



Department for
Communities and
Local Government

Mr Thomas Whild
Planning Issues Limited
Millstream House
Ringwood
Hampshire BH24 3SG

Our Ref: APP/Q3115/A/14/2221828

20 January 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY CHURCHILL RETIREMENT LIVING ON THAME POLICE STATION,
GREYHOUND LANE, THAME OX9 3ZD - APPLICATION REFERENCE: P14/S0880/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Ms Kay Sheffield BA(Hons) DipTP MRTPI, who held an inquiry on 6-8 October 2015 into your client's appeal against a decision of South Oxfordshire District Council to refuse planning permission for the demolition of the existing police station and redevelopment to form 45 sheltered apartments for the elderly with communal facilities, access, car parking and landscaping and police counter (as amplified by additional information received on 4 June 2014), at Thame Police Station, Greyhound Lane, Thame OX9 3ZD, in accordance with application ref: P14/S0880/FUL, dated 21 March 2014.
2. On 1 December 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of over 10 units in an area where a Neighbourhood Plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy considerations

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises the South Oxfordshire

Core Strategy, the policies of the South Oxfordshire Local Plan ("SOLP") 'saved' by way of a Direction and the Thame Neighbourhood Plan.

5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework"), the associated planning practice guidance ("the PPG") and the Community Infrastructure Levy ("CIL") regulations 2010 as amended.

Main considerations

6. The Secretary of State agrees that the main considerations in this case are those set out by the Inspector at IR120.

The effect on the conservation area

7. For the reasons given by the inspector at IR 121-124 the Secretary of State agrees that Policies CON6 and CON7 contain a degree of consistency with the Framework and as such has accorded them due weight in reaching his decision.
8. For the reasons set out by the Inspector at IR125, the Secretary of State agrees that the proposal would not harm the significance which comes from its setting of 9 Bell Lane.
9. The Secretary of State has carefully considered the Inspector's analysis at IR 126-136, and agrees that the development would neither preserve nor enhance the character or appearance of the conservation area, contrary to Policies CON6 and CON7 of the SOLP, Policies ESQ15, ESQ16, ESQ17, ESQ18 and ESQ20 of the Thame Neighbourhood Plan and the guidance in the Framework. He further agrees that the development would harm the significance of the conservation area, though that harm would be less than substantial.

The effect on the living conditions of local residents

10. The Secretary of State agrees with the Inspector (IR149), for the reasons given at IR138-146, that the proposal would affect the outlook and privacy of the occupiers of 39 North Street which would be sufficient to cause harm to their living conditions, contrary to Policy D4 of the SOLP.
11. For the reasons set out at IR147-148, the Secretary of State agrees with the Inspector at IR149 that the living conditions of the occupiers of New House and The Stables would not be affected by the proposal.

Parking provision and highway safety

12. For the reasons given at IR150-160 the Secretary of State agrees with the Inspector's conclusions that there would be sufficient parking within the site to meet the needs of the development and that the layout of the parking provision would not be detrimental to highway safety, in accord with Policies T1 and T2 of the SOLP.

Benefits of the scheme

13. The Secretary of State agrees with the Inspector, for the reasons given at IR163, that for the purposes of this appeal the Council has a five year supply of housing land, and as such that the relevant policies for the supply of housing can be considered up to

date. However, for the reasons set out by the Inspector at IR164 he agrees that the provision of additional accommodation for which there is a need weighs in favour of the appeal. He further agrees that the location is sustainable (IR165), and that sheltered accommodation would allow the elderly to retain an independent lifestyle and as a result place less demand on support services than if they remain in their current homes. For the reasons given at IR165 he agrees that these are factors of significant benefit in support of the appeal.

14. For the reasons given at IR166 the Secretary of State agrees that the contribution towards affordable housing is a benefit, though this is reduced for the reasons set out by the Inspector. He further agrees that there is some benefit arising to the local economy, though this is limited.

The planning balance

15. In deciding this appeal, the Secretary of State has had regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In accordance with Section 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990 the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of the nearby conservation area. For the reasons given above the Secretary of State concludes that the proposal is not in accordance with the development plan as a whole. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, he has gone on to consider whether there are material considerations in this case that indicate the appeal should be determined other than in accordance with the development plan.
16. The Secretary of State has further given consideration to the presumption in the Framework in favour of sustainable development, and as such has considered the three dimensions of sustainable development in relation to this proposal. For the reasons given by the Inspector at IR 168-170, the Secretary of State agrees that the benefits of the proposal, considered in their totality, do not significantly or demonstrably outweigh the adverse impacts when assessed against the policies of the Framework considered as a whole. He thus agrees (IR171) that the proposal would not constitute sustainable development and the presumption in favour in the Framework would not apply.

Conclusion

17. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflict identified with the development plan and national policy. He considers that there are no material considerations of sufficient weight which would justify allowing the appeal.

Conditions and Obligations

18. The Secretary of State has considered the Inspector's comments at IR117 and IR174 on planning conditions and the schedule of conditions she recommends at Appendix C of her report. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework, but concludes that they would not overcome his reasons for dismissing this appeal.

19. The Secretary of State has carefully considered the s106 agreement, the Inspector's analysis at IR113-116 and IR172-173, national policy set out at paragraphs 203-205 of the Framework, the relevant PPG, and the CIL Regulations 2010 as amended. The Secretary of State agrees with the Inspector for the reasons given that, with the exception of the Health and Social Care contribution, the covenants and obligations within the s106 agreement comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. However, the Secretary of State concludes that they do not outweigh his reasons for dismissing this appeal.

Public Sector Equality Duty

20. The Secretary of State has had regard to his duties under s149 of the Equality Act 2010. The Secretary of State notes that the proposal would provide 45 sheltered residential units for people over 60 years of age. As such the Secretary of State considers that dismissal of the appeal may have a disproportionate effect on those sharing the protected characteristics "age" and, potentially, "disability". Furthermore, insofar as those who share a protected characteristic such as disability or race may be found to be disproportionately in need of affordable housing, dismissal could have a negative impact on these groups. However, the Secretary of State notes that dismissing this appeal does not preclude the possibility that an alternative scheme for elderly people could be brought forward on this site or elsewhere in the District. Overall the Secretary of State concludes that the negative consequences of a dismissal are reasonable and proportionate when considered against the policy goals of protecting heritage assets, protecting the living conditions of neighbouring residents, promoting sustainable development and the legal requirement in favour of plan-led development.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses the appeal and refuses planning permission for the demolition of the existing police station and redevelopment to form 45 sheltered apartments for the elderly with communal facilities, access, car parking and landscaping and police counter (as amplified by additional information received on 4 June 2014), at Thame Police Station, Greyhound Lane, Thame OX9 3ZD, in accordance with application ref: P14/S0880/FUL, dated 21 March 2014.

Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

23. A copy of this letter has been sent to South Oxfordshire District Council. Notification has been sent to all other parties who asked to be informed of the appeal decision.

Yours faithfully

Philip Barber

Philip Barber

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Kay Sheffield BA(Hons) DipTP MRTPI

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

Date: 18 November 2015

TOWN AND COUNTRY PLANNING ACT 1990

SOUTH OXFORDSHIRE DISTRICT COUNCIL

APPEAL BY

CHURCHILL RETIREMENT LIVING

Richborough Estates

Inquiry opened on 6 October 2015

Thame Police Station, Greyhound Lane, Thame, OX9 3ZD

File Ref: APP/Q3115/A/14/2221828

File Ref: APP/Q3115/A/14/2221828

Thame Police Station, Greyhound Lane, Thame, OX9 3ZD

- 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 Churchill Retirement Living against the decision of South Oxfordshire District Council.
- The application Ref P14/S0880/FUL, dated 21 March 2014, was refused by notice dated 25 June 2014.
- The development proposed is the demolition of the existing police station and redevelopment to form 45 sheltered apartments for the elderly with communal facilities, access, car parking and landscaping and police counter (as amplified by additional information (highways, landscape, bat survey) received on 4 June 2014).

Summary of Recommendation: That the appeal be dismissed

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Procedural and preliminary matters

References to documents in round brackets and footnotes are those listed in Appendix B, while references in square brackets are to paragraphs within this report.

1. The Inquiry sat for three days, on 6, 7 and 8 October 2015. I made an unaccompanied pre-Inquiry visit to the area on 5 October, an accompanied site visit on 7 October and a further unaccompanied visit to the area on 8 October. My accompanied visit included viewing the site from the gardens of 39 North Street and New House, Bell Lane and also from within the police station.
2. The appeal was recovered by the Secretary of State by letter of 1 December 2014 as the proposal involves residential development of over 10 units in an area where a neighbourhood plan has been made. It is the Thame Neighbourhood Plan which is relevant in this instance.
3. Although Waitrose Limited was granted Rule 6(6) status it relied on its submitted statement of case and did not attend the Inquiry.
4. The application was submitted in full. The Council cited six reasons for refusing planning permission which raised the following issues:
 - the effect of the proposal on the living conditions of the occupants of nearby properties, 39 North Street and New House, by reason of outlook and privacy (reason 1);
 - whether the level of vehicle and cycle parking proposed would be sufficient to meet the needs of the development (reason 2);
 - the effect of the layout of the proposed parking for the police office on highway safety (reason 3);
 - the effect of the development on the character and appearance of the area and whether it would preserve or enhance the character or appearance of the Thame Conservation Area (reason 4);
 - whether the loss of employment land is justified (reason 5); and
 - the lack of provision for affordable housing and on and off-site infrastructure and services (reason 6).
5. Following the lodging of the appeal the Appellant and the Council continued to discuss the outstanding issues. By the time of the Inquiry the Council was satisfied that the matters raised in reasons for refusal 2, 3, 5 and 6 relating to parking, the loss of employment land, affordable housing and infrastructure and services had been overcome. This was confirmed in the submitted Statement of Common Ground (SoCG) (INQ 1). Whilst this may be the situation between the Council and the Appellant, I am fully aware that parking and highway safety remain of concern to the Rule 6 Party (INQ 20) and local residents and I have therefore addressed this matter in my report.
6. The oral evidence given to the Inquiry by the main parties addressed the issues they considered to be outstanding. Whilst, at the request of the Appellant, the Council indicated it was content to withdraw the evidence of its highways expert, it considered the evidence useful in setting out the background to the issue. I agree with the Council and have had regard to the written evidence of the highway witnesses in reaching my recommendation. Other evidence not given orally to the Inquiry was taken as read.

7. During my preparation for the Inquiry I found discrepancies between the application form, the submitted drawings and several of the submitted documents with regard to the number and composition of the units proposed. There was reference in some documents to 44 units not 45 as the total number proposed and to 30 one bed and 15 two bed apartments whereas the submitted floor plans showed 31 one bed and 14 two bed units, a difference of one room.
8. The Appellant confirmed to the Inquiry that the total number of units proposed is 45 and that the floor plans indicate the correct composition in respect of the size of the apartments. The main application and appeal documents and the description of the development all cite the development to be for 45 units and the plans which were advertised to the public and considered by the Council show the correct composition of apartments. At the Inquiry the Appellant applied to amend the proposals so as to correct the minor error. The Council did not object on the basis that such an amendment is within the Wheatcroft¹ principles. I am satisfied that reference to 44 units would appear to be an inconsequential error and no-one would be prejudiced by the appeal being determined on the basis of 31 one bed and 14 two bed units. I have written my report on this basis.
9. Several appeal decisions were referred to in evidence. I have commented upon those I consider particularly relevant to the appeal, but as a general principle, each proposal must be considered on the basis of its own merits and site-specific circumstances.

