



Appeal Decision

Inquiry held on 6 to 9 October 2020

Site visit made on 13 October 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2020

Appeal Ref: APP/V3120/W/20/3247391

Land north of Appleford Road, Sutton Courtenay, Abingdon OX14 4NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Pippa Cheetham, O and H Properties against the decision of Vale of White Horse District Council.
 - The application Ref: P15/V2933/O, dated 11 December 2015, was refused by notice dated 22 August 2019.
 - The development proposed is an outline planning application (with all matters except access reserved) for the erection of up to 93 dwellings including associated car parking, public open space and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The application is in outline form with all matters reserved for future consideration apart from access. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. The name of the appellant on the appeal form is stated as "Mr Tobin Rickets, O&H Properties Ltd". This differs from the name of the applicant, as is set out on the planning application form. I am however satisfied that the appellant has the authorisation for the appeal to proceed. As an appeal can only ordinarily proceed in the name of the applicant, it is that name which is included in the banner heading details above.
4. Since the Council determined the planning application, it has adopted the Local Plan 2031 Part 2 Detailed Policies and Additional Sites (2019) (LPP2). The policies contained within LPP2 replace those in the Vale of White Horse Local Plan 2011 (LP). The LP policies that are set out in the reasons for refusal are therefore no longer part of the development plan and are not applicable to this appeal. The LPP2 policies that are included in the reasons are for my consideration in their adopted form, apart from Core Policy 8a. The main parties agree that this policy was included in error and should be replaced by Core Policy 15a. Accordingly, I have dealt with the appeal on this basis.
5. The Council withdrew its second reason for refusal concerning transport and highway related matters shortly before the Inquiry. This followed further

discussions with the appellant on the assessment work, highway improvements and bus service financial contributions. Sutton Courtenay Parish Council and other interested parties continued to contest this reason for refusal and provided related evidence that was considered at the Inquiry. The Council and the appellant also maintained different views on some of the traffic modelling work and the implications for accommodating the additional traffic generation. As a consequence, it remains a matter for my consideration.

6. The Council also stated that an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) (S106 Agreement) would address the matters in its third reason for refusal relating to the provision of supporting infrastructure and services. The Inquiry proceeded on this basis and included the consideration of a final draft S106 Agreement. A completed and executed version was submitted after the close of the Inquiry. The obligations concern affordable housing, bin provision, street naming, public open space provision, public art, bus service contributions, travel plan monitoring, and highway works comprising the access, the extension of a 30 miles per hour (mph) zone, a signalised pedestrian crossing and new bus stops.

Main Issues

7. On the basis of the above, the main issues are (i) whether the proposal would be in a suitable location for housing with regard to development plan policy and national planning policy; (ii) the effect on highway safety and the free flow of traffic, in particular on the Culham Crossing and the junctions leading to the Culham Crossing; (iii) housing land supply matters; and (iv) if harm arises, whether this would be outweighed by the benefits of the proposal.

Reasons

Suitable Location for Housing

8. The appeal site comprises a pastoral field. Its boundaries are formed by trees and hedgerows, and associated fencing. It abuts a further agricultural field to the north, beyond which is the River Thames. To the east, there is a further field. To the west, there is a line of dwellings along Abingdon Road and opposite the site on Appleford Road, there are modern housing developments. The bulk of the village of Sutton Courtenay lies to the south-west of the site.
9. The Council's Local Plan 2031 Part 1 Strategic Sites and Policies (2016) (LPP1) sets out the spatial strategy and strategic policies across the Council area to deliver sustainable development, including the provision to be made for housing. Core Policy 2 sets out that the Council will work with other Oxfordshire local authorities on unmet housing need and to ensure that Oxford's unmet housing need is met.
10. Core Policy 3 devises a settlement hierarchy approach, with each tier having a different strategic role. Sutton Courtenay is at the third tier as a larger village in the South East Vale Sub-Area (sub area). Unallocated development in such villages is to be limited to providing for local needs and to support employment, services and facilities within local communities. Core Policy 15 states that development within the sub area should be in accordance with the Settlement Hierarchy set out in Core Policy 3.
11. Core Policy 4 goes on to set out how the housing needs will be met based on the settlement hierarchy approach. Development outside of the existing built

