



Appeal Decision

Inquiry held on 18, 19, 20 and 23 March 2015

Site visit made on 20 March 2015

by **P W Clark MA MRTPI MCI**

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

Decision date: 02 June 2015

Appeal Ref: **APP/Q3115/A/14/2222595** **Land north of Littleworth Road, Benson**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by RJ & S Styles against South Oxfordshire District Council.
 - The application Ref P14/S0673/FUL, is dated 5 March 2014.
 - The development proposed is for (1) the erection of 125 dwellings with associated access, open space and landscaping and (2) 41 retirement flats and 11 retirement bungalows with associated parking and car share facilities.
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Procedural matter

1. As originally submitted the application included a third component; (3) Football pitch, adventure play park, skatepark, burial ground, allotment and nature park. By e-mail dated 24 March 2014 and confirmed by e-mail dated 31 March 2014, while the application was still within the Council's jurisdiction, the application was amended to delete this element and to amend the red line boundary of the site so as to exclude the area intended for the development of this component. The Council continued with the application on this basis.
2. By letter dated 28 January 2015, the appellant requested that the appeal be determined on the basis of an amended scheme. This is described as (1) the erection of 107 dwellings with associated access, open space and landscaping; (2) 41 retirement flats and 11 retirement bungalows with associated parking. Evidence was provided that the appellant consulted on this amendment to the same extent as the Council's previous consultation on the original application.
3. Although the period given for comment was no more than the statutory minimum and, as is inevitable in any mass communication, individual notifications may have gone astray or been mistaken for junk mail, it is clear from the presentation of evidence to the Inquiry that those who might be expected to be interested were fully aware of the amended scheme and were able to present well-considered comment on it. The council agrees that the revised description, amended plans and supporting material should be the subject of this appeal. The amendments are substantial, not minor, but I am satisfied that nobody would be prejudiced if I were to base my decision on the amended scheme, which is what I have done. A condition makes clear which are the approved plans.

Decision

4. The appeal is allowed and planning permission is granted for (1) the erection of 107 dwellings with associated access, open space and landscaping; (2) 41 retirement flats and 11 retirement bungalows with associated parking on Land north of Littleworth Road, Benson in accordance with the terms of the application, Ref P14/S0673/FUL, dated 5 March 2014 and amended 24 March 2014 and 28 January 2015, subject to the twenty-two conditions appended to this decision.

Main Issues

5. There are three. They are the effects of the proposal on;
 - The character and appearance of the area in terms of;
 - (a) the relationship between Benson and its surrounding countryside
 - (b) the nature of the development itself and
 - (c) the character and appearance of the adjacent conservation area
 - Highway Safety
 - The supply of housing
6. Two other issues fell away following the signing of a section 106 agreement. These concerned the effects of the proposal on local services and facilities and on the supply of affordable housing and housing of particular types and sizes.

Reasons

Housing supply

7. Policy CSH1 of the South Oxfordshire Core Strategy 2027, adopted in December 2012 provides that planning permission will be granted to meet housing requirements of 5,214 dwellings by 2027, divided between 2330 on two strategic allocations in and around Didcot and 2884 in the rest of the District. Benson is specifically mentioned in this context. The allocations in the rest of the District were to be made in a Site Allocations DPD but this has not yet happened. Although the current Local Plan 2031 Refined Options document published in February 2015 canvasses an allocation of 125 dwellings to Benson and shortlists a number of sites including the appeal site, that is not an adopted Development Plan. In response to my question asking what the Development Plan says about where the homes would go, the Council's witness at the Inquiry accepted that the Development Plan is silent.
8. Paragraph 14 of the National Planning Policy Framework (NPPF or Framework) advises that at its heart is a presumption in favour of sustainable development. For decision-taking this means that where the development plan is silent, planning permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or if specific policies in the Framework indicate that development should be restricted.
9. Similarly, National Planning Practice Guidance (Guidance) advises that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of

granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Although in this case, the development proposed is substantial and might well predetermine a decision in the emerging Local Plan about the scale or location of new development in Benson, the draft Local Plan has yet to be submitted for examination. In such a case, Guidance advises that refusal of planning permission on grounds of prematurity will seldom be justified.