The site and its surroundings

10. The appeal site is located on the edge of Thame town centre, High Street being approximately 200m to the south. The site comprises a roughly 'L' shaped plot of approximately 0.32ha situated on the corner of Greyhound Lane and North Street which form a roundabout junction with Aylesbury Road and Bell Lane. The site adjoins the southern and western boundaries of 39 North Street, a building of local note, and is also within but on the periphery of the Thame Conservation Area, the boundary being North Street.
11. The site is currently occupied by Thame Police Station, a large two storey building set back from North Street and Greyhound Lane and elevated above the level of the roundabout. A single storey section fronting North Street infills the area between the main building and the high brick wall which forms the boundary of the garden to 39 North Street. In addition there is a block of garages adjoining the southern boundary wall to that property and a further structure on the southern boundary of the site with Greyhound Lane. The remainder of the site, which is predominately used for parking, is hard surfaced with some planting and enclosed by high security walls and gates.
12. Whilst the topography of the site is generally level across a central plateau, it is elevated above the roundabout and North Street. Although the site is higher than the property at 39 North Street, there is little difference between the ground level of the garden and the site, as demonstrated by the section drawing submitted by the Appellant (INQ 18). The land to the south is significantly

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another [1982] 43 P. & C.R. 233.

higher than the appeal site, as indicated by the height of the existing wall which forms in part a retaining wall as well as enclosing and marking the boundary.

13. From the roundabout Greyhound Lane continues a short distance southwards before turning to the east and continuing along the southern boundary of the site. The road separates the site from a large Waitrose supermarket and gives access to the car park which abuts the eastern site boundary. The access to the service yard of the supermarket is opposite the entrance into the site.
14. There are residential properties on North Street and Bell Lane. One of these, New House, bounds the western side of Greyhound Lane but derives access from Bell Lane close to the roundabout. The access is shared with The Old Barn and The Stables. The properties in the area vary in age, size and design and include a number of listed buildings (LB) one of which is the dwelling, 9 Bell Lane, which is Grade II and sited to the west of the roundabout. To the north of North Street and east of Aylesbury Road there is a large development of more modern housing which are predominantly bungalows interspersed with older two storey properties. Also to the northwest is a large area of open space which extends some distance northwards along Aylesbury Road and as far west as St Mary's Church, a Grade I LB. Whilst the open space serves as the cricket club, I observed a significant level of use by the local population for outdoor pursuits. In addition to 39 North Street there are other buildings of local note in the area which include the cottages at the junction of North Street and Moorend Lane. Whilst reference has been made to The Old Barn and The Stables as also being buildings of note, they are not recorded as such.

Planning history

15. There is no recent or relevant planning history in respect of the appeal site. Historic applications relate to the construction of the existing police station on the site which dates from the 1990's.

The proposal

16. The proposed development is the demolition of the existing buildings and the construction of a new sheltered housing scheme which would comprise 31 one bed and 14 two bed apartments together with communal facilities of an owners' lounge, a well-being suite, a guest suite, a laundry room and a refuse store. Occupation of the apartments would be restricted to people over 60 years of age although partners over the age of 55 years would be allowed. A 24 hour support system would be available together with assistance to residents on security and maintenance issues. In addition the proposal would include a self contained police office in order to maintain a local presence.
17. The building would be 'L' shaped. It would occupy the same area of the site as the existing police station and extend along the southern boundary with Greyhound Lane to within a short distance of the adjoining car park. Although the north western corner of the building would be elevated above the level of the roundabout, the southern limb would be set significantly below road level and the base of its north eastern corner would be approximately 0.5m below existing ground level.
18. Vehicular and pedestrian access to the development would be via the existing access from Greyhound Lane. There would be 14 parking spaces in association

with the residential use and a further two spaces in association with the police office as well as cycle parking and a covered store for mobility scooters. Apart from the police and cycle parking which would be on the site frontage adjacent to the access, the remainder of the parking would be within the internal part of the site and some would be undercroft. The remainder of the internal area of the site would form a landscaped amenity space which would include sitting out areas for residents. A full description of the proposed development is given in the Design and Access Statement (APP 2) and the Statement of Common Ground (INQ 1).

Planning policy

19. The statutory Development Plan for the purposes of the appeal comprises the South Oxfordshire Core Strategy, the policies of the South Oxfordshire Local Plan 'saved' by way of a Direction and the Thame Neighbourhood Plan.

South Oxfordshire Core Strategy

20. The South Oxfordshire Core Strategy (CS) covers the period to 2027. It was in the process of being examined when the National Planning Policy Framework (the Framework) was published in March 2012. The Inspector's final report, published in October 2012, concluded that with the recommended main modifications the CS satisfied the requirements of the s20(5) of the Act and met the criteria for soundness set out in the Framework. The plan was modified accordingly before it was adopted in December 2012 and its policies are therefore consistent with the Framework.
21. In refusing planning permission the Council only cited policies of the CS in relation to the loss of employment land, the provision of affordable housing and site infrastructure and services, matters which have been satisfactorily resolved. However, Policy CSEN3 was identified in evidence as being relevant. This policy requires designated historic assets to be conserved and enhanced for their historic significance and their important contribution to local distinctiveness, character and sense of place. It also states that proposals for development which affect non-designated historic assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset.

South Oxfordshire Local Plan

22. The South Oxfordshire Local Plan 2011 (SOLP) was adopted in January 2006 and whilst a number of its policies were replaced by the adoption of the CS, several of the 'saved' policies are relevant to the appeal. The Council's reasons for refusal make specific reference to Policies D4, T1, T2, CON6, CON7 and E6. The latter refers to loss of employment land which is no longer in dispute.
23. Policy D4 relates to privacy and daylight. It requires developments to provide a reasonable degree of privacy for the occupiers of all new dwellings and does not permit development which would "*unacceptably harm the amenities of neighbouring properties through loss of privacy, daylight or sunlight*".
24. Policies T1 and T2 address transport requirements for new developments. Of the criteria set out in Policy T1 those relevant to the appeal include the need to: provide a safe and convenient access to the highway network and safe and convenient routes for cyclists and pedestrians; be accessible by public transport and have a safe walking route to nearby bus stops; be served by an adequate

road network which can accommodate traffic without creating traffic hazards or damage to the environment; and make adequate provision for those with impaired mobility.

25. Policy T2 requires developments to make provision for vehicle and cycle parking, including for people with disabilities, together with loading, unloading, circulation and turning space. The parking provided should accord with the Council's standards and provision should also be made for measures to reduce the need for vehicle parking, where appropriate.
26. Policies CON6 and CON7 relate to proposals affecting a conservation area. Policy CON6 states that consent to demolish a building in a conservation area will be granted only if the loss of the building would not adversely affect the character of the area and, where appropriate, if there are detailed and acceptable plans for the redevelopment of the site.
27. Policy CON7 states that permission will not be granted for development which would harm the character or appearance of a conservation area and requires proposals in conservation areas to be of a design and scale which would be in sympathy with the established character of the area; and the use of traditional materials, whenever this is appropriate to the character of the area.

Thame Neighbourhood Plan

28. The Thame Neighbourhood Plan (TNP) was formally made part of the Council's Development Plan in July 2013. In refusing planning permission the Council cited Policies ESDQ15, ESDQ16, ESDQ17, ESDQ18, ESDQ20, WS12, and WS13 of the plan. Policies WS12 and WS13 relate to employment land, a matter which is no longer in dispute.
29. The remaining policies cited all relate to the objective set out in the plan that development should reinforce the character and quality of Thame. In this respect Policy ESDQ15 requires the demonstration in a Design and Access Statement of how the proposal would reinforce Thame's character. Under Policy ESDQ16 development must relate well to the site and its surroundings; Policy ESDQ17 expects development to make a positive contribution towards the distinctive character of the town as a whole; and Policy ESDQ 18 seeks the creation of a sense of place appropriate to its location. Finally Policy ESDQ20 requires the building style to be appropriate to the historic context.

National Planning Policy

30. The Framework and Planning Practice Guidance, 2014 (PPG) are covered fully in the evidence of both the Council (LPA 1 3.46 to 3.69) and the Appellant (CRL 2 7.9 to 7.32).
31. Identified as being of relevance to the appeal is the requirement in paragraph 57 of the Framework for the delivery of high quality and inclusive design, and the criteria set out in paragraph 58 against which developments should be judged. With respect to design, in paragraph 60 the Framework states that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek or reinforce local distinctiveness. The Framework goes on in paragraph 61 to state that although visual appearance

and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

32. Guidance on the historic environment in 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 its conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
33. The Framework goes on in paragraphs 133 and 134 to address the balancing of harm against public benefits. Proposals which would lead to substantial harm to or total loss of significance of a designated heritage asset should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. However, where less than substantial harm would arise, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
34. Paragraph 137 seeks opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. Paragraph 138 goes on to acknowledge that not all aspects of a conservation area will necessarily contribute to its significance.
35. In respect of design, the PPG suggests that plans, policies and decisions should consider issues such as layout, form, scale, detailing and materials. It also expects that development *"should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development, local man-made and natural heritage and culture, while not preventing or discouraging appropriate innovation"* It goes on to state that *"the successful integration of all forms of new development with their surrounding context is an important design objective, irrespective of whether a site lies on the urban fringe or at the heart of a town centre"*².
36. With regard to setting local parking standards, paragraph 39 of the Framework requires account to be taken of: the accessibility of the development, the type, mix and use of the development; the availability and opportunities for public transport; local car ownership levels; and an overall need to reduce the use of high-emission vehicles.

Other documents

37. The *Thame Conservation Area Character Appraisal (CAA)* and the *Thame Conservation Area Management Plan (CAMP)* (CRL 5 Appendix B) both date from 2006. The former identifies the site in the section on North Street and records

² ID 26-007-20140306

on page 35 that although the area has been "*dramatically affected by the Waitrose and police station developments and there is a good deal of modern housing... the character of the road is quite well preserved*".

38. The CAMP sets out guidelines for the management of change in the conservation area to allow for development and alterations to keep the conservation area vital without losing the characteristics which make it special. On page 5 the plan requires the scale of any development to respect surrounding development. However, it goes on to state that some modest changes in scale may actually be advantageous, as this reflects the variety of form in the town centre where the buildings have developed individually for a variety of functions over a long period of time.
39. The *South Oxfordshire Design Guide* (SODG) (INQ 16) was adopted by the Council in July 2008. It is intended to be a handbook to assist professionals, developers and householders in dealing with and submitting development proposals and to act as a set of guidelines which will help the Council assess the design implications of planning applications. Section 3.2.6 recognises that privacy is important for people to feel comfortable in their own homes and indicates a separation of 25 metres between facing habitable rooms. The glossary defines habitable rooms as including bedrooms, sitting rooms and dining rooms. Bathrooms and kitchens (smaller than 13m²) are excluded. There is no evidence that the bathrooms and kitchens proposed as part of the development exceed this size limit.
40. *The Oxfordshire County Council's Parking Standards for Residential Development*, 2011 (LPA 6 Annex 1) sets out the maximum parking requirements for the different sizes of dwellings, based on the number of bedrooms. The standards do not differentiate between the different types of housing but do apply different requirements depending on whether allocated or unallocated parking is proposed as part of the development.

Emerging documents

41. The South Oxfordshire Local Plan to 2031 will replace the CS but cover the period to 2031. However, it is at a very preliminary stage and no reliance has been placed on it by the parties in their submissions.

Agreed matters

42. A Statement of Common Ground (SoCG 1) was initially produced by the parties in December 2014. This was followed by a supplementary statement (SoCG 2) in February 2015 which addressed the issues of the loss of employment land and the provision of affordable housing and confirmed that the fifth and sixth reasons for refusal had been overcome. A second supplementary statement (SoCG 3) of September 2015 reviewed the S106 contributions following the introduction in April 2015 of restrictions on the pooling of financial contributions under Regulation 123 of the Community Infrastructure Levy Regulations, 2010 (as amended) (CIL Regulations). Those contributions found to be no longer appropriate were reallocated towards affordable housing. Finally a highways statement (SoCG 4) submitted in October 2015 confirmed that further information submitted by the Appellant (INQ 8 & 9) had demonstrated that the proposed access and parking arrangements were acceptable to the Council and

concerns raised in reasons for refusal 2 and 3 had been satisfactorily overcome. The statements were presented to the Inquiry in one bound copy (INQ 1).