- area of these settlements will be permitted where it is allocated by LPP1 or has been allocated within an adopted Neighbourhood Development Plan or future parts of the Local Plan. It goes on to state that this development must be adjacent, or well related, to the existing built area of the settlement or meet exceptional circumstances set out in the other policies of the Development Plan and deliver necessary supporting infrastructure. Development in open countryside will not be appropriate unless specifically supported by other relevant policies as set out in the Development Plan or national policy.
12. The site is not allocated for housing in the development plan. It also falls outside of the existing built up area as it consists of an undeveloped field and with its proximity to other such land. It abuts only the existing built up area on two sides. Hence, it does not lie in Sutton Courtenay as regards providing for local needs.
 13. As a result, the appellant's view that the site is not open countryside is not supported by how Core Policy 4 seeks to meet housing need. It does not define open countryside on a character and appearance basis, notwithstanding the physical attributes of the site, because it is concerned with implementing the spatial strategy with regard to housing needs and the settlement hierarchy. Open countryside falls outside of this hierarchy. Nor is there specific support from other relevant policies as set out in the Development Plan or national policy for this proposed development in open countryside.
 14. Overall, the approach of Core Policies 2,3,4 and 15 to the location of housing in relation to meeting unmet housing need and the settlement hierarchy approach does not favour the proposal.
 15. LPP2 comprises policies and locations for new housing to meet the Council's proportion of Oxford's housing need, policies for part of the Didcot Garden Town, detailed development management policies and additional allocations for housing. Core Policies 4a and 15a list these additional allocations, including for the sub-area. The site is not such an allocation.
 16. Accordingly, I conclude that the proposal would not be in a suitable location for housing with regard to development plan policy and national planning policy. Hence, it would not comply with Core Policies 2, 3, 4 and 15 of LPP1, and with Core Policies 4a and 15a of LPP2, which provide a framework for a plan led approach for addressing housing needs. As a consequence, it would also not comply with the approach that is set out in paragraph 15 of the National Planning Policy Framework (Framework).
 17. I deal with Core Policy 1 of LPP1 and paragraph 11 of the Framework, which both concern the presumption in favour of sustainable development, in my planning balance.

Highway Safety and the Free Flow of Traffic

18. The site would be accessed from the B4016 Appleford Road via a new T-junction provided in accordance with the standards set out in the Oxfordshire County Council's (OCC) Residential Design Guide (2003). The B4016 runs to the west through Sutton Courtenay and onto Drayton, and to the east to Appleford and then Didcot. The speed limit along the site frontage rises from 30 mph to the national speed limit. There is a footway on the opposite side of the road to the site that provides pedestrian access into the village.

19. To the west of the site is the junction of Appleford Road with Abingdon Road. Abingdon Road leads to the Culham Bridges, also known as the Culham Crossing, a restricted arrangement of two single width bridges that are traffic signal controlled and contain an associated footway. It leads into Culham and then onto a traffic light signalled junction with the A415.
20. OCC's evidence refers to Table 4 of the Origin Technical Report¹ which sets out a 2017 base scenario in relation to queue lengths, the degree of saturation and the delay per passenger car unit at the existing junctions. This shows that a number of junctions are already operating above their practical capacity for effective operation, even with the signalised nature of the Culham Bridges and the A415 junction. Whilst the appellant states that traffic flows have generally reduced since 2009, this is recorded up to 2017, from when the Council's base scenario is taken. Accordingly, I consider the base scenario is a fair representation on how effective the local highway network operates.
21. The main parties agree that using the 85th percentile trip rates from the TRICS database would result in 61 two-way vehicle movements in the AM peak and 56 in the PM peak. It is further agreed that the proposal could be associated with 18 two-way vehicle movements over the Culham Bridges in the AM peak and 16 in the PM peak. When the movements are added to those in the base scenario, they would exacerbate the queue lengths, the degree of saturation and the delay. The junctions would be operating even further above their practical capacity.
22. In relation to the impacts of the Covid-19 pandemic and homeworking on the traffic flows, the evidence before me applies reported national trends, rather than empirical evidence from the local highway network. It is also unknown if such trends would continue in the future, after the pandemic. As a result, this matter does not change my view.
23. Interested parties also drew my attention to the busy nature of the road network and the delays that are experienced, in particular during peak hours. Mr Duckham's evidence included traffic queue logging and associated photographic evidence. Whilst this is not equivalent to traffic modelling data, it does nevertheless provide useful information to supplement the evidence of OCC in relation to the saturation levels at junctions in the area.
24. The evidence does not suggest there are particular patterns or problems associated with personal injury collision, including with regard to pedestrians and cyclists. I also agree with the Inspector in the Hartford appeal decisions² that convenience to commuting drivers arising from delays is not a matter that should carry significant weight.
25. However, as the addition of the traffic movements from the proposal would be likely to exacerbate the delays that are experienced at these junctions, this would further impede the free flow of traffic. This is a matter for my consideration. Without measures that would reduce such an effect to a satisfactory level, this would be a likely consequence of the proposal.

