The Planning Inspectorate

# Appeal Decision

Inquiry held on 29 November 2016 and 28 February to 2 March 2017
Site visits made on 28 November 2016 and 28 February 2017

**by Richard Schofield BA(Hons) MA MRTPI**

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

**Decision date: 18 April 2017**

**Appeal Ref: APP/V3120/W/16/3145234**
**Mather House & Greensands, White Road and Reading Road, East Hendred, Wantage OX12 8JE**

- 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 Mr Leslie Wells against the decision of Vale of White Horse District Council.
- The application Ref P15/V2328/O, dated 25 September 2015, was refused by notice dated 21 January 2016.
- The development proposed is the erection of 75 dwellings (10 of which will be specialist accommodation for older people), communal hub for older persons' accommodation, retention of the existing Bed & Breakfast and associated open space, with all matters reserved save for that of access.

## Decision

1. The appeal is allowed and planning permission is granted for the erection of 75 dwellings (10 of which will be specialist accommodation for older people), communal hub for older persons' accommodation, retention of the existing Bed & Breakfast and associated open space, with all matters reserved, in accordance with the terms of application P15/V2328/O, dated 25 September 2015, subject to the conditions contained in the Schedule to this decision.

## Preliminary Matters

2. One of the Council's reasons for refusal related to highway safety and efficiency. Following the refusal of the appeal application, the appellant submitted a revised scheme for consideration by the Council, which reserved all matters to future consideration[1]. Although this was also refused planning permission, there was no objection from the highway authority. Indeed, it was confirmed by the highway authority[2] that '*…an appropriate, safe vehicular access to serve the site could be achieved, subject to detailed design, from the indicative position as proposed on Featherbed Lane...'.*

3. This being so, the parties requested that the appeal be determined on the basis that all matters were reserved for future consideration, with illustrative drawings showing a single site access from Featherbed Lane superseding those showing two access points. Given that the revised approach was subject to public consultation as part of a planning application process, I do not consider that any parties would be prejudiced by my consideration of the appeal on this

[1] Application P16/V0235/O
[2] Email from Oxfordshire County Council to the Planning Inspectorate 22 November 2016

basis. I have, therefore, in granting planning permission, amended the description of development from that in this decision's header accordingly.

4. The Inquiry opened on 29 November 2016 but was immediately adjourned, at the request of the parties, due to the sudden unavailability of a witness and the receipt by the Council of the report of the Inspector examining the Vale of White Horse Local Plan 2031 Part 1: Strategic Sites and Policies (the LP2031). Further submissions were invited on the implications of the Inspector's report, and the subsequent adoption of LP2031 by the Council, for the appeal proposal.

5. LP2031 supersedes the Vale of White Horse Local Plan 2011 (LP2011), other than for a small number of saved policies. I have, therefore, determined the appeal on the basis of the adopted development plan, with particular regard to the agreed key relevant policies NE6 and NE9 of LP2011 and Core Policies 1, 3, 4, 5, and 44 of LP2031.

6. It was agreed at the Inquiry that the Council's second reason for refusal, regarding a lack of infrastructure contributions and affordable housing provision, could be overcome by appropriate planning obligations, which were duly submitted.

## Main Issue

7. The main issue is whether, having regard to the requirements of local and national planning policy and guidance for the delivery of housing, and the effect of the proposed development on the character and appearance of the area, the appeal site is an appropriate location for the development proposed.

8. For reasons of clarity, I have addressed the main issue under a number of headings below.

## Reasons

### *Housing Land Supply*

*Overview*

9. There was a substantial amount of common ground between the main parties in relation to housing land supply, notably with regard to the overall housing requirement for Vale of White Horse over the plan period 1 April 2011 to 31 March 2031. This was recently confirmed in LP2031 as 20,560, disaggregated to be 11,850 in the Science Vale 'ring fence area' and 8,710 in the rest of the District. It is noteworthy, however, that the District will need to accommodate an additional 2,200 dwellings over the plan period to accommodate Oxford's unmet housing need. These will be allocated in Part 2 of the Local Plan, work on which is currently underway.