43. In combination the four SoCG indicate that the matters agreed by the Appellant and the Council not to be in dispute include the following:
- There is no objection in principle to the loss of the existing police station building, subject to a suitable replacement building being provided;
 - The scheme provides for additional and replacement tree planting and details of planting methodologies can be suitably addressed by condition;
 - The initial Phase 1 Ecological Assessment (APP 10) and subsequent Phase 2 Bat Survey (APP 11) confirm that the proposal would not have an adverse impact on protected species or biodiversity;
 - The site is located in an area of identified archaeological interest. A programme of archaeological investigation, secured through a suitably worded planning condition, would be required prior to construction;
 - Although there are limited opportunities to incorporate a sustainable urban drainage scheme (SuDS), the scheme would provide a significant reduction in impermeable area. Surface water and foul drainage can be adequately secured by condition;
 - The existing purpose-built police station has a specialist design which presents limitations and the necessary works required to make the building fit for purpose would be likely to outweigh anticipated revenues and deter future investors. The building has been properly marketed for in excess of one year on an unfettered basis at a reasonable price for sale and to rent. It has been demonstrated that the existing use is no longer viable and that it is not required for any other suitable employment use.
 - The requirement to provide affordable housing would be appropriately met as a commuted financial sum towards off site provision and determined through a viability appraisal. The maximum sum that could be paid towards all contributions, including affordable housing, without rendering the development financially unviable is £736,878.00, deliverable through a S106 Agreement. The contribution towards affordable housing would constitute the remainder of the sum determined through the viability appraisal after the other obligations in the S106 Agreement have been satisfied. Should any of the contributions be found not to comply with Regulation 122 of the CIL Regulations it would be struck from the obligation and the sum re-apportioned towards affordable housing.
 - In the event that the Council implement the CIL prior to a decision being issued on the appeal, other than towards affordable housing the contributions set out in the S106 Agreement would not longer be payable.

The case for the Council

44. The outcome of the case turns on the judgement made as to the degree of harm to heritage assets and neighbour amenity from the development. The benefits of the scheme remain undisputed and as conceded by the Council in cross examination are 'very significant'. If either of the Council's allegations of harm is found sound, the development should not go ahead. The Appellant conceded that it did not seek to justify the development if it caused substantial harm to the conservation area and that the development should not be permitted if it caused unacceptable harm to the living conditions of 39 North Street and New House. In either of these cases the outcome will be clear and the benefits of no

assistance. Therefore it is only if the Council has not made out either of its allegations of harm in full that any sort of balancing exercise is engaged.

45. If there is any harm to heritage assets (whether substantial or less than substantial) the balance must be struck under the specific heritage policies of the Framework. It was contended by the Appellant that because they are partially inconsistent with the Framework, Policies CON6 and CON7 are 'out of date'. Even if that is so, the effect of the Framework³ is that the proposal falls to be considered under its specific policies on heritage. This is therefore not a case which engages the 'significantly and demonstrably outweigh' part of paragraph 14 of the Framework. If there is no harm to designated heritage assets and the sole issue under consideration is neighbour amenity, then the relevant policy is D4 of the SOLP. There was no suggestion that this policy is out of date and accordingly paragraph 14 of the Framework is of no assistance.

Heritage

Legislation and policy

46. The key legal provisions relating to the consideration of heritage assets in the planning system are s72(1) and s66(1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Following the judgement of the Court of Appeal in respect of Barnwell Manor⁴ it is clear that both provisions require the decision maker to give "considerable importance and weight" to the desirability of avoiding harm to the heritage asset. There is accordingly a "strong presumption", imposed by the statutes, against harmful development. This is true whether the harm is "substantial" or not.
47. The legal position is backed up by policy. Paragraph 132 of the Framework requires "great weight" to be given to the conservation of designated assets such as conservation areas and listed buildings. Any harm to such assets would amount to a serious objection to the scheme requiring "clear and convincing justification". A distinction is made between "substantial" and "less than substantial" harm to the significance of a heritage asset. In the case of development causing substantial harm there is a presumption that permission should be refused unless stringent public interest tests can be satisfied. The Appellant confirmed that it does not seek to satisfy those tests.
48. Less than substantial harm is to be weighed against the benefits of the proposal. However, such harm still attracts "considerable importance and weight" by virtue of the statute; "great weight" in policy terms; and requires "clear and convincing justification". It triggers the "strong presumption" against development imposed by the statute. Less than substantial harm does not therefore mean a less than substantial objection. The consequence of this is that even if the harm is less than substantial, the balancing exercise required by paragraph 134 of the Framework cannot be properly described as a 'flat

³ Paragraph 14 and footnote 9

⁴ Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137

balance'. The scales are pre-weighted, as recognised by the Inspector in his report on Razor Farm⁵. In addition, harm to non-designated assets is a material consideration to be taken into account and weighed according to the significance of the asset and the scale of harm, as referenced in paragraph 135 of the Framework.

49. Local policy is consistent with national policy and the following points should be noted in particular. Firstly, the prohibition in Policy CON7 of the SOLP of any development "which would harm the character or appearance of a conservation area" is not limited to a particular degree of harm. As such it is consistent with the "strong presumption" against harmful development which is imposed by the statute. Policy CSEN3 of the CS and Policies ESDQ20 and ESDQ 16 of the TNP reinforce this by requiring developments to make a positive contribution. This underscores the importance of heritage issues locally.
50. This local policy does not create an absolute bar to development. The balancing exercise spelt out in the Framework was already inherent in the local plan approach and it was accepted that material considerations might indicate otherwise. However, policy does indicate the seriousness of heritage impacts and the considerable weight such impacts are to be given in the balance.

Distinguishing substantial and other harm

51. There is no specific test in policy of what differentiates substantial harm from other harm for the purposes of national policy. However PPG advises that "in general terms, substantial harm is a high test". It is also clear that such "harm may arise from works to the asset or from development within its setting" and that "even minor works have the potential to cause substantial harm"⁶. Consistent with this, the Secretary of State (SoS) confirms in paragraph 12 of the Razor Farm appeal decision that there is no inherent difficulty in the idea that an impact on setting could amount to substantial harm. Although the SoS did agree with the overall conclusion reached by the Inspector on the extent of harm, he did not endorse the Inspector's approach to the question of what is meant by 'substantial harm'.
52. The Bedford case⁷ mentioned in the Razor Farm report is of no assistance on this question. The approach in this case was derived from the former Planning Policy Statement 5 Practice Guide (PPS5 PG) of equating "substantial" with "something approaching demolition or destruction". It was a listed building case and assessing whether harm to a conservation area is 'substantial' is more complicated. Moreover, the PPS5 PG has been replaced by the Framework which does not contain the same equation of "substantial" with "something approaching demolition or destruction". The reasoning in this case is therefore out of date. Consequently the Framework is the primary source of guidance.

Application to the conservation area

53. The evidence highlighted two contrasts between the parties in terms of the significance of the conservation area and assessing the harm to significance. In

⁵ CRL 5 Appendix C paragraph 10.19 of Inspector's report

⁶ Planning Practice Guidance 18a-017-20140306

⁷ Bedford BC v SSCLG [2013] EWHC 2847 (Admin)

assessing significance the Appellant adopted a very broad brush approach⁸ which had no regard to the specific sub-areas of the conservation area and what they contribute to significance. A theoretical deduction was made about what was and was not important and it became clear in cross examination that the site was considered to fall in a minute and separate sub-area composed of the roundabout, the appeal site and possibly Waitrose.

54. In contrast the Council's assessment of significance followed the approach recommended in the CAA and CAMP⁹ by focussing on the contribution of the sub-area of the conservation area in which the appeal site sits to the significance of the whole¹⁰. It also follows English Heritage guidance. The Council's conclusion is that the relevant part of the conservation area is highly significant for its supporting role and that any loss of significance for the immediate area would detract from the significance overall.
55. In assessing harm to significance the Appellant's approach appears to be that the significance of all the elements of the conservation area need to be added up to reach a total and if the proposals would not altogether vitiate or very greatly reduce that total significance, then there is no substantial harm. The Council considers that this approach would have the illogical consequence of making harmful development more acceptable in a large conservation area than in a small one and that it would take a truly gigantic development to have this effect on the total sum of significance of the Thame Conservation Area.
56. As well as being inherently unsound, the Appellant's approach is inconsistent with the Framework. Paragraph 138 makes it clear that the loss of a single building or other element of a conservation area can amount to substantial harm, or less than substantial harm, depending on its significance. This invites the approach of looking at the contribution a particular site makes to the conservation area. The site is the primary frame for assessment of harm to significance, looked at in terms of its contribution to the significance of the conservation area as a whole.
57. On this approach, it is quite possible to say that the appeal proposals would cause substantial harm because they fall in a very important entry location to the conservation area and which is recognised as such in the CAA¹¹. Accordingly the harm they would cause to the whole would be magnified. These methodological differences in the process of assessment are to be born in mind when considering the specific evidence of harm to the conservation area.

Harm to the conservation area

58. It is well recognised in policy terms that not all parts of a conservation area will be of identical value, or of value for the same reasons¹². This is true of the Thame Conservation Area which makes a unique and significant contribution to this historic market town. The CAA points out that Thame has developed "over many centuries" and that this development has "invested the town with areas of

⁸ CRL 4 paragraphs 5.3 to 5

⁹ CRL 5 Appendix B page 5

¹⁰ LPA 4 paragraphs 6.7 to 6.16

¹¹ CRL 5 Appendix B page 19

¹² See for example paragraph 138 of the National Planning Policy Framework

subtly differing character"¹³. This diversity arising from the historical development of Thame is reflected in the conservation area and is essential to the understanding of its significance.

59. The essential characteristics of the area around Bell Lane and North Street can be briefly described as: preserving an important pre-medieval layout; representing a transitional area between town and country; an area where building density and height reduces from the High Street towards the countryside; and although the roundabout, police station and Waitrose are present in this area, they do not form part of the historic and architectural character which falls to be conserved or enhanced.
60. This summary is supported by the CAA which states that the Aylesbury Road area "still has a strong sense of the former rural fringe of the town"¹⁴, Bell Lane "is still notable for relatively low-density development and significant numbers of trees"¹⁵ and of North Street "the impression of low-density development, predominantly characterised by small cottages on the margin between town and country survives" despite Waitrose and the police station. This is what this part of the conservation area contributes to the significance of the whole and this is therefore what the appeal proposals must be assessed against as to whether they strengthen and support or detract from and harm this character.
61. The significance of this part of the conservation area would be dramatically harmed by the proposed building which would be more than double the footprint of the existing building and of greatly increased bulk. This would further detract from the current transitional, low-density, domestic character of the area, which is already sensitive. In making a raised feature of the north west corner of the site, the building would go against the grain of the conservation area which in this area characteristically shows reducing building height and density. There is no need for such a feature in conservation area character terms and the Appellant was unable to provide any justification for it rooted in the character of the conservation area. The higher site coverage would close up gaps which currently exist between the police station and 39 North Street and would create the impression of being part of the town centre rather than a transitional area.
62. Although the existing building is not ideal, this is no justification for proposing its replacement with a materially worse building. As is apparent from the CAA, the character of the area has survived despite the current building. To dramatically increase the size and bulk of the built development on the site would put that character at risk. In the context of the conservation area as a whole the harm would be substantial. This is because the Bell Lane and North Street area is highly significant as a transitional area and a support to the significance of the High Street. The proposal would cause direct damage to the key features which give rise to its significance, such that they would effectively be totally absent from the appeal site and therefore endangered more broadly.