¹ Origin Transport Consultants (2017) Culham Bridges, Sutton Courtenay, Oxfordshire Technical Note 3

² Appeal refs: APP/A0665/A/12/2179410, APP/A0665/A/12/2179374

Proposed New River Crossing

26. As part of a programme of strategic transport infrastructure to be delivered under the Didcot Garden Town Housing Infrastructure Fund (HIF), a new river crossing is proposed to relieve congestion in the area and to accommodate new housing development. This would be located to the east of Sutton Courtenay, connecting the A415 with the A4130 at Didcot. The proposed route, as it stands, would provide a roundabout on the B4016 at a distance of around a kilometre (km) from the site. It would then cross the River Thames with a further roundabout proposed on the A415, effectively running parallel to the current Culham Bridges.
27. Funding has recently been obtained for the new river crossing through an agreement between OCC and Homes England, amongst other highway schemes. Funding is also required through developer obligations, which OCC has confirmed is in place. There is no substantive evidence to the contrary.
28. The exact route has not been finalised, although there is a preferred alignment. This is set out in the HIF documents that were submitted at the Inquiry. The associated programme also sets out that the next stages are preliminary and detailed design, the preparation of an Environmental Impact Assessment, and the submission of a planning application. Post construction, it is intended that the new river crossing would be completed by January 2024. The funding is to be spent by the end of March 2024.
29. An objective of HIF is to reduce congestion in the parishes surrounding Didcot to the north. This includes Sutton Courtenay. The new river crossing would benefit the operation of the existing highway network in the vicinity of the site by enabling a preferable alternative route to the Culham Bridges. Utilising this new route would reduce delays caused by the operation of this existing restricted route. This would be advantageous to satisfactorily accommodating the forecast vehicle trips from the proposal on the local highway network.
30. The likelihood of the new river crossing going ahead, or the 'with crossing scenario', is paramount to the consideration of whether or not the likely highway impacts of the proposal would be acceptable. The recent confirmation of the funding is a significant milestone, and OCC are confident that the timescale for its completion in 2024 will be adhered to.
31. The HIF documents also reveal the importance of the funding in relation to the delivery of housing and employment, and so to the economic and social prosperity of the area. Clearly, there are significant efforts being made so that the related highway improvements will be delivered, including the new river crossing. It carries significant weight in my decision as regards transport and highway matters.
32. The benefit to the proposal could be said to be tempered in that it does not now form part of the delivery of new homes that are envisaged under HIF because it would be in conflict with the Council's spatial strategy, unlike when the business case was made. Nevertheless, the proposal would still benefit with the provision of an alternative route to the Culham Bridges. That it would not make a developer contribution towards the new river crossing is not surprising as it is already funded.

33. The S106 Agreement provides for up to 43 dwellings to be occupied prior to the new river crossing being open to vehicular traffic. OCC consider this to be a pragmatic approach, and acknowledge that it is not based on traffic impact assessment modelling. Furthermore, the number of occupied dwellings can be exceeded if an additional bus service contribution of £80,000 is made.
34. In this regard, I am not unsympathetic to the concerns of interested parties who consider that the new river crossing should open first. However, when the timescales for its opening are compared to the appellant's development programme, a 'without crossing scenario' would likely be for a fairly short duration. The weight of the evidence strongly suggests that the new river crossing will be implemented in the timescales indicated.

Other Measures

35. Regardless of the new river crossing, a bus service contribution through the S106 Agreement would be made to OCC of £79,422. This would be used for the improvement of bus routes serving Sutton Courtenay and Didcot. There are bus stops fairly close to the site and the S106 Agreement also provides for further bus stop provision on Abingdon Road. The provision of a pedestrian crossing is also proposed. A travel plan would encourage the use of modes of transport other than the car by way of a proposed planning condition. These measures would assist in lessening likely traffic generation, albeit on a moderate level.
36. The appellant has sought to make corrections to the OCC modelling and then tested the impact of linking the operation of the traffic signals in the local highway network. This is said to improve the movement of platoons of vehicles through the signals and physical alterations to the highway would not be required. Under this scenario, the appellant considers that the residual cumulative impact of the full quantum of development would not be severe. OCC dispute this and state that there would be little gained, as it would move the blocking back from one junction to another.
37. The alteration of the operation of the signals is not, though, a matter before me, as it does not form part of what has been agreed with OCC. As a result, it carries limited weight, not least as OCC would be unlikely to implement the measure as they oppose it.
38. Interested parties have also raised concerns over construction vehicles using the local highway network. This could be adequately mitigated by way of controls applied through a construction management plan. As at least some of the construction work would be likely to take place when the new river crossing would be operational, this would also lessen construction traffic impacts.