10. The five-year land supply period for the purposes of this appeal is 1 April 2016 to 31 March 2021, with a District wide delivery requirement of 8658 dwellings during this time (taking into account an agreed shortfall to date). It was common ground that the application of a 20% buffer for persistent under delivery was reasonable and that, as set out in LP2031, the 'Liverpool' method to make up the shortfall is to be used for the ring fence area, with the 'Sedgefield' method used both for the rest of the District and to produce a figure for the whole District. It was also common ground that, District wide, a five-year supply of deliverable housing sites could be demonstrated. On the

basis of all that I have read and heard, I have no reason to depart from the above positions.

11. The key issue in dispute, therefore, was whether or not a five-year supply of deliverable housing sites could be demonstrated for the ring fence area, in which the appeal site lies, and, if not, what the implications of that may be in relation to the operation of planning policy. It was agreed that the five-year housing requirement figure for the ring fence area was 4336 dwellings.

12. At the beginning of the Inquiry the appellant was of the view that, against the five-year requirement, the Council could demonstrate a 2.9 year supply in this area. The Council was of the view that it could demonstrate a five-year supply exactly, with a surplus of 29 dwellings. By the end of the Inquiry, the appellant's assessed supply had risen to 3.6 years and the Council had revised its surplus down to four dwellings.

*Site specific lead-in times*

13. The appellant's conclusions in relation to housing supply in the ring fence area derived from a different approach to the Council in the assessment of delivery from seven specific sites. Agreement was reached on one of those sites during the Inquiry, with six remaining in dispute.

14. The Council's assessment of delivery was based upon empirical evidence secured through communication with landowners, planning agents and/or developers. This information was updated during the course of the inquiry, in the form of email evidence, to provide an up-to-date picture of predicted delivery.

15. The appellant's assessment of delivery from the disputed sites was based solely upon the application of figures taken from a report by a national planning consultancy[3]. This report is a nationwide, rather than locally or regionally specific, study and does not include any sites within the Vale of White Horse district. It may provide a useful 'ballpark' indication of delivery rates from large sites but it is, in my judgment, stretching a point to consider that one can extrapolate from it a set of delivery rates to be applied universally regardless of local and site specific circumstance. Indeed, as noted by the Council, the report clearly contains similar caveats. Every site is different.

16. Thus, I see no compelling reason not to prefer the Council's approach to assessing delivery where it is able to provide empirical evidence. This is not, however, the end of the matter.

17. The disputed site known as Land East of Sutton Courtenay was refused planning permission by the Council's Planning Committee during the course of the inquiry. A 'cooling off' period had been invoked by Council Officers before a final decision notice was to be issued but, at the time of writing, these events place considerable uncertainty upon the Council's previously estimated delivery of housing on the site (in spite of assertions that there was '*lots of leeway*').

18. In addition, the evidence provided by the Council[4] in relation to the impact of a Byway Open to All Traffic (BOAT) on the site known as Monks Farm was far from reassuring. On the basis of the emails provided from the County Council's

[3] *Start to Finish – how quickly do large-scale housing sites deliver?* by NLP (November 2016)
[4] In response to the Inspector's questions

Countryside Access Strategy & Development Officer, it appears that the need to provide a link road across the BOAT may well be a significant potential constraint, which could need addressing through a public inquiry.

19. Finally, it is clear that the developer for the site known as Valley Park regards the Council's estimates of delivery, although a target, as '*optimistic*'. Much depends on when the S106 agreement will be concluded.

*Finding on Housing Land Supply*

20. There is no dispute that, district wide, there is a five-year supply of deliverable housing sites. I do not depart from this consensus. The situation in the ring fence area, however, is far from clear cut.