10. The development plan is silent on the question of the allocation of dwellings in the rest of the District and there is no suggestion in policy that development should be limited to the overall housing requirements of the District. Consequently, I do not need to consider further the questions, which were hotly debated between the main parties, of whether the relevant policies for the supply of housing should be considered up to date (because they ultimately derive from the now abolished South East Plan rather than a more recent Strategic Housing Market Appraisal) or whether the Council can or cannot demonstrate a five-year supply of deliverable housing sites. As the appellant's advocate comments, these questions are relatively academic. I simply follow the advice set out in paragraph 14 of the NPPF and turn to consider the adverse impacts of the proposal and its benefits, against the policies in the Framework and the other relevant policies of the development plan so far as they are consistent with the Framework.
11. Paragraph 17 of the NPPF sets out twelve core planning principles. The third, fourth, fifth, tenth and eleventh of these endorse the matters which are set out in the issues identified above. In relation to housing supply, I simply note that the parties are agreed that Benson is a sustainable location, that at least 125 dwellings should be developed there, that no extant permissions exist for 125 dwellings in Benson and that the mix of dwellings proposed is acceptable. The proposition that the proposal would boost the supply of housing is not disputed. Nor is there any disagreement over the evidence provided of the need for affordable homes or for retirement homes, or over the short-term economic benefits of providing work for construction employees, or over the longer-term beneficial impacts of residents' expenditure on local goods and services in the village. As the Council's advocate notes, the Council accepts that there is a need for housing, including affordable housing and provision for the elderly and that the development's contribution in this regard can be given significant weight.
12. I conclude that the effects of the proposal on the supply of housing would be beneficial. It would comply with Core Strategy policies CSS1 and CSH1 by supporting Benson as a local service centre. Although it does not accord with policy CSR1 which would allow housing in Benson where allocated or as infill, that policy is overridden by the silence of the plan on the matter of allocations.

Highway Safety

13. The development would derive its access from Littleworth Road. That is a country lane of varying but moderate width, lacking a footway but directly serving approximately 30 dwellings and a scout hut on its south side and agricultural land on its north. Its use by vehicles is currently limited to movement in one direction only, from west to east.

14. Secured by provisions in a s106 agreement, the proposal would widen Littleworth Road for most of its length, excepting a short distance at its eastern extremity which would remain single track. It would add a footway on its south side. It would include speed humps to limit vehicle speeds on its relatively straight alignment. Most controversially, Littleworth Road would revert to two-way traffic.
15. At its western end it would be realigned and a mini-roundabout junction would be formed with Oxford Road and Churchfields Lane. A pedestrian crossing would be provided on Oxford Road to its north.
16. At its eastern end, the s106 agreement would provide for two options. One would leave unaltered the present complicated junction between Littleworth Road, Sunnyside, Watlington Road and Chapel Lane. This has an accident record. The other option would realign and rationalise it so that Sunnyside gave onto Littleworth Road by a T junction and the junction of Littleworth Road with Watlington Road would become a single T junction at more of a right angle and forming a staggered crossroads with Chapel Lane. A pedestrian crossing of Watlington Road would be provided to the east.
17. The effect of the proposals would be more than a doubling of the flow of traffic on Littleworth Road, from peak hour flows of 113 (a.m.) and 108 (p.m) to 275 (a.m.) and 259 (p.m.). The development proposed would generate about one-third of the increased traffic; the reversion to two-way working would generate about two-thirds of the increase. Yet even so, the road, its junctions and its single track section would have more than ample capacity to take the traffic, even after allowing for distortions in the forecasts caused by the inclusion of statistics relating to car ownership rates and journey to work patterns of RAF Benson in the base data used.
18. Although Oxfordshire County Council raised no objection to the proposal, it considered it very undesirable that the revised masterplan shows twelve properties taking access directly from Littleworth Road. In ten cases this would be without room to turn on site, so vehicles would need to reverse on to or off Littleworth Road. Others raised concern that the thirty or so properties which already accessed Littleworth Road in this way would have to do so in the face of increased traffic levels; some in the single lane section of the road.
19. Yet even the increased flow of traffic on Littleworth Road which would result from the proposals would be below that which the government's Manual for Streets (paragraph 7.9.3) describes as a relatively low limit on traffic flow (300 vehicles in the peak hour) historically used when deciding whether direct frontage access to a street was acceptable. Manual for Streets advises that links with direct frontage access can be designed for significantly higher traffic flows than have been used in the past and there is good evidence to raise this threshold to about 10,000 vehicles per day (approximately equivalent to 1,000 vehicles in a peak hour, or nearly four times as many as are expected on Littleworth Road). The appellant points out that the introduction of a two metre footway on the south side of Littleworth Road will make space for any emerging vehicle to be visible to oncoming traffic. This would be a safety feature which is not provided in the present situation and one which I therefore regard as a benefit of the proposal.
20. Residents from the proposed development accessing the local school or village centre on foot would need to cross Littleworth Road. Paragraph 4.2.2 of the

appellant's Transport Assessment recommends that a raised pedestrian crossing be provided across Littleworth Road at the point where footpath 125/13 provides a pedestrian link to the school and village centre. This can be required by condition.