¹³ CRL 5 Appendix B page 15

¹⁴ CRL 5 Appendix B page 19

¹⁵ CRL 5 Appendix B page 23

Harm to the setting of listed buildings and non-designated assets

63. It is a feature of this case that the various heritage assets involved provide mutual reinforcement of the significance of each one. It is entirely artificial to seek to take the listed buildings out of the conservation area context in which they sit. The Council accepted that individually the listed buildings would not be harmed. However, when considered in context there would be harm.
64. The listed buildings and non-designated assets most affected by the proposed development would be 9 Bell Lane, The Barn, The Old Stables and 39 North Street. These benefit from and form part of the character of the conservation area as described above. They are best understood in the context of the low density development representative of the urban rural fringe and although the Appellant did not accept this, it is implicit in its recognition that the open area to the north of 9 Bell Lane is the part of the setting of the listed building which makes most contribution to its significance¹⁶.
65. The appeal site falls within the setting of these heritage assets. The Appellant conceded that at least parts of the appeal site would clearly fall within the setting of 9 Bell Lane but whether the rest would do so was a matter of judgement. It is the opinion of the Council that setting is not defined as spatially bounded and is not limited by intervisibility¹⁷. As such the appeal proposals would cause harm to the significance of these heritage assets and further harm to the character of the area. The settings of these heritage assets, and therefore their significance, would thus be harmed just as the conservation area would be harmed by the proposal.

Design

66. Although the design approach adopted by the Appellant is that the elevational treatment of the building would mitigate the bulk of the proposed building, it would aggravate rather than mitigate the harm to character and setting set out above. The concept for the design is flawed as the design approach is drawn from the High Street¹⁸. The character of the High Street is shaped by a very different history to the locality in which the appeal site is situated and its appearance is distinguished by "facades of buildings forming an unbroken front uniformly on both sides ... reflecting the narrow medieval burgage plots on which they stand"¹⁹. Introducing this character onto the appeal site would be confusing as it would suggest a history which never happened and it would also undermine the transitional role and lower density character of the area.
67. Even if the concept were appropriate, the detail is not. The criticisms of the design detailed by the Council include the lack of hierarchy in the windows with dormers no smaller than the windows below; the use of projecting bays for which there is no precedent even on the High Street and the impact of which is diminished by smaller kitchen windows giving them the appearance of rear extensions²⁰. The Appellant's desire to maximise the amount of development

¹⁶ CRL 4 paragraph 3.4

¹⁷ LPA 4 paragraph 8.3

¹⁸ Design and Access Statement pages 24 & 35 and CRL 7 paragraphs 2.5 & 5.25

¹⁹ CRL 4 Appendix B page 23

²⁰ LPA 4 paragraphs 7.8 & 7.9

on the site has given rise to a proposed building of an unacceptable mass and bulk and has led to flawed attempts to disguise the same.

Residential amenity

68. Policy²¹ requires that residential amenity be safeguarded which includes by maintaining privacy for existing occupiers. It was accepted by the Appellant that permission should be refused if there is an unacceptable impact. It is agreed that overlooking of 39 North Street from windows in the proposed eastern flank elevation of the North Street elevation of the proposed building would be overcome by the use of obscure glazing²². However this would only overcome part of the problem.
69. It is a question of judgement as to what would constitute an unacceptable intrusion on privacy and therefore harm living conditions. The SODG recommends a window to window distance of at least 25m²³ and there is no reason to apply the shorter 'rule of thumb' distance of 21m suggested by the Appellant when there is a specific supplementary planning document providing guidance in the local context.
70. It must be borne in mind that this guidance is given by reference to back to back distances between properties of the same height and on the same level, which is not the situation here. 39 North Street is set in general at a lower level than the appeal site and is a two storey building compared to the predominantly three storey proposal. This renders 39 North Street more sensitive to perceived and actual overlooking and more than offsets the modest reduction in levels which is proposed on the appeal site. Furthermore, the majority of the apartments would be single aspect, which increases the overlooking problem.
71. Although the views would be oblique, the distance from the nearest windows to the conservatory of 39 North Street would contravene the separation distances whichever one is applied. Furthermore there would be considerable overlooking and perceived overlooking from a huge bank of windows arrayed around the development enclosing the garden of 39 North Street on two sides. The effect would be considerably worse than that presented by the smaller, more distant and less intensively used police station building.
72. There would be a similar but less overwhelming overlooking effect on the private garden of New House. Insofar as the screening effect of the trees is relied on by the Appellant, it is material to note that the future of one of them at least appears to be in doubt. The combined impact on neighbour amenity would be unacceptable.

The case for the Appellant

73. The main issues in this appeal are the effect on the living conditions of existing and future occupiers by reference to outlook and privacy and the effect of the proposals on the character and appearance of the conservation area. These need to be carefully assessed but in this case, more than in most, it is essential

²¹ National Planning Policy Framework paragraph 17 and LP Policy D4

²² INQ 1 SoCG 2 paragraph 5.1

²³ INQ 16 paragraph 3.2.6

to understand the context in which they sit. The context in this case comprises: the abandoned issues; the need for the proposal; and housing land supply.

The abandoned issues

74. The Council initially considered the proposals to be far more harmful to the public interest than it has subsequently transpired to be. It was alleged that the proposals were objectionable in principle since they removed important employment land; parking provision was inadequate; access and egress was so unsatisfactory as to cause highway problems; and there was inadequate provision of affordable housing. In combination the Council described these as 'serious' problems to set against the benefit of the proposals. It is now agreed that none of these are reasons to oppose the grant of consent. The location and design of the proposals is now agreed to be far less objectionable than was initially thought. All that remain of the Council's initial objections are in the inchoate complaints about amenity which fall to be balanced against the benefits of the scheme in addressing an unmet need.

Need

75. A primary obligation imposed by national housing policy is that Councils should make housing provision based on "future demographic trends" so as to address "the needs of different groups in the community such as ...older people"²⁴. The agreed evidence before the Inquiry is that in South Oxfordshire the population of older people is rapidly expanding and will continue to do so up to 2026. The needs of this group are not met at present and as the size of this cohort increases with the acceleration of its growth to the assessment year this under-provision will get worse. Under-occupancy is the other side of the problem which is particularly severe in South Oxfordshire. The Council agreed that the description given in the 2011 SHMA update²⁵ of this being a "major policy issue" was accurate. However, elderly people can only be encouraged to release the available space to the open market if there is suitable alternative accommodation for them to move to.
76. There is therefore a large and growing need for sheltered accommodation for this demographic group which is not addressed by existing provision. These elderly persons therefore have no option but to remain in their under-occupied homes. At the same time there is a chronic need to maximise the use of the available housing stock and to address the problem of under-occupation. To allow this appeal would expand the available supply of sheltered housing which would address both problems simultaneously. It would provide elderly people with alternative options and it would release the under-occupied homes into the wider market where they may be more efficiently used. The grant of consent would advance the general statement in the Framework and would do so in a particular area where the need to do so is especially acute.
77. In addition, the report, *The Top of the Ladder* by Demos²⁶ describes the improvement in the health and well-being of elderly persons which arise from the move into sheltered accommodation. The evidence reveals that in South

²⁴ National Planning Policy Framework paragraph 50

²⁵ CRL 3 Appendix 3 paragraph 3.4.9

²⁶ CRL 3 Appendix 7 page 11

Oxfordshire this demographic group is both willing and financially able to take up this provision if it becomes available. The problems which arise in the wider population from living in crowded and unsatisfactory accommodation are well known.

Housing land supply

78. The existence or non-existence of a five year supply of housing land is a matter of marginal significance in a context where it is recognised there is a chronic unmet need of the particular group addressed by the appeal proposal.

Harm to residential amenity

79. The proposal would provide a substantial number of new dwellings to directly address an acknowledged under provision and would do so in a highly sustainable urban environment which is heavily built up. The worst the Council has been able to say about it is that a single dwelling would be adversely affected. It is not suggested that the impact on 39 North Street would be trivial and inconsequential. It is an important matter which must be (and has been) treated importantly but the fact that only one building is allegedly affected by a development located in the heart of an urban area is, of itself, an indication that a good site has been found to meet the need.
80. The privacy question concerned overlooking from the east façade and north façade of the southern limb of the proposed building. However the Council agreed prior to the Inquiry²⁷ that the imposition of a condition would overcome this issue in respect of the east façade. The occupant of 39 North Street also accepted that such a condition would resolve her concern in that regard.
81. The issue is therefore confined to overlooking from the northern façade. The orientation of these windows is at right angles to 39 North Street and the most which may be achieved would be an oblique view towards its garden and conservatory. This view would be heavily curtailed by distance (20m) and the limited height of the windows (two storeys), the height of the boundary wall (2.5m) and the boundary planting. Furthermore, these are low activity occupants in contrast to a busy home of four bedrooms. There is also another feature of the design which heavily curtails the problem of privacy which has been insufficiently noticed by the Council. The design of the appeal building at this point would involve the lowering of the land by 0.5m at its closest point to the boundary with 39 North Street.
82. The combination of these points leads to the conclusion that the relationship of the appeal building to 39 North Street is entirely acceptable in an urban setting. There is no material loss of privacy and certainly the impact is not sufficient to outweigh the benefits discussed above.
83. In assessing this issue a comparison should be made with the impact of the existing building. The photographs in the Design and Access Statement (APP 2) which reveal the existing relationship show clear windows with an unrestricted view into 39 North Street from a building with no restriction on its hours of use. The Council agreed that the only material question is the extent to which the appeal building would increase the impact on privacy beyond that which already

²⁷ INQ 1 SoCG 2 paragraph 5.1

exists. The Appellant contends that there would be no material change between the existing and proposed buildings in terms of privacy. If this is found not to be the case, the difference is marginal and does not outweigh the benefits discussed above.

84. In respect of the physical relationship of the proposed building to 39 North Street on the question of an overbearing effect, this is not susceptible to discussion in submissions and the SoS is invited to form a judgement on the basis of the issues referred to above under the privacy issue.
85. Overall the Appellant contends that there would be a satisfactory relationship between the proposed building and 39 North Street. The Council emphasised that its concern regarding New House was much less significant. It is remarkable that a major provision to meet a chronic shortage of sheltered housing in a highly sustainable location has generated such modest (alleged) conflict with neighbour amenity.

Harm to the Conservation Area

86. The reason for refusal alleged harm to the conservation area. The evidence then provided by the Council's expert witness alleged an impact on a series of listed buildings but upon giving evidence the witness made it explicitly clear that he was not alleging an impact on the listed buildings or their settings "per se" but that they should be considered as an integral part of the conservation area. The only designated heritage asset under consideration at this appeal is therefore the conservation area.
87. The Council agreed and asserted that the appeal site is located on the periphery of the conservation area. This fact immediately dilutes the extent to which it can harmfully affect the heritage asset viewed as a whole. The Framework invites a judgement to be made about the effects on the heritage asset without segregation or disaggregation. The Council's arguments reflect a disagreement with the law whereas the Appellant's approach is the same as the law.
88. It is necessary to consider the contribution made by this peripheral area to the character of the conservation area as the Framework²⁸ explicitly recognises that the contribution is not uniform. The Council agreed that in assessing this matter it was necessary to take into account the negative effect of the Waitrose supermarket, the existing police station, the roads, parking areas and traffic. These matters in combination heavily reduce the significance of this part of the conservation area and correspondingly reduce the capacity for harm.
89. It is then necessary to consider the beneficial impact of the proposals. The existing police station is generally acknowledged as not being a thing of beauty. Despite an extensive period of exposure to all potential occupiers, the marketing evidence failed to establish any interest from other users and, if the appeal is dismissed, the building would remain as a permanent detracting influence on the character of this part of the conservation area. This is a serious matter for the character and appearance of the conservation area because of the prominence of the police station. The appeal proposals represent the only way this adverse impact would be addressed. It would be replaced with a building

²⁸ Paragraph 138

which refers to the vernacular style of surrounding architecture and finds a place in this part of the conservation area which is harmonious.