21. Although I prefer the Council's approach to the assessment of delivery, and thus consider the appellant's figures to be overly pessimistic, even the Council's final estimate of supply is marginal at best. This was accepted by the Council. It would take very little for supply to drop below five years.

22. Based upon my site specific considerations above, with the not insignificant question marks over three of the disputed sites, I do not consider, on the balance of the evidence before me, that the Council can demonstrate a five-year supply of deliverable housing sites within the ring-fence area. Putting a precise figure upon the level of supply is difficult, given that it is reasonable to consider that the sites in question may still come forward at some point in the five-year period. In other words, I am loathe to cut out the supply from them in their entirety. Suffice it to say that, given the size of the three sites, I consider that the five-year supply is somewhere between four and five years.

23. The Council argued that, were I to reach such a finding, I would need to consider how much weight to give to it on the basis of the level of the undersupply and the steps, if any, that were being taken to rectify it. In support of this, the Council submitted data on sites that have been granted planning permission, or that are the subject of a resolution to grant planning permission, since April 2016. It was argued that this showed the Council's proactivity in progressing permissions.

24. This may be so, but I can give the data very limited weight in the absence of any complementary information relating to completions or lapsed permissions over the same period. I am also mindful that the two largest 'permissions', totalling 213 dwellings, still require the signing of S106 agreements, for which no timescales are apparent.

25. I do not doubt that the Council is doing its utmost to move sites forward. On the basis of the evidence before me, however, there is not yet a clear indication that it is achieving the very significant step change in delivery (even without factoring in the accommodation of its share of Oxford's unmet need) required in the ring fence area if it is to deliver at the rate set out in the recently adopted LP2031. As such, in this particular instance, I consider that even a supply of between four and five years is a matter that carries significant adverse weight.

***Operation of housing delivery policy in the ring fence area***

26. The appellant contended that if I were to find that there was no five-year supply of deliverable housing sites in the ring fence area, the relevant

paragraphs of the National Planning Policy Framework (the Framework) should be applied to the decision-taking process. Relevant policies for the supply of housing should be considered out of date and the '*presumption in favour of sustainable development*' duly applied.

27. In other words, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.

28. The Council contended that this was not the case and that such a situation would only apply if the Council was unable to demonstrate a district wide five-year supply of deliverable housing sites.

29. Core Policy 5 of LP2031 is the development plan's Housing Supply Ring Fence policy. It is clear that the ring fence area is to be treated as a separate sub-area with its own housing requirement. It also clearly states that,

> '*the supply calculations for the ring-fence area and the rest of district area will be combined to provide a district wide calculation*'.

It does not, however, provide any guidance as to how these factors play out in practice.

30. The report of the Inspector who examined LP2031 gives some assistance. It states[5] that,

> '*…the ring fence policy would not prevent the plan's policies for the supply of housing (which would be likely to include policy CP5 itself) being considered not up-to-date if a five year supply could not be demonstrated across the Vale of White Horse as a whole. And I envisage that this is likely to be a decision maker's ultimate test of five year housing supply in the district'*.

31. The Council's inference from this is that the requirements of the Framework are only triggered if a five-year supply does not exist across the whole district, when the supply in the two areas is combined. This is a situation that could arise even if there was, say, a five-year supply in the ring fence area. In that situation, policies relevant to the supply of housing relating to the ring fence area would still be regarded as out-of-date in the context of the terms of the Framework. Indeed, Core Policy 5 would be one of those policies.

32. The report goes on to state that,

> '*Policy CP5's aim of locating housing to meet the Science Vale's identified housing requirement in that area would apply if there were a five year supply across the district as a whole but not within the ring fence area. Moreover, it would remain a relevant consideration for the decision maker, along with paragraph 14 of the NPPF, in the unlikely event that a five year supply of housing was not to exist across the district as a whole'*.