Conclusion on Highway Matters

39. I consider there is a high degree of certainty that the new river crossing will proceed and within a timescale that corresponds favourably with the proposal. On this basis, the traffic impacts of the proposal would not be severe because, in all likelihood, the new river crossing would free up highway capacity and the traffic generated from the proposal would also benefit from its use. The proposal would, therefore, be unlikely to contribute unsatisfactorily to further queueing at the existing junctions and the associated congestion. This would also restrict the potential for adverse impacts on highway safety arising from

the frustration of drivers, if this was to occur, as well as for pedestrians and cyclists.

40. The other proposed mitigation measures would have a more moderate effect, and I am not persuaded there is particular merit in further considering the signalling alterations. Nevertheless, this does not diminish from the importance of the new river crossing in coming to my conclusion on this matter.
41. On this basis, I conclude that the proposal would not have an unacceptable effect on highway safety and the free flow of traffic, in particular on the Culham Crossing and the junctions leading to the Culham Crossing. It would comply with Development Policies 16 and 17 of LPP2 which concern access requirements, off-site improvements to the highways infrastructure, the need and scope of a transport assessment and a travel plan for major development, amongst other matters.
42. In addition, it would accord with paragraph 109 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Housing Land Supply

Requirement to Demonstrate Three or Five Years Supply

43. Under the Oxfordshire Housing and Growth Deal (OHGD), Central Government announced in 2017 that Oxfordshire would receive up to £218 million of new funding (to March 2023) to support the planning and delivery of 100,000 homes by 2031, alongside a commitment for local plans within the County to be submitted for examination by 1 April 2019 and an Oxfordshire-wide Joint Statutory Spatial Plan (JSP) to be adopted by 31 March 2021³.
44. Paragraph 217 of the Framework states that the Government will continue to explore with individual areas the potential for planning freedoms and flexibilities, for example where this would facilitate an increase in the amount of housing that can be delivered. Such planning freedoms and flexibilities are in effect with the Council, as one of the OHGD local planning authorities.
45. The relevant planning flexibilities are set out in the Housing Land Supply in Oxfordshire: Written Ministerial Statement (12 September 2018) (WMS). The WMS provides short term flexibility which will support the delivery of the local plans for the area and ensure that the local authorities can focus their efforts on their Joint Spatial Strategy. The WMS goes on to state that for the purposes of decision-taking under paragraph 11(d), footnote 7 of the Framework will apply where the authorities in Oxfordshire cannot demonstrate a three year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).
46. This approach differs from the five year supply of deliverable housing sites that is more typically applied under the Framework. The Council has also not sought to fix its land supply under paragraph 74 where it would still be required to demonstrate a minimum five year supply, with the appropriate buffer.

³ Statement of Common Ground Planning and Housing Land Supply Matters, paragraph 6.4.

47. It is not in dispute between the main parties that the WMS is a material consideration. However, whether the WMS remains in effect is in contention. This stems from a disagreement over the application of the WMS where it states that:

'This statement applies from today and remains in effect until the adoption of the Joint Statutory Spatial Plan in each area, provided the timescales agreed in the Housing and Growth Deal are adhered to. I will monitor progress against these timescales and keep the planning flexibility set out in this statement under review.'

48. The timescales that are referred to in the WMS are those set out in the OHGD Delivery Plan. Notwithstanding contrary views concerning the timescales of the OHGD Statement of Common Ground and the South Oxfordshire Local Plan, there was agreement at the Inquiry that the JSP was not submitted by 31 March 2020 and will not be adopted by 31 March 2021. As far as the JSP is concerned at least, the agreed timescales have not been adhered to. The appellant considers this means that the three year dispensation has ended, and that a five year supply of deliverable housing sites should apply.
49. The WMS is, though, clear that it is for the Secretary of State (SoS) to monitor progress against the timescales and keep the flexibility set out in the WMS under review. The SoS has not indicated a change in position in the WMS at the present time, even with the slippage in the timescales for the JSP. If these flexibilities are to change, it is a matter for the SoS to decide upon in reviewing the WMS. There is not scope under the WMS for an individual decision-maker to take a different stance and even if there was, it would, in my view, undermine the approach to housing delivery that is set out in the WMS.
50. I am mindful of the correspondence between the Ministry of Housing, Communities and Local Government (MHCLG) with the Oxfordshire Growth Board (OGB) and, separately, with the Council Leader that I was referred to at the Inquiry in relation to three or five years housing land supply. The interpretation of planning policy is a matter for the courts⁴ and it is for the decision-maker to apply the policy. The WMS remains in effect, is unaltered and continues to represent policy as set out by the SoS for housing land supply in the local planning authorities in Oxfordshire where Central Government has agreed the OHGD. It is within this context that the WMS operates in order to influence planning decision-making, including the short term flexibility of the three year supply of deliverable housing sites. Hence, it attracts very significant weight in my decision.
51. In taking these considerations together, the Council is required to demonstrate a three year supply of deliverable housing sites for the purposes of the Framework.