21. The proposal would also provide for improved pedestrian crossings of Oxford Road and Watlington Road at either end of Littleworth Road. Although I am not convinced that either of these would be placed on natural pedestrian desire lines, the configuration of the junction at Watlington Road precludes on safety grounds any more convenient position. Even if not placed precisely where pedestrians would wish to walk, both offer improvements to safety for the less foolhardy and so I regard them as benefits of the proposal.
22. The present route of the B4009 through Benson is indirect. From east to west it follows the Watlington Road into Castle Square and then the Oxford Road to a roundabout junction with the A4074, passing the entrance to the local primary school on the way. Littleworth Road provides a more direct route, avoiding the Castle Square junction and the school entrance but only operates west to east at present.
23. Paragraph 6.6.2 of the appellant's Transport Assessment points out that there is currently no signing at the Watlington Road junction. There would be little point because access to Littleworth Road is currently denied from that direction. It is proposed to provide signing towards the A4074 and nearby villages. Although not designed as a bypass to Benson, this, together with the reintroduction of two-way working would have that effect in practice.
24. Between Littleworth Road and Castle Square, Watlington Road is substandard in width and alignment. It offers only a very narrow footpath on one side. As Annex F to the Benson Parish Plan dated 30 September 2004 and figure 3.1 of the appellant's Transport Assessment show, it has an accident record. In response to a question, the appellant's highway expert commented that Littleworth Road would offer a safer route through Benson than the existing route of the B4009. I agree and so regard this realigned and re-engineered road as a benefit to be derived from the proposal.
25. I conclude that the effects of the proposal on highway safety would be beneficial. In that respect, it would accord with Core Strategy Policies CSI1 which requires development to be served by appropriate on and off-site infrastructure and CSM1 which seeks to ensure that the impact of new development on the local road network is adequately mitigated and which supports measures which increase safety.

Character and appearance

Benson and its surroundings

26. Although the appellant makes reference to the Oxfordshire Wildlife and Landscape Study of 2004 and the Council makes use of the South Oxfordshire Landscape Assessment carried out in 1998, their findings are little different. Benson is set in a landscape type described as flat open farmland or terrace farmland. It is characterised by flat, low-lying farmland, a large-scale regularly-shaped field pattern of predominantly arable land with a distinctive network of drainage ditches and a weak landscape structure with few trees, low or gappy hedges, open ditches and fences. These characteristics are largely

- manifest in or around the site except to the west, beyond the site boundary, where a stream, rather than a drainage ditch, follows a less regular route.
27. The site displays characteristics typical of its landscape type. The development proposed would result in the physical loss of a small part of that landscape. It would therefore be contrary to saved policy G4 of the South Oxfordshire Local Plan 2011 which seeks to protect the countryside for its own sake and would not permit new built development in the countryside on the edge of settlements.
 28. The open, denuded landscape is reported to result in high intervisibility. The appellant was asked to pay particular attention to views from the Wittenham Clumps and the Sinodun Hills in carrying out a Landscape and Visual Impact Assessment. The Council agrees that the results show that the site is too far away to be distinguishable from the general appearance of Benson in the view.
 29. Tithe maps of the area before the agricultural land was enclosed show that the appeal site comprises parts of two fields. The boundary between these was the track which presently runs across the site from Littleworth Road in a north-westerly direction towards agricultural silos and sheds beyond the boundary of the site. This track still remains as a feature in a landscape which, as the landscape analyses show, largely lacks many features.
 30. In response to a question, the appellant's landscape adviser accepted that cognisance of existing boundaries would be a factor to take into account in drawing up the development proposal. The layout of the appeal proposal would erase the historic track and boundary within the site. The boundary proposed for the development would cut across the historic boundary and so would appear arbitrary. Yet there is no information to show that this is of any special significance or value. The proposed boundary of the site would appear arbitrary and unrelated to historic landscape features but the nature of the landscape is that it has a weak structure.
 31. The same tithe maps show that the development of the village hall and its surrounding open space, Sunnyside and The Close all took place on land which was once part of the same field as the eastern part of the site. That may explain why the site is separated from Sunnyside by a variety of rear garden fences rather than a hedgerow and which gives the existing boundary between that part of Benson and its surrounding agricultural land a somewhat abrupt, even arbitrary, appearance.
 32. From Littleworth Road, the boundary between Benson and its surroundings is formed by a hedgerow. This would be removed for the development to take place but the site would be surrounded by a new hedgerow (which could be secured by condition 18). This would provide a more defined boundary between Benson and its surrounding countryside than that provided by the rear boundary fences of the Sunnyside properties and would provide an adequate substitute for the hedge removed from Littleworth Road.
 33. Although it might be preferable to show respect to such features as there are, the existing track dividing the fields is such a weak feature, not even observed or noted in any party's analysis, that its loss would be of little consequence. It cannot be said to be an important local landscape feature contributing to the visual and historic character and appearance of a settlement and so I do not regard its loss as contrary to local plan policies C4 or C9 which would not

permit developments damaging or losing such features. Existing parts of Benson, such as Sunnyside, display similarly arbitrary boundaries not following historic features, so it cannot be said that the present proposal does not follow established precedent.