33. The inference that can be drawn from this is that where there is no five-year supply of deliverable housing sites in the ring fence area, but there is in the rest of the district, the Council will seek to grant permissions on suitable sites within the ring fence area only. Even if there was no five-year supply across

[5] Paragraph 66

the whole district, a decision maker may still wish to see housing focused in the ring fence area in line with the strategic aims of LP2031.

34. The appellant was of the view that such a reading of Core Policy 5 and the Inspector's report would mean that the ring fence approach would have no teeth where a five-year supply is lacking therein. This argument is not without merit. Nonetheless, I disagree. It seems to me that there is a clear emphasis, in both the Inspector's report and in Core Policy 5, on a district wide assessment of the five-year housing land supply for the purposes of the requirements of the Framework.

35. This does not, however, somehow allow the Council to park the issue of a lack of supply in the ring fence area. One of the indicators in LP2031's Monitoring Framework, concerning the successful operation of Core Policy 5, is whether a five-year supply of deliverable housing sites is maintained in the ring fence area. If this is not maintained, then the measures in Core Policy 47 (Delivery and Contingency) are to be implemented. One such measure is,

> '*identifying alternative deliverable sites that are in general accordance with the Spatial Strategy of the plan through the Local Plan 2031: Part 2 or other appropriate mechanism*'.

It is reasonable to consider that an '*other appropriate mechanism'* could be the granting of planning permissions on alternative deliverable sites, within the ring fence area, which are in general accordance with the Spatial Strategy of LP2031.

36. Thus, it would be for the decision maker to come to a view as to the weight to be attributed to the lack of a five-year supply in the ring fence area when assessing a proposal against the development plan as a whole. This approach, in my view, gives Core Policy 5 teeth, albeit that they may not be as sharp as the appellant might wish.

37. In summary then, it is my judgment that the Council is correct to assess its five-year housing land supply, for the purposes of paragraphs 47, 49 and 14 of the Framework, on a district wide basis. In this context any undersupply in one of the two discrete areas, assuming there to be a district wide supply in place, is a factor to be weighed in the planning balance when considering proposals against policies within LP2031 that may pull in opposite directions in such a situation.

38. Appeal decisions from other areas where a ring fence approach is taken to housing delivery were presented to me. However, as these are from different districts, with their own policy subtleties and approaches, I do not consider that they can be regarded as setting a precedent for the operation of LP2031's ring fence policy.

***Conformity of the appeal proposal with LP2031's Spatial Strategy***

39. LP2031 Core Policies 3 to 7 set out a Spatial Strategy for the district over the plan period. This directs most residential development to the Science Vale ring fence area, with a settlement hierarchy articulating how development is to be located therein. Most relevant to the appeal scheme are Core Policies 3, 4 and 5. Although the latter has been addressed above, it is worth noting the very great importance to LP2031, articulated through Core Policy 5 and its

supporting text, of ensuring residential growth in the ring fence area to support economic growth in the Science Vale.

40. Core Policy 3 sets out the settlement hierarchy. It defines East Hendred as a Larger Village. These are settlements with a more limited range of employment, services and facilities (than Local Service Centres), where unallocated development will be limited to providing for local needs[6] and to support employment, services and facilities within local communities. The supporting text to the policy states that any new facilities, homes and jobs will be focused on Market Towns, Local Service Centres and Larger Villages. There are no target housing figures attributed to individual settlements.

41. Core Policy 4 states that there is a presumption in favour of sustainable development within the existing built areas of Market Towns and Local Service Centres, as defined by settlement boundaries on the adopted Policies Map, and Larger Villages. Larger Villages do not have settlement boundaries and there is no clarity as to how the 'existing built areas' are to be defined. It is reasonable to consider that this is, therefore, a matter of judgement. In my judgement, even with the extant permissions to the west of the site, the Greensands site cannot be considered as being within the existing built up area of East Hendred and, so, does not benefit from Core Policy 4's presumption in favour.