90. The overall judgement the Appellant invites on this issue is that the appeal proposals would profit the conservation area compared to what is presently there which, in the absence of the appeal proposals, would continue to mar the character and appearance of the conservation area. If this judgement is reached then the decision on this appeal follows a predictable course. The proposals will have thereby been adjudged to be sustainable and in conformity with development plan policy. This applies the full weight of two presumptions in its favour, s38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 14 of the Framework. There is nothing to overturn that presumption and permission should be granted.
91. There is no sensible basis upon which substantial harm could be found. If substantial harm is found then it is a flat balance of harm against benefit. In this situation the decision maker is invited to attach considerable weight to the harm but to nevertheless find that the harm is outweighed by the advantages of the development as set out above. Upon either analysis permission ought to be granted.

Rule 6 Party - Waitrose

92. Waitrose has persisted in a highways based complaint despite receiving a signed SoCG²⁹ confirming that the Council is satisfied with all highway related concerns. Waitrose has made no attempt to contact the Appellant to seek to further explore its concerns and has made no attempt to attend the Inquiry to explain why the agreed position fails to resolve its concerns. The objection should be rejected as being frivolous and wholly unsubstantiated.

The case for the Rule 6 Party: Waitrose

93. As indicated earlier in the report, Waitrose Limited relied on its written statement of case (R6 1) and did not appear at the Inquiry. The primary concern of Waitrose is that the Appellant failed to provide sufficient evidence to demonstrate that the level of parking provision proposed on the site would meet the needs of the development. Waitrose was advised prior to the Inquiry that the Council had withdrawn its objection in respect of parking provision and was sent a copy of the Highways SoCG. Nevertheless Waitrose confirmed that it maintained its objection to the development.
94. Waitrose's original objection was based on a technical review of the submitted Transport Assessment (APP 4). Waitrose noted that despite the submission of additional information to clarify the parking survey, the Council maintained its objection to the proposals. This was on the grounds that it was not possible to assess whether the schemes subject of the survey were directly comparable to the appeal site. Waitrose considered that the Appellant's Statement of Case (CRL 1) did not provide any new or additional evidence in respect of highway matters and it remained extremely concerned that the proposed parking ratio had not been justified.

²⁹ INQ 1 SoCG 4

95. Insufficient on-site parking and a lack of on-street parking would result in overspill parking in Waitrose car park given its proximity to the site and its identification by the Appellant as overspill parking. Waitrose plays a vital role as an anchor store in Thame town centre. The customer car park is integral to fulfilling its role as it not only serves customers but enables linked trips to other shops and services in the town via a walkway from the car park to the main street. The manager of the store had indicated that the most frequent customer feedback raised lack of parking and its abuse. Waitrose considered that insufficient parking as part of the proposal would exacerbate this problem, particularly as visitors to the site would be most likely to visit at weekends with Saturday being the stores busiest day and demand for parking at its highest. The loss of spaces to drivers of vehicles not utilising the store or other town centre facilities would be detrimental to Waitrose and the health of the wider town centre.
96. The Framework recognises the important role parking plays in supporting the vitality and viability of town centres³⁰. The CS identifies parking as a problem in the town centre, particularly on market days and Policy CSTHA1 requires developments to improve accessibility, car parking, pedestrian and cycle links. In addition the TNP sees parking as vital to supporting shops within the town centre and that demand for it is likely to increase. One of its objectives is to ensure car parking within the town supports the viability of the town centre. The proposal would not improve the quality of parking in the town centre but would potentially reduce the number of spaces for shoppers.
97. Waitrose also expressed concern regarding the layout of the parking spaces. The two parking spaces for the police would be arranged parallel to Greyhound Lane with access from the internal access road. Waitrose considered that the manoeuvre to access these spaces would be impractical and would raise highway safety concerns. Waitrose also considered that the layout of the parking dedicated to the retirement apartments would be restrictive and unlikely to be practical. The tracking plans indicate that access to the spaces would be very tight and that vehicles would virtually touch the building in order to perform the manoeuvres. An impractical or inconvenient layout would be likely to discourage the use of on-site parking and give rise to parking outside the development. It could also result in service vehicles reversing from the site onto Greyhound Lane, to the detriment of highway safety.
98. The effect of the development on the character and appearance of the conservation area was also raised by Waitrose as it considered the scale of the proposed building would unacceptably dominate the street scene. Waitrose is of the opinion that the proposal would constitute overdevelopment which would not only contribute to it being unacceptable in terms of its impact on the conservation area but also that the site would be unable to accommodate sufficient on-site parking for the amount of development proposed.

The cases for interested parties

Oral representations made to the Inquiry are summarised below. Copies of the speaking notes and supporting material are attached as documents.

³⁰ Paragraph 40

Mrs B Dobie, local resident (INQ 13)

99. Mrs Dobie's main concerns related to traffic, noise and the style and height of the proposed building. She considered that the roundabout raised highway safety issues. She was also concerned that any building on the site would allow overlooking of the gardens of nearby properties and that the proposal might result in the loss of two trees within the highway verge to Greyhound Lane. In respect of the archaeological history of the area, Mrs Dobie referred to haphazard pieces of pottery found on the site during a minor excavation prior to the construction of the existing police station.

Mrs J Richardson, local resident (INQ 4 and INQ 10)

100. Mrs Richardson considered that the proposed building was too large and overpowering in the street scene and within the conservation area and that it would dwarf surrounding properties. Waitrose has an attractive roofline with a useful weathervane and is so tucked away as to be almost unseen from most of the town. The police station, though not the prettiest building, is quite modest in scale. Mrs Richardson accepted the need for a development of this type, but objected to the scale of the appeal proposals.
101. Parking in the area was already a problem without further pressure from inadequate provision as part of the development. The development would also have an adverse effect on the privacy of the occupants of 39 North Street, a building of historic interest. However, Mrs Richardson accepted that the proposed use of obscure glazing to some windows would overcome some of her concerns regarding privacy, but she maintained that the development would still appear overwhelming and views from the units which would face the southern boundary of 39 North Street would result in loss of privacy for the occupants.

Mrs M B Tildesley, local resident (INQ 5)

102. Mrs Tildesley's main concern related to road safety arising from the management of traffic generated by the site and the adequacy of the parking facilities. Traffic leaving the site would have much greater difficulty than the police vehicles in crossing the flow of traffic going to and from Waitrose car park and vehicles approaching the site would get caught in the tailbacks as far as Aylesbury Road when Waitrose was busy. This also gave rise to concern over where drivers of refuse lorries and other large vehicles including emergency vehicles would be able to stop and whether they would be able to enter the site.
103. It is possible that many of the residents would have a car and continue to drive. Even those who did not drive would have visitors and carers who would need to park. Local streets are subject to on-street parking and not everyone who parks at Waitrose shops there. Although there is a good local bus service, there are many places which Mrs Tildesley regularly visits which are not accessible by public transport.

Mr R W Smith, local resident (INQ 6)

104. The proposed development would have an overbearing and oppressive impact on properties in the immediate vicinity of the site, including Mr Smith's own property. Presently the rear garden to his dwelling is overlooked by a single window in the police station. The proposed development should be two rather than three floors with a height no greater than the police station and no

windows overlooking properties to the west of Greyhound Lane. The development would be highly detrimental to residents and detract from the pleasant environment of the conservation area.

105. Redevelopment of the site presents a unique opportunity to replace the existing obtrusive building with one more in keeping with the character of the conservation area, namely the cottages and houses in North Street, the thatched cottages in Bell Lane and the nearby church.
106. Mr Smith strongly supported the views of other residents concerning the impact of the development on access, traffic and lack of adequate parking for residents. He also considered that access for residents to the town centre via the Waitrose car park and walkway would be difficult and dangerous, particularly for those using wheelchairs or mobility scooters.

Mrs C Mawby, local resident (INQ 11)

107. Mrs Mawby raised concerns regarding the lack of garden space, parking limitations and no dedicated parking spaces for future residents. With regard to parking Mrs Mawby indicated that she regularly had to park her car a significant distance from her property as on-street parking was taken by people working in Thame and residents of properties with no on-site parking. Any additional pressure for car parking in the area would make the surrounding roads a traffic jam and a danger to pedestrians.
108. The route from the site to the town centre would be difficult for residents to negotiate as it involves a narrow pavement verging a busy access road used by cars, delivery lorries and pedestrians including those using mobility scooters, walking aids. It is then followed by a steep flight of steps or alternatively across the Waitrose car park.

Mrs A Patterson, local resident (INQ 12)

109. Mrs Patterson registered her opposition to the development on grounds of traffic generation and the consequences for highway safety. She indicated that there would be a danger to those using mobility scooters as the only access to the town centre would be through the Waitrose car park. The position of the access close to the service yard entrance to Waitrose and the additional traffic using Greyhound Lane would also give rise to restricted access to emergency vehicles.
110. The future of the oak tree within the grass verge on Greyhound Lane was also raised and Mrs Patterson indicated that it was causing subsidence to her property and was required by her insurers to be removed. The loss of the tree would open up views of properties to the west of the site.

Mrs S Broad, local resident

111. Mrs Broad expressed concern that Greyhound Lane would be a lot busier with mobility scooters. The pavement is quite narrow and may not be of sufficient width for mobility scooters or to allow people to pass one without stepping into the road which would cause safety concerns. Mrs Broad also considered that the height of the building should be restricted to two storeys.

Written representations

112. No letters of objection to the proposed development were received in response to the appeal. The Council received five letters of objection from local residents at the application stage which set out similar concerns to those subsequently articulated by local residents to the Inquiry, as outlined above.

S.106 Obligation

113. A signed s106 Agreement (INQ 17) was submitted to and discussed at the Inquiry. In summary, should the appeal succeed, the Agreement binds the Appellant to the following financial contributions to the Council:

- £556,257.24 towards affordable housing provision;
- £20,044.86 towards a replacement pavilion at Thame Sports Club to service tennis and bowls;
- £20,044.86 for the refurbishment of the floor of Thame Sports Centre Hall;
- £20,314.29 towards the redevelopment of the Southern Road recreation ground community facilities;
- £3,676.50 towards additional or enhanced police services infrastructure, staff and other services servicing the locality;
- £7,650 towards local waste and recycling facilities including the provision of bins for the development;
- £21,768.75 towards an integrated community and well being facility in Thame;
- £2,250 to cover the cost of monitoring and implementing the agreement.

And to the following financial contributions to Oxfordshire County Council:

- £30,800.00 towards the expansion or improvement of the Oxford Health and Wellbeing Centre;
- £46,451.70 towards the improvement of transport infrastructure within the vicinity of the development;
- £5,000 towards the provision of new bus shelters and/or the maintenance of existing bus shelters in the vicinity of the development;
- £1,120 towards the provision of additional library book stock for Thame Library; and
- £1,500 to cover the cost of monitoring and implementing the agreement.

114. The Agreement had been drawn up on the basis that the Council was satisfied that a financial contribution towards off-site provision of affordable housing would be appropriate in this instance. The findings of the submitted viability report which set out the maximum level of contributions to allow the scheme to remain viable were confirmed for the Council by the District Valuer. Since the affordable housing contribution would not meet the policy requirement a timescale for delivery of the units has been set. In the event that the development does not reach a Shell and Core Finish within 30 months of the permission being granted, a viability appraisal would need to be submitted to the Council in order to determine a revised affordable housing contribution. The Agreement also allows that should any of the planning obligations be held not to be compliant with the CIL Regulations the sums which would have been payable under those obligations would be added to the affordable housing contributions.