34. The advice of the Council's Oxfordshire Landscape Assessment is that development within visually exposed landscape such as the open flat farmland of the floodplain will be highly prominent unless closely associated with existing built form or well integrated within new landscape frameworks. It recommends the creation of strong landscape edges to reduce the urbanising effects of development. The proposal would be closely associated on two sides with the existing built form of Benson; it would have a new landscape framework of its own, including strong landscape edges. It would follow the Council's own advice and so would result in an acceptable effect on the relationship between Benson and its surroundings in accordance with local plan policy G2 which seeks to protect the district's countryside and settlements from adverse developments.

The nature of the development itself

35. The meaning of the Council's third revised putative reason for refusal became clear during the Inquiry. It is accepted that details on the level and form of the public open space and sustainable drainage provision could be provided through conditions. In the event, the criticisms of the development within itself turned out to be;

- That, unlike the historic village, the houses would have front gardens and parking spaces
- That, unlike the historic village, the houses would have identical roof pitches
- That the circulation is convoluted in places
- That it fails to connect with the rest of Benson
- That the aspirations of the Design and Access Statement to reflect acute angles in street blocks and progressions of density are not met.

36. But;

- The development would not be in the centre of the historic village; it would relate most closely to Sunnyside, which has generous front gardens and parking spaces and to Littleworth Road, which in most cases (though not all) has smaller front gardens and parking spaces.
- The development would not be in the historic village; it would relate closely to Sunnyside which has houses and bungalows of identical pitched roofs. It does largely propose gabled roofs which are a feature of the older parts of Benson.
- The circulation would be convoluted in places but the only location where this is likely to result in a less than desirable outcome concerns the retirement bungalows, facing roads and car parking to front and rear, which the appellant's architect accepted as less than ideal. Although the car parking spaces to the rear of the retirement homes would be less likely to be used than the roads to the front, the latter would be provided with parking bays in anticipation of that behaviour. There are four other houses

where on-street parking is likely to be more attractive than the off-street parking provided. This is of little significance in a development of the size proposed.

- Without acquiring (and possibly demolishing) additional property outside the site, there are only three possible connections to the rest of Benson; at each end of Littleworth Road and to the footpath on the south side of Littleworth Road. Within the site available the proposal would make use of all the opportunities for connectivity which exist.
 - It is true that only a couple of acute angles road junctions are proposed within the development but the acute angled junction, though common in Benson is by no means universal, so the layout proposed would not stand out by contrast to other parts of Benson. It is a little perverse to propose houses presenting their principal facades on to the eastern end of Littleworth Road where the existing development turns its back but there would be so few of these that it hardly signifies. It is a correct observation that two of the larger plots within the development would be sited at this end of the road but, generally speaking, the larger semi-detached plots are proposed at the western and northern extremities of the site which accords with the expressed intent. In any event, failure to fulfil the aspirations of a Design and Access Statement is not a reason to dismiss an appeal; it is the substantive merits themselves of the development proposed on which it should be judged.
37. I therefore share the perplexity expressed by the appellant's advocate at the Council's third putative revised reason for refusal. It appears to have little or no substance to it and what substance there is has little significance. I conclude that the proposal's internal design would be acceptable. It would comply with saved Local Plan policy D1 which requires the principle of good design and reinforcement of local distinctiveness to be taken into account and, (except for respect for historic significance, discussed below), with Core Strategy policy CSQ3, which has similar requirements. Policy CSQ4, which is referred to in the Council's putative reasons for refusal, is a process requirement for certain documents to accompany a planning application. It does not set substantive requirements for the development itself and so is not relevant to the determination of this appeal.