42. Nonetheless, provision is made for development outside built up areas, where it is allocated by LP2031, a neighbourhood plan or future parts of LP2031. Such development must be adjacent, or well related, to the existing built up area of the settlement or meet exceptional circumstances set out in the other policies of the Development Plan. The Greensands part of the appeal scheme would conflict with these specific locational criteria, albeit that it would be located at a settlement where residential development is supported. This tension is a matter to be weighed in the balance when considering the implications of a lack of five year supply in the ring fence area.

43. I conclude, therefore, that the appeal proposal would be in general accordance with the relevant Spatial Strategy policies of LP2031 (noted above), having regard to the requirements of Core Policy 47 where there is a lack of five-year housing land supply in the ring fence area. It would be located at (or within, in the case of the Mather House site) a settlement that is identified as being suitable for new housing development over the plan period. It would meet local needs insofar as there is no five-year supply of deliverable housing land in the ring fence area.

44. It is also reasonable to consider that the 'exceptional circumstances' referred to by Core Policy 4 could include a lack of housing land supply within either of the two delivery areas. Thus, the scheme would comply with this criterion. Notwithstanding that point, given the recent permissions on land to the west of the appeal site, the proposed development on the Greensands site would also achieve compliance by being located adjacent to the existing built up area of the settlement.

### *Character and Appearance*

45. The appeal scheme is situated over two sites. Of these, the Council confirmed at the Inquiry that it had no objection in character and appearance terms to

[6] Albeit that 'local needs' is an undefined term.

the proposed single-storey units on the Mather House site. This site is within the North Wessex Downs Area of Outstanding Natural Beauty (AONB) but it is common ground that the 10 units proposed for it would not constitute major development[7]. Based on all that I have read, heard and seen I have no reason to take a different position. As such, this section focuses on the Greensands site.

46. The Greensands site is arguably, in LP2031 policy terms, within the open countryside. It is, however, clearly distinct from the expansive agricultural landscape around it. Upon it there is a reasonably substantial dwelling (Greensands itself), with annexe buildings, used as a bed and breakfast/motel. Some hardstanding and garden land is associated with it. Further areas of the site are given over to hardstanding and storage, some of which are subject to enforcement proceedings. The majority of the site is a large paddock, upon which horses were grazing at the time of my site visits.

47. The site is also well contained within the wider landscape, with well-defined vegetated boundaries. These boundaries are strongest to the north, where there is a substantial tree belt, and east, where there is a tall deciduous hedge. The western side is now being open to the agricultural land beyond following the lopping of the conifer hedge here. This arguably makes little difference, in visual and landscape terms, given the extant permission for residential development upon the southern half of the field to the immediate west of Greensands.

48. The site frontage onto Reading Road is more open, with a domesticated appearance derived from a well-kept verge; trimmed hedge; post and rail fencing; and signage for the bed and breakfast. In addition, the presence of Reading Road to the immediate south of the site, and Featherbed Lane to the immediate east, serve as additional natural boundaries.

49. Overall, therefore, the site does not appear as part of the open countryside. It has a largely domesticated appearance and, although the presence of a large paddock area upon it gives it a degree of association with its more pastoral surroundings, it is at best a transitional point between the main village and the open countryside. The Council's landscape witness stated that it, '*possesses few attributes that would mark it out as a valued landscape*[8] *on its own merits*'[9] and that the proposed development upon it would have only a minor effect upon the landscape character types that cover the site[10]. I agree.

50. Development on the site would extend the village to the north and east. This could quite justifiably be regarded as incongruous, and at odds with the established pattern of development in East Hendred, were it not for the fact that planning permission has been granted for residential development on contiguous sites to the west of Greensands, to the north of Reading Road. One of these is complete, another is currently under development and it was not disputed that there is good reason to consider that the third, directly adjacent to the appeal site, will commence in the not too distant future. This level of development in this location has, and will continue, to change fundamentally

[7] Thus not triggering the considerations in paragraph 116 of the Framework
[8] As per paragraph 109 of the Framework
[9] Mr Radmall's proof paragraph 5.14
[10] Ibid paragraph 8.5

the context within which the Greensands site sits, such that development upon it would not appear at odds with its surroundings.