115. Both the Council and the Appellant have indicated that they do not consider that the Health and Social care contribution required by Oxfordshire County Council meets the tests set out in the CIL Regulations and the Framework³¹. The County Council provides publicly accessible day centres which provide a range of facilities³² for older people to enable them to live independently in their own homes and communities for as long as possible.
116. The Council has submitted its CIL schedule for examination and there is no confirmed date as to when it might be adopted. However, provision has been made by the Agreement that in the event of a decision being made on the appeal subsequent to the adoption of the schedule, the only obligation which would remain is that relating to affordable housing provision.

Conditions

117. The SoCG contains a list of eleven draft conditions (INQ 1 SoCG 1) and the Appellant submitted a supplementary list (INQ 19) to the Inquiry which updated one of the conditions and proposed a further two in the light of the evidence. The conditions relate to matters of materials, drainage, landscaping, access and parking, external lighting, and occupancy of the building. All the suggested conditions were discussed by those present at the Inquiry.

Inspector's conclusions

118. The following conclusions are based on the oral and written evidence given to the Inquiry and the accompanied and unaccompanied inspections I made of the site and its surroundings. The cases put to the Inquiry were on the basis that the development would constitute a total of 45 apartments comprising of 31 one bed and 14 two bed units and for the reasons already given I have made my recommendation on this basis. [6, 7, 8]
119. In the light of the matters agreed between the Council and the Appellant subsequent to the determination of the planning application and confirmed in the SoCG, I am content that the Council's fifth and sixth reasons for refusal relating to loss of employment land and the provision of affordable housing together with on and off-site infrastructure and services have been satisfactorily addressed and do not need to be explored further. However, in the light of the continued concerns of the Rule 6 Party and local residents with regard to the amount and layout of the proposed parking, I consider that this issue remains material to the case. [4, 5, 74]
120. With this in mind I consider the main issues in respect of the appeal to be:
- whether the development would preserve or enhance the character or appearance of the Thame Conservation Area;
 - the effect of the development on the living conditions of the occupiers of neighbouring properties in respect of outlook and privacy; and
 - whether the amount and layout of the proposed parking would be adequate to meet the needs of the site with regards to highway safety. [5, 44, 73]

³¹ ING 1 SoCG 2 paragraph 3.5 & SoCG 3 paragraph 3.2

³² INQ 15

The effect on the conservation area

121. The statutory background is provided by the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72(1) of the Act states that special attention must be paid to the desirability of preserving or enhancing the character of appearance of a conservation area. Section 66(1) of the Act states that, when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving its setting. The *Barnwell Manor Wind Energy Ltd v East Northants DC* [2014] EWCA 137 judgement indicates that considerable weight should be given to these provisions. Further clarification as to the overall planning balance in the context of S66 was given in the appeal decision on *Razor's Farm* where the SoS indicated that considerable importance and weight is not synonymous with overriding importance and weight. [46]
122. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the conservation of the asset. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Setting is defined in the Framework as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral. [32, 47, 55, 56, 57]
123. With regard to the contention made by the Appellant that Policies CON6 and CON7 of the SOLP are in conflict with the Framework and carry no weight, the Council agreed that Policy CON7 does not provide the balance against public benefits required by paragraphs 133 and 134 of the Framework. However, it considered that the aim of Policy CON7 to prevent harm to conservation areas is consistent with the need in paragraph 131 to take account of the desirability of sustaining and enhancing the significance of heritage assets. Moreover, Policy CON6 reflects the requirement in paragraph 136 that the loss of the whole or part of a heritage asset should not be permitted without taking all reasonable steps to ensure the new development would take place after the loss has occurred. [26, 27, 33, 45, 49]
124. Where there is conflict with the Framework paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Whilst the Appellant is of the opinion that no weight should be given to Policies CON6 and CON7 I find that they contain a degree of consistency with the Framework and have accorded them due weight in reaching my recommendation. [49]
125. The Council does not allege that any statutorily listed building would be harmed, but rather it would be their setting which would be affected. The listed building, 9 Bell Lane, is separated from the appeal site by the roundabout junction and views of it from this direction are enclosed by the high hedge along its roadside boundary. Moreover, the site is currently occupied by a large building and would be replaced by one of similar proportions in the area closest to the roundabout. I consider that the roundabout is effective in separating the appeal

site from the listed building and that the appeal site does not lie within a sensitive part of its setting. Furthermore the context in which 9 Bell Lane would be seen would remain largely unchanged by the development. On this basis I do not consider that the proposal would harm the significance of the listed building which comes from its setting. The other listed buildings referred to in evidence are some distance from the site and I do not consider they would be affected by the development. Nevertheless, these listed buildings together with the buildings of note, contribute to the significance of the conservation area. [63, 64, 65, 86]

126. The site lies within but on the periphery of Thame Conservation Area with High Street defining the main core of the town centre. The site is in a prominent position on the roundabout junction where North Street and Bell Lane give vehicular access to the town centre. Greyhound Lane gives access to the police station and Waitrose supermarket terminating in its car park from where there is a pedestrian link to High Street. Although the relatively modern dwellings on the northern side of North Street which extend along Aylesbury Road are bungalows, the dwellings in the area are predominantly two storey and the older cottages are an important characteristic of the street scene. Included in this is 39 North Street and although it is well screened from the road by a substantial beech boundary hedge, the distance between the dwelling and the neighbouring police station is evidence of a lower density development than found on High Street. The cricket ground on the western side of Aylesbury Road gives an open setting to this approach to the town from the north and helps maintain an impression of lower density development on the margin between town and country. [10, 13, 14, 59, 87]
127. The site is therefore on the edge of the main commercial core, acting as a transition zone between the High Street and the residential outskirts of the town. The character of North Street and Bell Lane contrasts quite significantly with that of High Street and it is the role the site plays in effecting a transition between the higher density of the High Street and the lower density dwellings to the north which contributes to the significance of the heritage asset. [59, 60, 88]
128. The existing police station is a large building which infills the corner of the site adjoining the roundabout and as it is also elevated above the level of the road the building forms a dominant feature in the street scene. On approaching the site from Bell Lane, the building only comes into view a short distance from the roundabout. Similarly the alignment of North Street restricts views, although the building can be seen from the pedestrian entrance from North Road into the Waitrose car park. From St Mary's Church views of the site are restricted by the trees within the church yard. The trees on the boundary with the roundabout also break up views when approaching the site across the cricket ground. [11, 57, 88]
129. However, a clear view of the existing building is possible in approaching the site along Aylesbury Road from where it is seen in the context of the roundabout and against the backdrop of the Waitrose supermarket. The latter is a very large building with a blank elevation facing Greyhound Lane. Due to the local topography with the land rising to the south, the height of the supermarket exceeds that of the police station. Although the staggered lines of the roof and walls attempt to break up the mass of the building, the view is of a blank

elevation of a large building. Moreover, the high security walls to the police station which bound Greyhound Lane as it leads into the car park together with its entry barriers do not improve the view. [59, 88, 100]

130. Although 39 North Street adjoins the eastern boundary of the site, the dwelling is further to the east and the intervening garden is enclosed by a high hedge along the roadside. This gives a sense of separation between the dwelling and the police station. The cluster of dwellings on the western side of Greyhound Lane, which includes New House, front onto a central driveway accessed from Bell Lane. The orientation of New House is such that it does not look towards the site and although the front elevation of The Old Barn faces that direction, it is set back beyond the driveway and the degree of separation is emphasised by the grass verge with trees on the western side of Greyhound Lane. The listed building, 9 Bell Lane, is situated to the north west of the roundabout and is enclosed by a hedge which is of sufficient height to prohibit views of all but the upper part of the first floor windows and the roof. Moreover, the roundabout is instrumental in separating it from the appeal site. [61, 88]
131. The Conservation Area Appraisal accepts that the area between North Street and the town centre has been dramatically affected by the police station and Waitrose developments, but considers that the character of the road survives. Whilst I accept that the character of North Road survives, the appeal site sits at the entrance into Greyhound Lane, the character of which is significantly different from that of North Street and Bell Lane. Notwithstanding this, the site is also part of the area between the town centre and the edge of the settlement and it is important that any building replacing the police station should provide an effective transition from the scale of the Waitrose building to that of the residential properties. [37, 59, 60, 87, 88]
132. The footprint of the proposed building would be more than double that of the police station. However, its position on the corner with the roundabout would reflect that of the existing building and the ridge heights would be comparable despite the proposal being three rather than two storeys. The proposal would extend further towards the western boundary of 39 North Street and the southern limb of the proposed building would also infill the remainder of the frontage with Greyhound Lane to the extent that only a short section of the eastern boundary with the car park would remain open. However, a degree of separation from 39 North Street would remain due to the reduced height of the proposed building adjacent to the boundary. In addition the appearance of the access road into the Waitrose car park would be improved by the reduction of the height of the wall on the southern boundary of the site and the installation of railings which would open up views into and out of the site. [61]
133. Although the plot is capable of accommodating a large building, the height and footprint proposed would create one of a substantial bulk, mass and scale. The varying external treatment of the elevations through variations in the building line, eaves and ridge heights would create smaller component units of a more domestic scale. This would help break up the bulk and mass of the building and provide visual interest in the street scene. [66]
134. However, the scheme would result in a large block on the corner of the site with the roundabout. Whilst the creation of a focal point in this position could be used to positively announce the presence of the building on this prominent site,

the height which would rise to three storeys plus a parapet under a pyramidal roof, would contrast significantly with the remainder of the building and its neighbours on North Street and Bell Lane. Moreover, the design takes reference from prominent buildings in the High Street rather than from the more immediate environs of the site. Although the scale and design of this part of the scheme would help divert attention away from the Waitrose supermarket, it would fail to create a satisfactory visual link with the domestic scale of nearby residential properties. [61, 66, 88, 89, 98, 99, 100, 111]

135. Other details of the design which caused concern to Council include the lack of hierarchy in the scale of the windows over successive floors and the introduction of bay windows which are not a feature of the conservation area. Whilst I note these concerns, I find the reduced height of the windows in the bays compared to others in the elevation to be more unacceptable as this treatment fails to emphasise the bay as a feature of the design. From Greyhound Lane the view of the southern limb would be restricted by the differences in ground level and the boundary wall. This would have the effect of making the bays with their reduced height windows appear as subsidiary rear extensions, rather than as a prominent part of the design. [67]
136. I am concerned that due to its proposed height, bulk and design the building would not create an effective transition between the larger scale development of the town centre and the smaller scale and lower density properties in the more immediate surroundings of the site. I accept that the replacement of the existing large building considered by many in evidence to be obtrusive would be a benefit. However the proposed building would be significantly larger in terms of its bulk and mass and I do not consider that the design would make a positive contribution to local character and distinctiveness. To demolish the existing building in the absence of an appropriate scheme for the redevelopment of the site would also have an adverse effect on the conservation area. [62, 89, 90, 100, 105]
137. On this basis the development would neither preserve nor enhance the character or appearance of the conservation area, contrary to Policies CONS6 and CON7 of the SOLP, Policies ESQ15, ESQ16, ESQ17, ESQ18 and ESQ20 of the TNP and the guidance in the Framework. Furthermore the development would harm the significance of the conservation area, although in my opinion the harm would be less than substantial. In the circumstances it is necessary to weigh this harm against the public benefits which I return to. [26, 27, 29, 48, 91]

The effect on the living conditions of local residents

138. It is the living conditions of the occupiers of 39 North Street and New House which have been identified as having the potential to be harmed by the proposed development. [68, 69, 79, 104, 110]
139. Whilst planting in the garden of 39 North Street restricts views towards the south, the existing police station is clearly seen to the west from within the garden and I have no reason to conclude that it would not be seen from windows to principal rooms in the dwelling facing the same direction and from the conservatory. Views from the existing police station towards 39 North Street are restricted by the high boundary wall to and the tree and shrub planting within the garden to the dwelling. However, from first floor windows