Character and appearance of the Conservation Area

38. The appeal site is not within a Conservation Area, so the statutory test (s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990) does not apply but a Conservation Area is a heritage asset. It is government policy, set out in paragraphs 129 and 132 of the Framework, that the significance of a heritage asset should be assessed in determining development proposals and that significance can be harmed or lost through development within the setting of a heritage asset.
39. There is no explicit statement of the significance of the Benson Conservation Area. This may be deduced, in part from observation, in part from Mr Booth's and Mr Huntingford's evidence and in part from the Council's Benson Conservation Area Character Study. Its significance lies in its linear form extending from St Helen's Church in the west to Crown Square and Brook Street in the east providing historical evidence of long settlement and of the

- importance and complexity of earlier Romano-British and Saxon settlements; and in the facilities provided for the eighteenth century coaching trade.
40. The Character Study makes it plain that although its boundary is drawn to include Littleworth, the latter is an "outlier" with its own distinct character. I concur with Mr Booth's view that the significance of Littleworth lies in providing important evidence about the opportunistic use of manorial waste for development. I am less confident of his view that this was by the Lord of the Manor or for agricultural workers because settlement of manorial waste can be by squatters.
 41. The Benson Conservation Area Character Study identifies what it calls important views out of the Conservation Area including some from Littleworth. (It indicates these with three arrows but I take these to be conventionally spaced rather than as indicating three actual views). As would be expected from the typical open landscape of the area, discussed earlier, there are views across the agricultural land north of Littleworth Road which comprises the appeal site but these are mostly from Littleworth Road itself which lies outside the Conservation Area.
 42. Similar private views would no doubt be obtained from the upper floors of houses within the Conservation Area but otherwise there are mostly only glimpsed public views from within the Conservation Area because the houses on Littleworth Road are so closely packed. A notable exception is from the public footpath passing to the side of the scout hut. There are also wider glimpses seen from Oxford Road across the school grounds between the more widely spaced houses at the western end of Littleworth Road. There is no information to explain what makes these views important, though it was suggested by some third parties at the Inquiry that they are important because they are the result of the sole remaining direct juxtaposition of historic parts of Benson and its surrounding countryside.
 43. If the development were to proceed some glimpses would remain of a view from Oxford Road across the school grounds and between the existing and proposed dwellings at the more sparsely-planned western end of the site. There would also be a view from Littleworth Road across a triangular green and through an open space between plots 25 and 26. Other views would be largely lost but new views across the landscape would be created from within the new development.
 44. Setting is not synonymous with surroundings or curtilage. It is more to do with the way in which a heritage asset is experienced. A noticeable feature of the way Littleworth is experienced is that it is set apart from the rest of Benson by allotments and the school playing field and that it turns its back on Littleworth Road. These characteristics would not be changed by the development proposed.
 45. The relatively intensely developed eastern end of Littleworth is seen as the edge of Benson when viewed from footpaths to the north and west of the site. If the development were to proceed the Conservation Area would cease to be experienced in that way, so the experience of its setting would change. I am not convinced that this change would greatly harm its significance. Because this would be an inevitable consequence of the Council's desire to see the development integrated with Benson rather than be separated from it by the linear park which featured in the originally submitted scheme, I deduce that

the Council would regard this as beneficial, rather than harmful. At any rate, it would be a benefit to set against any harm.

46. I conclude that the development would not threaten the preservation of the heritage asset and so would not contravene Local Plan policy CON7 which would withhold permission for any development which would harm the character or appearance of a conservation area, but the loss of views towards Littleworth would cause some diminution to its significance because it would no longer be seen in clear isolation as an outlier from Benson. It would be integrated and subsumed into its greater modern extent. That would be contrary to Core Strategy policies CSEN3 which is for the settings of historic assets to be conserved and the part of policy CSQ3 which requires development to respect the historic significance of the historic environment. The harm would be clearly less than substantial but is a factor to be weighed in the balance.

Planning obligation

47. The appeal is accompanied by a planning obligation. This would provide for payments to the County and the District for monitoring and administering the agreement. It would provide 13 shared ownership units, 38 affordable rented units and 12 affordable rented retirement homes on site and a small financial contribution. It would provide for the layout and subsequent retention and management of public open space within the development, including a local equipped area of play with a minimum of six pieces of equipment on an area not less than 400 sq m. It would provide for carrying out the highways works to Littleworth Road and its junctions with Oxford Road, Sunnyside and Watlington Road.
48. It would provide sums of money to the District Council to contribute towards community facilities in Benson, outdoor sports facilities serving the site, refurbishment works at Abbey Leisure Centre, Berinsfield, police facilities serving the development, public art, waste and recycling bins and street naming and numbering.
49. It would provide sums of money to the County Council for the improvement and/or expansion of adult day care infrastructure and/or facilities at Wallingford Day Centre, towards the improvement and/or expansion of infrastructure and/or facilities including bookstock at Benson Library, towards the improvement and/or expansion of infrastructure and/or facilities at the County Museum Resource Centre, Standlake, towards the improvement and/or expansion of infrastructure and/or facilities at Benson Primary School, towards improvements to public footpath No8 Benson and footways in the vicinity of the site, towards improvements to the northbound and southbound bus stops at Benson Marina and associated highway alterations and improvements, towards improvement to the Wallingford to Oxford premium bus service, towards the improvement and/or expansion of infrastructure and/or facilities for secondary school education and special educational needs serving the site, towards the improvement and/or expansion of infrastructure and/or facilities at Oakley Wood Household Waste and Recycling Centre and towards the monitoring of travel plans associated with the development.
50. The necessity for the provision of affordable housing derives from Core Strategy policy CSH3 which seeks to ensure that 40% of dwellings are so provided. The provision of the open space is to comply with Core Strategy