51. It is also notable that the junction of Featherbed Lane and Reading Road, next to the site, is to be upgraded. This will necessitate some lane widening, the addition of a roundabout, the insertion of street lighting and the felling of some substantial trees. It will introduce another suburbanising influence, which, when read in combination with the already permitted developments, will serve to further diminish the pastoral character and appearance of this area.

52. The Greensands site is not within the AONB, the boundary of which runs along Reading Road. Nonetheless, it is reasonable to consider that it is within the AONB's setting. I have, therefore, carefully considered the potential impact of the appeal scheme upon the AONB, and its setting, having regard to the AONB's purpose of conserving and enhancing the natural beauty of the area.

53. Development on the appeal site would be visible from two public rights of way within the AONB. These are the footpath running directly south from Reading Road, opposite the site, and that with which it connects that runs east-west. It was common ground that any views of development on the Greensands site from these footpaths would be at close quarters and highly localised, due to intervening vegetation and the rapid curtailment of the east-west view when approaching the village.

54. This does not diminish their potential significance but, again, the view from them would be influenced by the junction works and the already permitted residential development, which in turn would already have had an impact upon the immediate setting of the AONB. As such, I do not consider that the presence of a well-designed and landscaped residential scheme on the appeal site would appear particularly harmful.

55. The appeal proposal would also introduce a degree of severance between the AONB, which is not built upon to the south opposite the appeal site, and its countryside setting to the north. I am not persuaded, however, that the interruption of what one would be hard pressed to consider as expansive, extensive or particular prominent views from the footpaths noted above, even with the loss of trees to the roundabout works, would be significantly harmful.

56. There would be some intervisibility between the Greensands site and the AONB when looking towards the AONB from the north on the footpath running north-south by Portway Farm. The Council agreed, however, that views from here were of less concern to it. Indeed, the presence of the so-called Pye 3 scheme to the immediate west of the appeal site would fundamentally alter views from this path such that development on the appeal site, which would arguably be less apparent than the Pye 3 scheme, would not be especially intrusive.

57. Although illustrative, the drawings and photomontages submitted with the application demonstrate that the hedgerows and tree belt that form much of the site's boundaries can be largely retained and could be enhanced by additional planting. Although additional planting may take time to mature, this would ensure the retention of a robust settlement edge and provide appropriately soft boundary screening to the development, notably along Reading Road. These factors, combined with the proposed green spaces on the site, and setting the dwellings back from the site edges, would maintain an acceptable transition to the countryside beyond.

58. Thus, in my judgment the development of the site would not introduce a distinct new built form into an area where none would otherwise exist. Any impact upon the AONB, in relation to views from and into it, would be negligible and there would be no impact upon users' enjoyment of it.

59. Given the change in the site's appearance, really only when viewed from close quarters, some harm would arise to the character of the site itself as it altered from a largely greenfield site to a residential development. However, considering the site's wider context, outlined above, it would not appear as a significantly detrimental incursion into the open countryside nor would it give rise to significant harm to the AONB or to its setting. This is a factor to be weighed in the planning balance.

60. My attention was drawn to other appeal decisions wherein Inspectors have dismissed appeals on the basis of harm to AONBs from development well outside them. This may be so, but context is everything when reaching such judgements and there is no suggestion that these decisions were like-for-like with the appeal proposal. Indeed, it is evident that in one the harm to the setting of a listed building was a factor in the dismissal and that in another the site was in a 'valued landscape'[11], which is not the case here. The final decision drawn to my attention in this context related to a site within an AONB, which is not the case for the substantive part of the appeal proposal. As such, I do consider that these decisions lay down any kind of path that I must follow.

