission. The proposal would fail to preserve or enhance the character or appearance of the CA, would harm the qualities of a nationally important landscape and mar the setting of a Grade II\* listed building. In the context of 'the Framework' as a whole, the scheme would be at odds with the environmental dimension to sustainable development.
77. Given all of the above, the benefits of the scheme would not outweigh the harmful impacts. I therefore conclude that the appeal should not succeed.

*Neil Pope*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr G Keen of Counsel	Instructed by the Head of Legal Services, West Oxfordshire District Council
He called	
Mr S Wilson BA (Hons), DipLA	Director, Portus and Whitton Landscape Architects
Mr J Chatwin	Design and Conservation Officer
Mr C Wood BA, DipTP	Senior Planning Appeals Officer

### FOR THE APPELLANT:

Mr J Cahill QC	Instructed by Mr A C Bateman, Pegasus Group
He called	
Mr J Peachey BSc (Hons), MLD, CMLI	Landscape Design Director, Pegasus Group
Mr M Carr BA (Hons), DipLA, MA/PG, DipUD	Director, Urban Design and Masterplanning, Pegasus Group
Mr R Morton BA (Hons), MIfA	Principal Heritage Consultant, Cotswold Archaeology
Mr A C Bateman BA (Hons), TP MRICS, MRTPI, MCMI, MIOB, FRSA	Managing Director, Pegasus Group

### INTERESTED PERSONS:

Mr R Peats BA, MA	Inspector of Historic Buildings and Areas, English Heritage South East ( <i>Introduced by Ms B Harries, Legal Advisor, English Heritage.</i> )
Mr S Cooper	Local Resident
Cllr M Tysoe	Mayor of Chipping Norton, Chipping Norton Town Council
Mr T Hodkinson	Local Resident
Mr L Kemmett	Local Resident
Mr I Prosser	Oxfordshire County Council ( <i>S106 contributions</i> )
Mr D Taylor	Oxfordshire County Council ( <i>S106 contributions</i> )

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	The appellant's Opening Submissions
Document 2	The LPA's Opening Submissions
Document 3	Bundle of appeal decisions and Judgements
Document 4	LPA Interim Position Statement on Housing Land Supply September 2014
Document 5	Housing Land Supply – Comparisons
Document 6	An Analysis of West Oxfordshire's Future Housing Requirement (2011-2029)
Document 7	Inspector's Report – Reigate & Banstead Core Strategy Local Plan
Document 8	Application decision ref. S62A/2014/0001 – Blaby
Document 9	Letter dated 23 June 2013 from Nick Boles MP to David Cameron MP
Document 10	Correction to paragraph 4.24 of Mr Wilson's proof of evidence
Document 11	Cllr Tysoe's Statement
Document 12	Mr Wilson's photographs showing the appeal site edged red
Document 13	Photomontages of the appeal scheme
Document 14	Revised Housing Land Supply Tables
Document 15	Mr Bateman's Note regarding C2 Use Class
Document 16	Amended Appendix C to Mr Chatwin's proof of evidence
Document 17	LP Aims and Objectives
Document 18	Oxfordshire Strategic Housing Market Assessment (extracts)
Document 19	Appendix 11 to Mr Wood's proof of evidence
Document 20	Email to Mr Wood's dated 15/10/14 – Curbridge developers
Document 21	Email to Mr Wood dated 15/10/14 – Housing Need in Chipping Norton
Document 22	Correspondence between the appellant and the LPA in respect of permissive paths, including copy of deed with OC Colston Limited.
Document 23	Updated housing tables from Mr Bateman
Document 24	List of planning benefits
Document 25	Route of permissive footpaths for the Inspector's site visit
Document 26	Suggested planning conditions
Document 27	Email from the LPA to the appellant dated 31/10/13
Document 28	Extracts from the CNLA
Document 29	High Court ruling in Colman v Secretary of State DCLG 2013
Document 30	LP policy TLC7 (Provision for Public Art)
Document 31	Email dated 20/10/14 from Laws and Fiennes
Document 32	Definitive Conservation Area boundary map
Document 33	Inspectors Report-APP/H1840/A/13/2199085 and 2199426
Document 34	Completed S106 Planning Obligation
Document 35	LPA's Closing Submissions
Document 36	The appellant's Closing Submissions