policies CSG1 and CSI1 and saved Local Plan policies R2 and R6. The Core Strategy policies are fully justified and have been found to be sound. The necessity for the highways works is set out in the appellant's Transport Assessment. The public art contribution is required by saved Local Plan policy D12.

51. The necessity, relevance and proportionality of these and the other elements of the planning agreement are set out in three documents submitted to the Inquiry. They are a note from Howard Cox, the Infrastructure Manager of Oxfordshire County Council, a document by David O'Neil of Nortoft Planning and Land Development, headed Proof of Evidence, Recreation: Leisure, Sport and Recreation Contributions (though not delivered as such) and a letter from Simon Dackombe Strategic Planner, Thames Valley Police. With one exception these provide convincing (and undisputed) evidence that the obligations comply with regulation 122 of the CIL regulations.
52. The exception is that part of the contribution sought for policing which relates to the training of officers and staff. Whereas all the other specified items of expenditure relate to capital items which would enure for the benefit of the development, staff training would provide qualifications to the staff concerned and would benefit them but these would be lost if they were to leave the employ of the police and so are not an item related to the development. I therefore take no account of this particular item in coming to a decision on the appeal. This does not, however, invalidate the signed agreement.
53. On April 6 2015, the transitional arrangements provided for CIL regulation 123 come to an end and following this date I cannot take any account of any obligation which pools a contribution from more than five developments. Some of the provisions of the agreement would clearly be pooled but there is no information to indicate how many of these would be pooled with more than five contributors. I have therefore taken into account in my decision only those elements of the agreement (the affordable housing, the open space and the highways works) which would clearly not benefit from pooled contributions. This does not however invalidate the signed agreement.

Conditions

54. The main parties jointly suggested thirty-one conditions which they thought would be necessary in the event of the appeal being allowed. I have considered these in the light of the advice contained in National Planning Practice Guidance (the Guidance) and the wording of the model conditions contained within the otherwise now superseded Circular 11/95, *the Use of Conditions in Planning Permissions*, preferring the wording of the latter where appropriate.
55. In addition to the statutory condition limiting the validity of the permission and conditions already discussed specifying the approved drawings, conditions are necessary to require the submission for approval of details not shown on the deposited plans and for their implementation as agreed. These include materials for external finishes, accreditation as secured by design, achievement of Code for Sustainable Homes Level 4, details of junction safety sightlines, cycle parking for the retirement homes, details of the landscaping of public areas and details of foul and surface water drainage.

56. For the latter to be acceptable to the local planning authority, they are likely to have to include the recommendations of the appellant's Flood Risk Assessment and so no separate condition is necessary to require compliance with that. For the details of the landscaping to be acceptable to the local planning authority, they are likely to have to include the recommendations of the appellant's Extended Phase 1 Habitat Survey and so no separate condition is necessary to require compliance with that.
57. Other conditions are necessary to secure identified characteristics and benefits of the scheme. These include conditions securing the layout of roads, accesses and parking, the provision of a raised pedestrian crossing of Littleworth Road adjacent to the footpath leading to Benson Primary School, the implementation of the submitted Travel Plan, the provision of the approved boundary hedge, the provision of housing as retirement homes, the provision of a proportion of all dwellings as Lifetime Homes and the protection of retained trees in accordance with the recommendations of the appellant's consultant. A condition to require proportions of the affordable housing to be for rent or as intermediate housing is not necessary as this is provided for in the s106 agreement.
58. Thames Water has identified a lack of capacity to supply water to the development. This must clearly be addressed to make the development acceptable and so a condition requires this to be done. The local Fire Authority points to the need to provide fire hydrants in the development. A preliminary archaeological investigation has identified that much of the site has archaeological potential which would require mitigation in advance of development. This is not contested and so a condition requires this. Although there is no information providing a reason to believe that contamination could be an issue, there is evidence of the use of part of the field for farm waste and the Council's Environmental Protection service points out that residential use is particularly sensitive. No preliminary assessment has been carried out and so a condition is necessary to require one. Because Littleworth Road is presently limited in width, a Construction Method Statement is necessary to ensure that it would not be obstructed during the building programme.