Housing Land Supply Position - District Wide and in the Ring Fenced Area

52. Core Policy 4 of LPP1 sets out a District Wide housing requirement for the full plan period of 20,560. This was increased by 2,200 under the Core Policy 4a of LPP2 to meet the Council's agreed quantum of Oxford's unmet housing need.
53. Core Policy 5 of LPP1 concerns housing supply in the Ring Fence Area (RFA), where the appeal site is found. The ring fence approach, in an area also known

⁴ Richborough Estates Ltd v Secretary of State [2018] EWHC 33

as the Science Vale, is to ensure that jobs, homes and infrastructure are provided together.

54. The RFA has its own housing requirement of 11,850 over the plan period, which was calculated under the Liverpool approach which sets out to meet a backlog of housing supply by spreading it evenly over the whole plan period. The Sedgfield approach was applied to the requirement over the rest of the district area which meets a backlog of housing over the first five years of the plan.
55. In terms of a district wide calculation of housing land supply, Core Policy 5 states that the supply calculations for the RFA and the rest of the district is combined to provide a district wide calculation.
56. The main parties disagree on the five year housing requirement as regards the RFA and, as a consequence, the district as a whole. The Council rely on the Housing Land Supply Statement for the Vale of White Horse (August 2020) (HLSS) which gives an RFA requirement of 3,945 and for the whole district as 7,190⁵. The appellant relies on the Supplementary Statement of Common Ground Housing Land Supply Tables (SSoCG) which sets out an RFA requirement of 4,953 and for the whole district as 8,198⁶. The figures include a 5% buffer, which the main parties agree is appropriate.
57. On the basis of the HLSS, the Council consider that the RFA can demonstrate 4.2 years of deliverable housing sites. When combined with the rest of the district, the number of years of deliverable supply equates to 5.0 years across the whole district. The appellant considers that in the RFA 3.4 years can be demonstrated, and 4.4 years across the whole district, as set out in the SSoCG.
58. The difference between the main parties in the housing land supply figures relates to whether or not the Sedgfield approach should now be used for the RFA, rather than the Liverpool approach. The appellant has pointed to a deficit to delivery in the RFA, as is acknowledged in the HLSS, and, on this basis, has applied the Sedgfield approach. The Planning Practice Guidance: Housing Supply and Delivery also refers to this approach where there is a level of deficit or shortfall that will need to be calculated from the base date of the adopted plan and should be added to the plan requirements.
59. However, even if I was to accept that the Sedgfield approach should apply to the RFA, it would result in the number of years supply for both the RFA and the whole district being in excess of the three year supply that is set out in the WMS. Accordingly, there is not a deficit in the RFA or under the combined calculation for the district as a whole. Thus, Core Policy 5 does not lend backing to the proposal.
60. A significant proportion of Inquiry time was taken up in this regard with the report of the Inspector who examined LPP1 in relation to Core Policy 5, and the findings of the Inspector in the East Hendred appeal decision⁷. These concerned the operation of housing delivery policy and the five year supply situation, as it was at that time prior to the WMS, and how this would impact on the RFA and the whole district, amongst other considerations.

⁵ Table 7

⁶ Table B

⁷ Appeal ref: APP/V3120/W/16/3145234

61. I agree that it would be a matter for the decision-maker if the requisite level of supply could not be demonstrated and that establishing such a level of supply across the district as a whole would not allow the Council to 'park' the issue of lack of supply in the RFA. However, the requisite level of supply, namely three years under the WMS, can be demonstrated in both the RFA and the whole district. The East Hendred Inspector found the supply in the RFA to be deficit and for that undersupply to be weighed in the planning balance. As that does not apply in the case before me, the circumstances are sufficiently different so as not to alter my conclusion.

Covid-19 Pandemic Impact

62. I reach a similar view in relation to the impacts of the Covid-19 pandemic on housing land supply. The various scenarios that are set out in the SSoCG⁸ that apply three and six month delays show that the number of years supply for the RFA and the whole district would still be in excess of the three year requirement.
63. Whilst the requirement would be more marginal in the RFA when the Sedgefield approach is applied, the information before me to justify such a reduction is of a limited nature. It is not made on an empirical basis as it relies on a simple pro-rata reduction. The appellant presented evidence at the Inquiry of a national decrease up to June 2020⁹, but an assessment of localised delivery impacts was lacking, as was more recent evidence as the pandemic has evolved.
64. The Finchampstead appeal decision¹⁰ that I was referred to was at a time close to the start of the pandemic and even back then, there is some acknowledgement in the decision that it would be possible that the housebuilding industry would bounce back. Where Councils are recognising an impact, this seems to resonate more with boosting the supply of homes under the Framework rather than accepting a 'de facto' reduction in housing land supply. Longer term effects of the pandemic on housebuilding are also uncertain.
65. Taking these considerations together, matters concerning the pandemic carry limited weight in my decision and no related adjustment of the supply figures below three years is justified.