- servicing a kitchen and dining room in the existing police station, there are clear views of the garden and towards the eastern elevation of the house. Oblique views are also possible from office windows at this level. [83, 101]
140. Whilst I am satisfied that from ground floor level in the proposed building 39 North Street and its garden would be screened by the existing boundary wall, windows which would have a similar view as the existing kitchen and dining room would include those to a corridor, a shower room and a secondary window to a bedroom at first floor level and a kitchen on the second floor. Although these windows are approximately 42 metres from the facing windows in 39 North Street, they would be approximately 10 metres from the boundary wall and the elevated position would give clear views of the garden. However the use of obscure glazing and the restriction of opening lights, which could be addressed by a suitably worded condition, would prevent the overlooking of 39 North Street from this part of the development. [68, 80, 101]
141. Views towards 39 North Street from windows at ground floor level in the northern elevation of the southern limb of the building would be screened by the boundary wall. However, windows at first and second floor levels would allow views towards the garden of 39 North Street and obscure views towards the house and its conservatory from four apartments at first floor level and a further two at second floor level. Views towards the property would also be possible from windows in the western façade to two units on both first and second floors. [70, 71, 81]
142. On its north eastern corner the proposed building would be a minimum of 9 metres from the boundary with 39 North Street extending to 19m at second floor level. The drawing submitted by the Appellant during the Inquiry indicates that the minimum distance between the proposed building and the conservatory to the dwelling would be 19.5m. These distances would be below the standard separation of 25m given in the Council's Design Guide and the general rule of thumb measurement of 21m advanced by the Appellant. The distance between the proposed building and the corner of the main part of the house would be approximately 21.9m which would still fail to meet the Council's standards. [12, 39, 69, 70, 81, 101, 104, 110]
143. The section shown on the drawing shows that the combined difference in ground levels and the height of the boundary wall would restrict views of the conservatory from the first floor apartments. Views of the garden from this level would also be restricted by the existing planting within the garden of 39 North Street and proposed planting as part of the development. However, these factors would not constrain the views from the second floor to the same extent and although the separation distances between some of the apartments and 39 North Street would exceed the Council's 25 metre standard, this would not necessarily overcome the perception of being overlooked created by the number of windows with views towards the dwelling and its garden. [12, 17, 69, 70]
144. I accept that a degree of overlooking is to be expected in an urban situation and that in terms of the total number of apartments proposed only a limited number would afford views of 39 North Street and its garden. However, the apartments would be single aspect and although the Appellant referred to the development as lacking activity compared to a family home, there is the possibility that

- future occupants of the units would spend a greater part of their time sitting and looking out of the window. Whilst this was not referred to at the Inquiry, it would add to the perception of being overlooked. I therefore share the concerns of the Council and the occupiers of the property that their living conditions would be affected by overlooking, particularly in their use of the garden to the dwelling. [70, 71, 82, 99, 101]
145. At its closest the two storey element of the proposed building would be 2.5m from the western boundary with 39 North Street and 42m from the rear elevation of the dwelling itself. The second floor would be an additional 8m further away. I have already indicated that the two storey element of the southern limb of the proposed building would be 19.5m from the conservatory and 21.9m from the dwelling. This part of the building is approximately 11.1m from the boundary with 39 North Street whereas the section where it rises to three storeys is in excess of 18m from the boundary. [81]
146. Nevertheless, 39 North Street would be adjoined on two sides by a three storey building. Although, due to the length of the garden, the building would be a significant distance from the dwelling itself, it would still be a prominent feature in the outlook from the garden. Whilst its height would be comparable to the existing police station, the scale of the proposed building and the way it would wrap around two sides of the garden to 39 North Street would increase its dominance in the outlook from that property. I am concerned that this would create a situation where the building would be overbearing, to the detriment of the living conditions of the occupants of the dwelling. [70, 71, 84]
147. The orientation of New House at an angle to the existing building prevents direct views from within the dwelling towards the police station. However, it can be seen from the rear garden and the indicated need to remove one of the trees within the highway verge would increase the extent of this view. Views from the police station towards New House are currently obscure and restricted by a relatively high boundary wall and intervening trees. [99, 104, 110]
148. The layout of the proposed scheme would result in three apartments at first floor level and two at second having windows with an outlook towards the rear garden of New House. Whilst this would have the effect of introducing a far greater level of overlooking than is currently the case, the separation distance is well in excess of 25m and there is Greyhound Lane in between. I accept that there would be some loss of privacy to the occupiers of New House in their use of the private rear garden. However, I do not consider the extent of the overlooking would cause an unacceptable level of harm to their living conditions. I have noted that the occupants of The Stables which adjoins New House to the west have also expressed concerns regarding overlooking of their garden. However, this property is further from the site than New House and I do not consider the living conditions would be affected for the reasons I have given in respect of New House. [39, 72, 85, 101, 104, 110]
149. Although I am satisfied that the living conditions of the occupiers of New House would not be harmed by the proposed development, I consider that the proposal would affect the outlook and privacy of the occupiers of 39 North Street which would be sufficient to cause harm to their living conditions, contrary to Policy D4 of the SOLP. [23, 45]

Parking provision and highway safety

150. Whilst the dispute between the Council and the Appellant with regard to parking has been overcome, the Rule 6 Party and local residents remain concerned that the level of vehicular parking proposed would not meet the needs of the development. It is proposed that there would be no restriction on car ownership for future residents of the development and there would also be a full time manager as well as support staff. Parking would also be required for visitors. [5, 42, 93, 94, 103, 106]
151. On-street parking is prohibited in the immediate area around the site. It is time-restricted for shoppers using the Waitrose car park and at the various free car parks in the town centre. There is a long stay pay and display car park off North Street within easy walking distance of the site and parking on the residential roads to the north of North Street is not restricted. Reference was made by local residents to the volume of on-street parking by drivers working within the town and during my site visit I noted that the number of parked vehicles in this area was significantly higher than would normally be expected during the working day in a residential area. [95, 101, 107]
152. The proposed development would provide 14 parking spaces in association with the residential use and two spaces in association with the police office. The former would be located within the central part of the site with access from Greyhound Lane and a store for mobility scooters would also be provided. The parking for the police office would be sited within the frontage to the north of the access road and adjacent to the pedestrian entrance into the office. This area would also house stands for cycle parking. [18]
153. Policy T2 of the SOLP requires the provision of vehicular parking to accord with the Council's maximum parking standards and makes a differentiation between schemes with allocated and unallocated parking. However, in the absence of standards specific to the type of accommodation proposed, the number of spaces required by the Council was calculated using the standards applicable to all dwellings. The number of spaces identified as being required to serve the development was 57 spaces³³ and implied a significant under provision. [25, 40]
154. In response to the lack of parking standards specific to the type of development proposed, the Appellant provided evidence of the demand for parking based on a survey of eight similar developments³⁴. The survey took place over two weeks and recorded data on vehicle trip rates and parking activity associated with each site. The latter included parking within and in the vicinity of the site. From the results of the survey it was established that average parking provision required to meet demand was 0.32 spaces per residential unit. Further analysis was also undertaken which took account of local parking opportunities and considered the average parking provision if the maximum occupancy rates of the survey sites were used in order to arrive at a 'worst case' assessment. The results of the survey were accepted by the Council and I have no reason not to do likewise. [94]

³³ LPA 6 paragraph 3.5

³⁴ APP 5 Lodge Parking Survey Report 2012

155. Based on the survey results, the maximum demand for parking in respect of the development was agreed between the Appellant and the Council to be 15 vehicles. This would include visits by visitors, medical, social and other support personnel. It is expected that this level of demand would only occur for a short period and the peak is likely to relate to delivery vehicles. The scheme would provide 14 spaces which the Council is satisfied would be adequate to meet the normal demands for the site³⁵. There is the potential that at certain times the demand for parking would not be met. However, I am satisfied that this would occur only at limited times and that there would be suitable alternatives within a short distance of the site. I have also noted the public transport connections available locally. [95, 103]
156. I have had regard to the concerns expressed by Waitrose and the potential for visitors to the site using its car park. Whilst the use of the car park is time-restricted and available for shoppers, there have been representations that its use is abused. I acknowledge that the demand for spaces within the car park is high. However, I observed the car park on most days of the Inquiry and at varying times of the day and whilst at busy times vehicles were queuing there were spaces available. I have no evidence regarding the level of use of the car park or the scale of the abuse referred to. I accept that there is the potential for visitors to the appeal site to use the car park but this could be in association with a visit to the store. It is also possible that visitors to the site would choose to park at other car parks and on nearby residential roads. However, I do not consider there would be a noticeable increase in the level of on-street parking which already takes place. [95, 96, 103]
157. Following the refusal of the planning application the Appellant submitted a revised layout which included a segregated pedestrian footway into the site from Greyhound Lane and demonstrated that vehicles would be able to safely manoeuvre into and out of the parking spaces in front of the police office without conflicting with the pedestrian route³⁶. The drawing submitted to the Inquiry also confirmed that adequate provision could be made within the frontage for cycle parking. From the evidence before me I have no reason to conclude that drivers would have difficulty in accessing the site or manoeuvring into the parking spaces such that they would choose to park elsewhere. [97, 107]
158. It was indicated that some service vehicles, such as refuse collection, may stop on Greyhound Lane rather than enter the site. Whilst this may disrupt the flow of traffic at a point close to the bend in the road and the entrance into the Waitrose service yard, it would only be for a limited time and unlikely to be a daily occurrence. Moreover, the speed of the traffic along Greyhound Lane is slowed by the roundabout and the bend. On these grounds I consider the development would have little effect on highway safety. [102, 109]
159. Concerns were expressed with regard to the difficulties for residents either walking or using mobility scooters to the town centre via Waitrose. The pavement on either side of Greyhound Lane is narrow where it borders the southern boundary of the site. It is insufficient in width for two people to pass comfortably and anyone meeting someone using a mobility scooter would have

³⁵ INQ 1 SoCG 4 paragraphs 4.1.19 to 4.1.21

³⁶ INQ 1 SoCG 4 paragraph 4.2.1.

to step into the carriageway or cross the road. There are no plans to widen the footpath which, given the difference in ground levels, would be difficult to achieve. [106, 108, 109, 111]

160. However, this section of footpath is straight and therefore anyone approaching would be visible from some distance away giving ample opportunity for evasive action to be taken safely. Crossing the car park could be difficult, although it has clearly marked routes for pedestrians. Whilst I recognise that there may be restrictions on the route to the town centre, I do not consider these to pose an unacceptable level of risk to highway safety. [106, 108, 111]
161. On the evidence before me I therefore conclude that there would be sufficient parking within the site to meet the needs of the development and that the layout of the parking provision would not be detrimental to highway safety, in accord with Policies T1 and T2 of the SOLP. [24, 25, 98]
162. Several of the appeal decisions submitted in evidence raise the issue of whether the proposed on-site parking would be sufficient to meet the needs of the development. However, without the full details of the cases made it is difficult to draw any direct comparison with the appeal before me which I have considered on its own merits and site-specific circumstances.