Conclusions

59. This is not an appeal proposal which is perfect in every way. Although I have concluded that it complies with Local Plan policy D1 and with most parts of Core Strategy CSQ3, there would be minor imperfections in its internal layout. In following the Council's advice to integrate the proposal with Benson, it would compromise the separateness which is an aspect of what makes Littleworth special as a heritage asset. But that harm would be very much less than substantial; the asset itself would be unharmed.
60. The development is a proposal for a greenfield site. By definition, that would be contrary to Local Plan policy G4 which seeks to protect the countryside for its own sake. NPPF paragraph 17 bullet five recognises the intrinsic character and beauty of the countryside. The Framework exhorts that it be taken into account but it is not a determinative consideration in this case because the Core Strategy, adopted subsequent to the Local Plan and in the light of the Framework, provides that housing development should take place in Benson and all parties are agreed that that cannot happen without contravening Local Plan policy G4.

61. On the other hand, the benefits in terms of housing supply, not just in terms of numbers but also in terms of type and affordability are indisputable and considerable. Whether or not it is needed to ensure that the Council has a five-year supply of deliverable housing sites, it would significantly boost supply in accordance with NPPF paragraph 47. There would also be benefits to Benson in terms of highway safety in providing a well-engineered route to modern standards as an alternative to the B4009 passing through the village centre.
62. Paragraph 7 of the Framework describes the three dimensions to sustainable development. This proposal would fulfil an economic role by helping to ensure that sufficient land of the right type is available in the right place and at the right time to support growth. It is accompanied by a s106 agreement which would identify and coordinate the development with the provision of infrastructure. It would provide a social role in helping to provide the supply of housing needed to meet the needs of present and future generations in a location which provides accessible local services. Its contribution to an environmental role would be more mixed; whilst a heritage asset would be left untouched, its significance would be slightly compromised and two minor landscape features would be lost, to be replaced by a comprehensive landscape strategy which the Council accepts would provide a net gain to Green Infrastructure, both in terms of landscape features and biodiversity.
63. All other matters raised during the appeal have been considered but they do not lead me to any conclusion other than that overall, whilst recognising the priority given to the protection of heritage assets, the development would be sustainable. Accordingly, in accordance with the advice given in paragraph 14 of the NPPF and repeated in policy CS1 of the Core Strategy, the appeal is allowed, subject to the conditions discussed.

P. W. Clark

Inspector

CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except where required by subsequent conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following approved plans: Unnumbered Masterplan; unnumbered Street Scenes; drawings prefaced 261; P01A, P03, P03A, P03B, P03C, P04, P05A, P07, P08, P09 P10, P11, P12, P13, P17, PO18, PO19, PO20; Landscape Design Plan 3706/D01/D13-2600 revision 2, Arboricultural Implications Plans 1, 2 and 3 3706/01/D13-2594 revision 4, Tree Constraints Plan 3627/D01/D13-1749 revision 0, Tree Protection Plans 1, 2 and 3 3706/01/D13-2596 revision 4 and Highway Improvements Drawings; 32385_5501_001 revision D, 32385_5501_002 revision D, 32385_5501_003 revision D, 32385_5501_004 revision D and either 32385_5501_005 revision D or 32385_5501_006 revision D.
- 3) Notwithstanding the archaeological evaluation already carried out in March 2010, no development shall take place until a further programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 4) No development, including demolition, shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any new construction begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before new construction begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities

- vi) measures to control the emission of dust and dirt during construction
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 6) No development shall take place until details of safety sightlines at road junctions within the scheme have been submitted to and approved in writing by the local planning authority. The approved safety sightlines shall be constructed and thereafter retained unobstructed by any object, structure, planting or other material exceeding a height of 0.9m measured from carriageway level.
- 7) No development shall take place until details of a raised pedestrian crossing of Littleworth Road, in accordance with the recommendation of paragraph 4.2.2 of the submitted Transport Assessment by Peter Brett Associates LLP reference 32385 dated January 2015, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) No development shall take place until details of both foul and surface water drainage works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the drainage works to serve the dwelling have been completed in accordance with the approved details.
- 9) No surface water from the development shall be discharged onto any highway.
- 10) No development shall take place until details of additional water supply infrastructure sufficient to serve the development, including the provision of fire hydrants, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the fire hydrants have been provided and made operational and the additional water supply is completed and made available.
- 11) No development shall take place until details of the provision to be made for parking or storing bicycles for the dwellings indicated as retirement homes have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No retirement dwelling shall be occupied until provided with its cycle parking facility, which shall thereafter be retained for its intended purpose.
- 12) No development shall take place until a schedule and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) No development shall take place until details of the measures to be incorporated into the development to achieve "Secured by Design" accreditation have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until

confirmation of Secured by Design accreditation has been achieved for that dwelling.