Other Housing Land Supply Matters

66. The Framework states that for a site to be deliverable, amongst other considerations, it should be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on the site within five years. Given that I have found that the appeal proposal would not offer a suitable location for development now, it would not receive support from the Framework in this regard. This is irrespective of the appellant's development programme and track record on other sites because these would not address the unsuitable location.
67. Core Policies 4 and 15 of LPP1 allocate a site in Sutton Courtenay known as 'East of Sutton Courtenay' for housing development. This allocated site has

⁸ Tables C to F

⁹ MHCLG, Housing supply: Indicators of new supply, England January to June 2020

¹⁰ Appeal ref: APP/X0360/W/19/3238048

been the subject of two planning applications¹¹, the first of which was appealed on the grounds of non-determination and subsequently withdrawn. The second application was refused on similar grounds to the appeal proposal as far as highway matters and the Culham Crossing, and a lack of a S106 Agreement in relation to supporting infrastructure and services. There were also additional reasons centred on flood risk and the effect on trees. The appellant considers that there is no sign of the allocated site coming forward.

68. As the two common grounds have now been addressed for the appeal proposal, it is not evident at least in principle why they could also not be resolved for the allocated site. The Council also consider that the flood risk issue could be resolved by a revised strategy and the trees issue could be overcome by moving a trench beyond a root protection area. Accordingly, there is not a significant obstacle to the allocated site coming forward. That it has been removed from the Council's housing land supply calculations seems simply to reflect that it would be delivered later in the plan period.
69. I was also referred in evidence to other allocated sites. There was not substantive evidence presented that demonstrated that these sites could also not be delivered by the end of the plan period.
70. Core Policy 47 of LPP1 and appendix H monitor the delivery of the LPP1 policies. Core Policy 47a of LPP2 and appendix M carry out the same function for the LPP2 policies. Both policies set out actions in the event that plan implementation is not taking place as envisaged. These include identifying alternative deliverable sites that are in accordance with the spatial strategy of the development plan or other appropriate mechanism. Notwithstanding that the proposal would not be in accordance with the spatial strategy, the totality of the housing land supply evidence does not suggest that LPP1 or LPP2 are not being implemented as envisaged. Hence, measures in Core Policies 47 and 47a do not need to be implemented as regards housing land supply.

Other Matters

Route to the Grant of Permission under the East Hendred Decision

71. At the Inquiry, the appellant also referred me to the East Hendred appeal decision and a route to the grant of planning permission under LPP1 policies, where a site does not lie within the built up area of a larger village. That appeal decision concerned a lack of housing supply in the RFA which does not apply in the case before me, for the reasons that I have set out. The Inspector in the East Hendred case also drew attention to that site being adjacent to the built up area of the settlement. For that to apply under Core Policy 4, in my view, it must be allocated. The exceptional circumstances under Core Policy 4 that attracted the support in the East Hendred appeal decision do not justify the proposal that is for my consideration.

Current Position Compared to 2016

72. At the time the planning application for the proposal was first reported to the Council's Planning Committee in 2016, it was recommended that planning permission be granted subject to the signing of a S106 Agreement and conditions. The appellant considers that now the Council has withdrawn its

¹¹ P15/V2353/0, P17/V1963/0

highway objection and with the signing of the S106 Agreement, that the position is essentially as it was in 2016. The OHGD and the WMS, though, are more recent and have a significant bearing on my decision, in particular in relation to the three year supply of deliverable housing sites. This was not the case in 2016 where the Council could not demonstrate a five year supply, as it was required to at that time. The situation has changed considerably and this does not favour the proposal.

Obligations contained in the S106 Agreement

73. Aside from the provision of affordable housing and on-site open space, the S106 Agreement provides for off-site works and various financial contributions. These concern purposes associated with bin provision, street naming, public art (if not provided on site), the bus service contributions, travel plan monitoring, and the various highway related works.
74. Having regard to the evidence before me, it has been demonstrated that they are all necessary to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. They accord with the tests set out in the Framework and the Community Infrastructure Levy Regulations (as amended, 2019), where they apply to each of the obligations. Accordingly, I have taken them into account in my decision.