Benefits of the scheme

163. In its submitted written evidence the Appellant raised the issue of housing land and contended that the Council did not have a five year supply. However in the light of the Council's update on this matter, the Appellant conceded at the start of the Inquiry that for the purposes of the appeal there is a five year supply. I am satisfied by the evidence that a five year supply of housing land has been demonstrated and that in this context the relevant policies for the supply of housing can be considered up to date. [45, 78]
164. However an adequate housing supply does not preclude the provision of further housing particularly where there is an identified need to satisfy a specialist demand. The proposed development would not only go some way towards satisfying that need, it would also lead to the release onto the open market the homes future occupants of the scheme currently under-occupy. In view of the existing severe shortage of housing the provision of additional accommodation for which there is a need weighs in favour of the appeal. [75, 76, 77, 78, 79]
165. There is no dispute that the development would provide accommodation in a sustainable location with good access to local services and facilities and public transport. There is also evidence that in moving to sheltered accommodation the elderly retain an independent lifestyle and as a result place less demand on support services than if they remain in their current homes. These would be of significant benefit and are in support of the appeal. [44, 77, 79]
166. The contribution towards affordable housing is also a benefit, although the weight which can be attributed to it is reduced by virtue of the fact that it does not represent the full policy compliant provision nor does it provide for a direct on site contribution. There would also be some benefit arising to the local economy through construction jobs and local spending, although these are limited. [114]

The planning balance

167. The statutory requirement is that a proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework, a material consideration in determining planning applications, makes a presumption in favour of sustainable development and sets out the three dimensions of sustainable development which give rise to the need for the planning system to perform a number of roles. An assessment of the extent to which these roles are fulfilled must be undertaken.
168. In terms of the economic role I acknowledge that there would be benefits to the local economy through the efficient use of previously developed land to provide housing and create jobs. Although there is the potential contribution towards the housing market through the release of properties currently under-occupied by future occupiers of the development, it is accepted that the Council has demonstrated a five year housing land supply. Other economic benefits are likely to arise from reduced health and social services costs. [44, 75, 76]
169. In terms of the social role, the development would meet the specific needs of the elderly in providing sheltered accommodation and would meet the needs of residents through the provision of and contribution to services and facilities via the obligations set out in the S106 Agreement. Weighing negatively in this respect is that the proposal would not achieve a high quality development due to the adverse impacts on heritage and the living conditions of local residents. [65, 67, 72, 75, 76]
170. In terms of the environmental role, the scheme would make a contribution through the retention and provision of some natural features and also those which would help conserve energy through shared resources. In addition the location of the site close to local shops and services together with its proximity to public transport routes would assist in reducing reliance on the private car. However, the development would neither preserve nor enhance the historic and built environment, but would lead to harm to the significance of the conservation area to which great importance and weight must be given. Furthermore it would lead to a significant loss of privacy and an adverse impact on the outlook from the neighbouring residential property. [10, 72]
171. In my judgement the benefits, considered in their totality, do not significantly or demonstrably outweigh the adverse impacts when assessed against the policies of the Framework considered as a whole. On this basis the proposal would not constitute sustainable development and the presumption in favour in the Framework should not apply.

S106 obligation and conditions

172. With regard to the Health and Social care contribution required by Oxfordshire County Council I accept that the facilities offered by the specialist services operated by the County Council differ from those which would be available as part of the proposed development. However, it is a development of specialist sheltered accommodation with the objective of enabling residents to live independently in their own homes and communities for as long as possible. I do not consider that a contribution to extend the existing facilities in Oxford to be necessary to make the development acceptable in planning terms. [113, 115]

173. With the exception of the Health and Social care contribution I am satisfied that the provisions of the Agreement accord with the statutory tests, set out in Regulation 122 of the CIL Regulations and the Framework as being necessary, directly related to the development and fairly and reasonably related to it in scale and kind. I am aware that in some instances the contribution of a monitoring fee has been considered not to meet the tests. However, I am satisfied that in this instance the tests are met. I am also satisfied that appropriate provision has been made if the Council's CIL schedule comes into force before a decision is made on the appeal. [42, 116]
174. Following the discussion at the Inquiry and having regard to current guidance, I have amended the construction or content of some of the conditions. The list of conditions thus amended is attached as Appendix C to the report. Matters of detail regarding materials, drainage, landscaping, access and parking are addressed. In view of the nature of the development, the occupancy of the apartments is restricted. There is also a requirement for obscure glazing to address overlooking of 39 North Street. Given potential archaeological interest in the site, a programme of archaeological work is also required. I recommend that the conditions in this Appendix be imposed if the Secretary of State decides to allow the appeal and grant planning permission for the development. [16, 99, 117]

Inspector's recommendation

175. For the reasons given above and having had regard to all matters raised in evidence, I recommend that the appeal be dismissed.

Kay Sheffield

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Cain Ormondroyd	Of Counsel
He called	
Philippa Jarvis BSc(Hons) Dip TP MRTPI	Principal of PJPC Planning Limited
Edmund Booth BA DipUD MRTPI IHBC FSA	Director of The Conservation Studio

FOR THE APPELLANT:

Anthony Crean	Of Queens Council
He called	
Andrew Burgess BA(Hons) MRTPI FRSA	Managing Director of Planning Issues Limited and Director of Churchill Retirement Living Limited
Jason Clemons BA(Hons) DipMA MSc MRTPI IHBC	Director and Head of Historic Buildings at CgMS Limited

INTERESTED PERSONS:

B.M. Dobie	Local resident
Jennifer Richardson	Local resident
Bernadette Tildesley	Local resident
Roger Smith	Local resident
Charlotte Mawby	Local resident
A Patterson	Local resident
Sarah Broad	Local resident
Shereen Ansari	Oxfordshire County Council

Appendix B: Documents

APPLICATION DOCUMENTS

Drawings

10063T-PLOC	Site location plan
10063T-P01	Site plan
10063T-P02	Ground floor plan
10063T-P03	First floor plan
10063T-P04	Second floor plan
10063T-P05	Roof plan
10063T-P06	Elevations sheet 1
10063T-P07	Elevations sheet 2
10063T-P08	Elevations sheet 3
10063T-P09	Elevations sheet 4
10063T-P10	Site plan –distances to boundaries
10063T-P11	Montage views
10063T-P12	Sketch section through proposal & Waitrose
120733	Topographical survey
SLD.820 Rev B	Landscaping
SLD.820-T Rev A	Landscaping –Tree detail

Documents

APP 1	Planning Statement
APP 2	Design and Access Statement
APP 3	Heritage Statement
APP 4	Transport Assessment
APP 5	Lodge Parking Survey Report 2012
APP 6	Affordable Housing Statement
APP 7	The Need for Private Retirement Housing in South Oxfordshire
APP 8	Commercial Viability Report
APP 9	Arboricultural Impact Appraisal and Method Statement
APP 10	Extended Phase 1 Ecological Assessment
APP 11	Phase 2 Bat survey
APP 12	Ground Investigation Report
APP 13	Flood Risk Assessment
APP 14	Archaeological Desk-based Assessment
APP 15	Supporting Stakeholder Engagement Statement

THE COUNCIL'S DOCUMENTS

LPA 1	Proof of Evidence of Philippa Jarvis
LPA 2	Appendices to Proof of Evidence of Philippa Jarvis
LPA 3	Update to Proof of Evidence of Philippa Jarvis
LPA 4	Proof of Evidence of Edmund Booth
LPA 5	Appendix to Proof of Evidence of Edmund Booth
LPA 6	Proof of Evidence and appendices of Rachael Nixon

THE APPELLANT'S DOCUMENTS

CRL 1	Statement of Case
CRL 2	Proof of Evidence of Andrew Burgess

CRL 3	Appendices to Proof of Evidence of Andrew Burgess
CRL 4	Proof of Evidence of Jason Clemons
CRL 5	Appendices to Proof of Evidence of Jason Clemons
CRL 6	Supplementary Proof of Evidence of Jason Clemons
CRL 7	Proof of Evidence of John Shelbourn
CRL8	Appendices to Proof of Evidence of John Shelbourn
CRL 9	Proof of Evidence and appendices of Daniel Friel
CRL 10	Proof of Evidence of Richard Sturt
CRL 11	Appendices to Proof of Evidence of Richard Sturt

RULE 6 PARTY'S DOCUMENTS

R6 1 Statement of Case

DOCUMENTS SUBMITTED AT THE INQUIRY

INQ 1	Statement of Common Ground
INQ 2	Planning Practice Guidance: Conserving and enhancing the historic environment submitted by the Appellant
INQ 3	Opening submissions on behalf of the Appellant
INQ 4	Speaking notes of Jennifer Richardson
INQ 5	Speaking notes of Bernadette Tildesley
INQ 6	Speaking notes of Roger Smith
INQ 7	Supplementary note of Edmund Booth submitted by the Council
INQ 8	E-mail of 16 December 2014 submitted by the Appellant
INQ 9	E-Mail of 12 January 2015 submitted by the Appellant.
INQ 10	Supplementary speaking notes of Jennifer Richardson
INQ 11	Speaking notes of Charlotte Mawby
INQ 12	Speaking notes of Mrs Patterson
INQ 13	Speaking notes of Mrs Dobie
INQ 14	Drawing No. 10063TH SKCS01 showing provision of cycle parking submitted by the Appellant
INQ 15	Revised statement of justification for Oxfordshire County Council's planning obligation requirements (non-transport)
INQ 16	South Oxfordshire Design Guide
INQ 17	Signed S106 Agreement
INQ 18	Drawing No. 10063TH – SS SK01 including cross section between site and 39 North Street submitted by the Appellant
INQ 19	Proposed additional conditions submitted by the Appellant
INQ 20	E-mail of 6 October 2015 from Agent for Rule Party
INQ 21	Closing submissions on behalf of the Council
INQ 22	Closing submissions on behalf of the Appellant

Appendix C: Suggested conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10063T-PLOC; 10063T-P01; 10063T-P02; 10063T-P03; 10063T-P04; 10063T-P05; 10063T-P06; 10063T-P07; 10063T-P08; 10063T-P09; 10063T-P10; 10063T-P11; 10063T-P12; 10063TH SKCS01; 120733; SLD.820 Rev B; and SLD.820-T Rev A.
- 3) With the exception of any demolition works, no development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted 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.
- 4) No development shall take place until a 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. The approved scheme of investigation shall be implemented prior to the start of construction.
- 5) With the exception of any demolition works, no development shall take place until details of surface water and sewerage disposal 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.
- 6) Prior to the first occupation of the development a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall specify species, planting sizes, spacing and numbers of trees and shrubs to be planted. The approved scheme shall be carried out in the first planting and seeding season following the first occupation or completion of the building, whichever is the soonest. Any trees or shrubs or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 7) The access, parking and turning area shown on the approved drawings shall be completed and made ready for use prior to the first occupation of the building and shall be retained thereafter solely for that purpose.
- 8) Prior to the first occupation of the building, details of any external lighting shall be submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) With the exception of any demolition works, no development shall take place until details of all boundary treatments have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the building and retained thereafter.
- 10) At no time shall the development hereby approved be occupied by persons under the age of 60 years, unless in the case of a couple where one person is over the age of 60 years, the second person shall not be under the age of 55 years.

- 11) Prior to the first occupation of the police counter, visitor cycle parking shall be provided in accordance with the details as shown on Drawing No. 10063TH SKCS01. The cycle parking shall be retained thereafter.
- 12) With the exception of any demolition works, no development shall take place until details of a segregated pedestrian route on the site access has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) Prior to the occupation of the building, the first and second floor windows in the eastern flank elevation of the North Street element of the building shall be fitted with fixed obscure glazing and retained as such thereafter. Any opening windows on that elevation shall be restricted to top-opening fanlights at a minimum of 1.7m above finished floor level.

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Appendix D: Glossary of acronyms and abbreviations

CA	Conservation Area
CAA	Thame Conservation Area Appraisal
CAMP	Thame Conservation Area Management Plan
CIL	Community Infrastructure Levy
CRL	Churchill Retirement Living Limited
CS	South Oxfordshire Core Strategy
DAS	Design and Access Statement
EH	English Heritage
HA	Heritage Asset
LB	Listed Building
LP	Local plan
NPPF	National Planning Policy Framework
OCC	Oxfordshire County Council
PPG	Planning Practice Guidance
S.106	Section 106 of the Town and Country Planning Act 1990
SoCG	Statement of Common Ground
SODC	South Oxfordshire District Council
SODG	South Oxfordshire Design Guide
SOLP	South Oxfordshire Local Plan
SoS	Secretary of State for Communities and Local Government
SPD	Supplementary Planning Document
SuDS	Sustainable urban drainage scheme
TNP	Thame Neighbourhood Plan

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

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