- 14) No development shall take place until full details of both hard and soft landscape works of all public and communal areas have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the local planning authority. If within a period of five years from the date of the planting of any tree shown to be planted in accordance with the approved details that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place.
- 15) The development shall be carried out in accordance with the Arboricultural Method Statement set out in section 3 of the submitted Arboricultural Report by Lockhart Garratt Ltd reference 3706/01/13-2597 v6 dated January 2015. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the commencement of development.
 - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 16) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
- 17) No dwelling shall be occupied until the approved means of vehicular access to it and the parking spaces to serve it have been constructed in accordance with the approved plans. These shall thereafter be retained available for their intended purpose.

- 18) No dwelling shall be occupied until the boundary treatment indicated on approved drawing Landscape Design 3706/D01/D13-2600 revision 2 has been completed.
- 19) A minimum of 10% of the market dwellings hereby permitted shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's Lifetime Homes standards.
- 20) The dwellings shall achieve Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.
- 21) The development shall be carried out in accordance with the submitted Travel Plan by Hannah Reed & Associates Ltd reference X-213497 dated January 2014.
- 22) Each unit of the retirement accommodation hereby permitted shall be occupied only by:
 - i) persons aged 55 years and over;
 - ii) persons who are not able to live independently without assistance;
 - iii) persons living as part of a single household with such a person or persons described in (i) or (ii) above;
 - iv) persons who were living as part of a single household with such a person or persons described in (i) or (ii) above who have since died.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mark Westmoreland Smith, of Counsel	Instructed by Ian Price, Senior Litigation and Planning Lawyer, South Oxfordshire District Council
He called	
Edmund Booth BA DipUD MRTPI IHBC FSA	Director, The Conservation Studio
Philippa Jarvis BSc (Hons) DipTP MRTPI	Principal, PJPC (Planning Consultancy)

FOR THE APPELLANT:

Sasha White QC	Instructed by West Waddy ADP
He called	
Stephen Simkins BA(Hons) DipArch DipUD RIBA	Partner, West Waddy ADP
Geoffrey Huntingford MRTPI IHBC	Conservation Planner, West Waddy ADP
Ian Dudley BSc MICF MSE AMLI	Associate Director, Lockhart Garratt Ltd
Alan Divall BA(Hons) MRTPI	Planning Associate, West Waddy ADP
John Ashton DipTP MRTPI	Town Planning Partner, West Waddy ADP
Phil Brady BEng MCILT	Director of Transport Planning, Peter Brett Associates

INTERESTED PERSONS:

John Fowler	Chairman, Benson Parish Council
David Rushton	Vice Chairman, Benson Parish Council
George Verdon OBE	Chairman, Bensington Society
John Phillingham	Local resident
Nick Duncan	Local resident
John Reid	Local resident
Martyn Spence	Local resident
Julian Vaccari	Local resident
Susan Rushton	Local resident
Peter Keable	Tenant farmer and local resident
Janet Burt	Local resident
Catherine Murray	Local resident
Pauleen Preece	Local resident
David Smith	Local resident
Philip Murray	Local resident
John Jones	Local resident

Additional DOCUMENTS submitted at Inquiry

1. Notification of date, time and place of Inquiry
2. Statement of Common Ground – Two (including three appendices)
3. Addendum to evidence on behalf of appellants (including larger scale copy of tithe map extract)
4. Drawing 261 PO22 – Property Frontages
5. Plan of the Benson Conservation Area
6. Benson Conservation Area Archaeological Constraint Plan
7. Photographs from location of intended pedestrian crossing on Watlington Road, submitted by Mr Rushton
8. Mr Verdon's notes
9. Nick Duncan's speaking notes
10. Mr Phillingham's address
11. Benson Parish Plan 2004
12. Benson Parish Plan Annual Review 2006
13. Annex F to Benson Parish Plan 2004
14. Minutes of Benson Parish Council meeting 12 February 2015
15. Copy of Oxfordshire County Council's comments on original application
16. List of persons reported not to have received developer's notification of amended plans
17. Copy of signed s106 agreement
18. Copy of SODC justification for elements of the s106 agreement
19. Copy of appeal decision APP/Q3115/A/13/2196489
20. Road Safety Audit Stage 1 report
21. Oxford and Oxfordshire City Deal
22. Statement by John Jones
23. Photograph of Watlington Road
24. Table of accident data 1 January 2009 to 31 October 2014
25. Agreed suggested conditions

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