Accessibility to Services

75. Appleford Road leads into the village where there are a range of local services including public houses, a convenience store and post office, a primary school, a further convenience store and a recreation ground, amongst other local services. These are well spread throughout the village, and the primary school in particular would be some distance from the appeal site. Nevertheless, the services can be accessed via footways after crossing Appleford Road.
76. There are also fairly regular bus services to Abingdon and Wantage which are centres that offer a wider range of services and employment. There are existing bus stops in the closest part of the village to the site and the new proposed bus stops on Abingdon Road would further increase accessibility to services in these larger centres.
77. The nearest railway station is at Appleford and lies around 2 km from the site. The pedestrian route is circuitous and involves using unmade Public Rights of Way (PROW). It is more of a recreational route, rather than providing for convenient access to the station. Bus services, however, offer a connection to Didcot Parkway railway station.
78. Overall, when the location of the site is considered in relation to the services in the village and the bus services that are available, the proposal would be accessible to local services.

Flood Risk

79. Parts of the site lie within flood zones 2 and 3, where there is a medium and a high probability of the risk of flooding. During the planning application, the Council considered that the effect on flood risk would not be unacceptable on the basis that the proposed housing would not be located in these parts of the site. As this would minimise the risk of flooding, I see no reason to disagree.

80. Criticism has been raised of the appellant's flood risk assessment, in particular in relation to how it tested the potential impacts of groundwater flooding. Infiltration systems are not, though, proposed and where groundwater would have the potential to affect the design of the surface water drainage system, this could be dealt with through the imposition of a planning condition. The proposal would not be unacceptable by way of flood risk.

Character and Appearance

81. In relation to the effect on the character and appearance of the area, I observed the site from the Thames Path, as well as from other PROW and the site frontage. The site is visually contained by virtue of the vegetation around the boundaries, which also provides a significant degree of screening from the Thames Path across the river and the intervening field. The effect on the rural setting of the village would not be unacceptable.

Planning Balance and Overall Conclusion

82. The proposal would make a contribution towards the Government's objective of significantly boosting the supply of homes under the Framework by virtue of the addition of up to 93 dwellings to the housing stock. The site would also no doubt prove attractive to the local housing market. Affordable housing would be provided, and whilst the level proposed would be required for the proposal to be policy compliant, it would also enable provision for those who would not be able to obtain general market housing.
83. Economic benefits would arise both during construction and through support for local services by way of the spend of the future occupiers. The submissions also indicate there would be biodiversity enhancements, new planting, meadowland creation and publicly accessible open areas. When taken together, these benefits attract significant weight.
84. The proposal would not be unacceptable with regard to highway safety and the free flow of traffic, having regard to the new river crossing and the various highway related mitigation measures that are set out in the S106 Agreement. The same applies by way of flood risk, as well as on character and appearance grounds. The Council also consider that the proposal would not be unacceptable concerning heritage, archaeology, urban design and contamination¹², and there is not substantive evidence to the contrary. These matters attract neutral weight, as does the accessibility to services with the site's location beyond the edge of the village and the dispersed nature of the local services.
85. Paragraph 11d) of the Framework concerns the tilted balance and refers to where the policies which are most important for determining the application are out-of-date. Most important policies do not mean all relevant policies and ultimately this is a matter of judgement. The Statement of Common Ground Planning and Housing Land Supply Matters (SoCG) identifies that Core Policies 1,3,4,5, 7 and 15 of LPP1, and Core Policies 4a and 15a and Development Policy 16(ii) of LPP2 are the most important policies for determining this application¹³. I see no reason to digress as they are central to the main issues.

¹² Statement of Common Ground Planning and Housing Land Supply Matters, paragraph 9.16.

¹³ Paragraph 5.11

86. The SoCG does not identify Core Policy 2 of LPP1 as a most important policy, despite that it is contained in the Council's first reason for refusal. This view is justified in that whilst I have found the proposal would be in conflict with this policy as it relates to the spatial strategy, it focuses more on working with the other authorities and a general commitment to ensure that Oxford's unmet need is addressed.
87. Development Policy 17 of LPP2 is also not identified as a most important policy, but it is not in dispute between the main parties and the proposal would accord with it. Core Policy 47 of LPP1 and Core Policy 47a of LPP2 are not most important policies because I have not identified a deficit in housing land supply that would bring these policies into play in terms of rectifying such an issue.
88. The proposal would not comply with Core Policies 3,4 and 15 of LPP1, and with Core Policies 4a and 15a of LPP2 as it would be in conflict with the spatial strategy to deliver housing development. Nor does Core Policy 5 of LPP1 offer support for the proposal. The OHGD and the WMS give further importance to the planned approach to the delivery of housing. The contrary stance of the proposal would be harmful in these respects. These matters attract very significant weight and importance in the planning balance.
89. Whether development plan policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on their degree of consistency with its policies. Core Policies 3,4,5 and 15 of LPP1 are strategic policies that seek to significantly increase the supply of housing in a planned manner in order to deliver the spatial strategy. Similarly, Policies 4a and 15a of LPP2, provide additional housing allocations to further support the planned delivery of housing. These policies are consistent with the Framework's intention to deliver a sufficient amount of housing and so are not out of date.
90. The proposal would comply with Development Policy 16(ii) of LPP2, as well as with Core Policy 7 of LPP1 which concerns providing supporting infrastructure and services. However, it would conflict with the development plan as a whole as it would be contrary to its spatial strategy.
91. The tilted balance would not apply. In having regard to my findings on housing land supply, the Council can demonstrate a three year supply of deliverable housing sites with the flexibility afforded by the WMS. The 'basket' of most important policies is also not out of date. The presumption in favour of sustainable development under paragraph 11 of the Framework would not therefore apply.
92. I also conclude that the proposal would not comply with Core Policy 1 of LPP1 in relation to how it applies the presumption in favour of sustainable development. As this policy reflects how the presumption was worded in a former version of the Framework, it is not consistent with the current version. The conflict with this policy attracts limited weight.
93. I have taken into account the relevant matters in relation to the economic, social and environmental objectives of the Framework, as set out above, notwithstanding these are not criteria against which every decision can or should be judged.
94. In concluding, I have considered all relevant matters that have been raised, but the significant benefits that would arise would not outweigh the very

significant harm that would be caused by the proposal. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Accordingly, the appeal should be dismissed.

Darren Hendley

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Tom Cosgrove

Of Queen's Counsel, instructed by Mrs Tracy Smith, Vale of White Horse District Council

He called

Mr Geoffrey Arnold BEng(Hons)

Principal Engineer at Oxfordshire County Council

Mrs Tracy Smith BA(Hons), BTP, MRTPI

Principal Planning Appeals Officer at Vale of White Horse District Council

Mr Adrian Butler BA(Hons), MRTPI

Principal Major Applications Officer at Vale of White Horse District Council

FOR THE APPELLANT:

Mr Timothy Corner

Of Queens Counsel, instructed by Mrs Philippa Cheetham, Varsity Town Planning

He called

Mr Ronald Henry BEng (Hons)

Regional Director (UK) Community Development, Stantec

MSt (Cantab), CEng, CMgr, MICE, MIEI, FCI

Mrs Philippa Cheetham BSc(Hons), MPhil, MRTPI

Planning Director, Varsity Town Planning

John Baird LLB, BA

Planning Solicitor, Osborne Clarke LLP (In attendance during the Planning Obligations session)

INTERESTED PARTIES:

Councillor Richard Webber BSc(Hons)

County Councillor Sutton Courtenay & Marcham, District Councillor Sutton Courtenay

Deirdre Wells Dip TP, MRTPI

Red Kite Development Consultancy, on behalf of Sutton Courtenay Parish Council and other Interested Parties

Robin Draper BSc(Hons), MPhil

Local Resident

Tom Duckham BSc(Hons), MSc, CEng

Local Resident

INQUIRY DOCUMENTS

- 1 Statement of Common Ground Planning and Housing Land Supply Matters
- 2 Supplementary Statement of Common Ground Housing Land Supply Tables
- 3 Deed of Agreement Under S106 of the Town and Country Planning Act 1990 (as amended) relating to land north of Appleford Road, Sutton Courtenay, Oxfordshire (draft)
- 4 Community Infrastructure Levy (CIL) Compliance Statement (October 2020)
- 5 Letter from Bev Hindle, Director OGB dated 29 September 2020 and attached email correspondence between Bev Hindle and Kris Krasnowski, Deputy Director, MHCLG
- 6 Letter from O&H Land dated 30 September 2020
- 7 Opening Submissions for the Appellant (Richborough Estates Ltd and others v Secretary of State [2018] EWHC 33 appended)
- 8 Opening Statement on behalf of the Council
- 9 MHCLG, Housing supply: Indicators of new supply, England January to June 2020
- 10 Highways Statement of Common Ground September 2020
- 11 Vale of White Horse District Council Local Plan 2031 Part 2 - Appendices (2019)
- 12 Housing Infrastructure Fund documents (bundle)
- 13 Deirdre Wells Dip TP MRTPI of Red Kite Development Consultancy, Statement on behalf of Sutton Courtenay Parish Council
- 14 Vale of White Horse District Council Local Plan 2031 Part 1 - Appendices (2016)
- 15 Oxfordshire County Council's Regulation 122 Compliance Statement date:22.IX.2020
- 16 Email from Deirdre Wells concerning site visit locations dated 9th October 2020
- 17 Closing Submissions on behalf of the Council
- 18 Closing Submissions for the Appellant

DOCUMENTS RECEIVED FOLLOWING THE CLOSE OF THE INQUIRY

- 19 Deed of Agreement Under S106 of the Town and Country Planning Act 1990 (as amended) relating to land north of Appleford Road, Sutton Courtenay, Oxfordshire (completed)