61. The case of R on the Application of East Bergholt Parish Council v Babergh District Council [CO/2375/2016] was referenced in submissions by East Hendred Parish Council. Although the actual judgment was not provided, it seems to me that the relevance of it to the appeal proposal is limited as the case was brought by a Parish Council in a different local authority area with a completely different local plan. There was no suggestion that it was a precedent case. In addition, the village in question appeared to be within an AONB, whereas the contentious aspect of the appeal scheme is not.

62. I conclude, therefore, that the appeal proposal would cause some, very limited, harm to the character and appearance of the area. It would conflict with saved LP2011 policy NE6, insofar as there would be some detraction from views from public vantage points (although it is unclear whether the policy refers to vantage points within or without the AONB). It would also conflict with saved LP2011 policy NE9, in that it would have an (albeit minor) adverse effect on the landscape of the Lowland Vale.

63. I do not consider that it would conflict with LP2031 Core Policy 44, which seeks to protect 'key' landscape features from harmful development and have regard to the setting of the AONB. Indeed, given my findings that development is acceptable in principle in this location, I am satisfied that measures can be sought to '*integrate it into the landscape character of the area…*'.

64. There would be no conflict with paragraph 115 of the Framework, which requires great weight to be given to conserving landscape and scenic beauty 'in' *inter alia* AONBs.

[11] In the terms of paragraph 109 of the Framework

## Other Matters

65. The County Council as highway authority raised no objection to the appeal proposal with all matters reserved and was satisfied that safe and secure access to the site could be achieved. There is no technical or otherwise substantive evidence before me that would lead me to conclude that the appeal proposal would have any adverse impacts upon highway safety or efficiency.

66. There were no objections to the scheme from local infrastructure providers, including education and health representatives, and those concerns that were raised can be addressed by planning obligations. Similarly, there were no objections from relevant statutory undertakers or other bodies, such that I would have cause for concern in relation to drainage and/or flood risk.

67. Claims of adverse impacts upon biodiversity were made, but there is no detailed evidence before me to support such assertions. Opportunities for biodiversity enhancements can be secured by condition.

68. It was suggested that the Greensands part of the appeal scheme is too far from the village centre, leading to an increase in car usage to access the schools and shop. I agree that the site is not ideally located and that in inclement weather there may be more car usage. The elderly and/or infirm may also choose to drive. Nonetheless, it is not, in my judgement, so far from the village core that walking in for able bodied inhabitants would take a significant amount of time or, indeed, would be unpleasant. The route is largely level and quiet, has decent pavements and would have a crossing point on Reading Road. As such, I am not persuaded that there would be such an increase in levels of car usage that there would be significant adverse impacts upon the road network in the village centre.

69. It was also suggested that the location of the appeal site would lead to community division. New development in rural areas is not a new phenomenon. Indeed, it is evident from the age and groupings of dwellings in the village that there have, in the past, been phases of large development. There is no evidence before me, either local or national, to suggest that developments of the scale proposed on the edge of villages have given rise to any issues of social integration.

70. The appeal site is alleged to be Grade 2 agricultural land. This may be so, but there is no evidence before me that it is, or would be, farmed. Nor does there appear to be any policy basis for refusing development on these terms. The Framework is clear that account should be taken of this factor, but it is where 'significant' development of agricultural land is demonstrated to be necessary that areas of poorer quality land should be preferred. The appeal proposal would not result in the 'significant' development of agricultural land. Indeed, it is debateable whether it can be regarded as agricultural land at all, given its current use. As such, this matter carries very little weight in my considerations.

## Planning Obligations

71. A S106 agreement, with Deed of Variation, containing a number of planning obligations was submitted by the appellant. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the Regulations) requires that if planning obligations are to be taken into account in the grant of planning permission,

those obligations must be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question.

72. The obligations were not disputed by the appellant and relate to the provision and management of on-site public open space, including a Locally Equipped Area of Play; public art; upgrades to local facilities (including football facilities, tennis courts, multi-use games area, cricket pitches, East Hendred recreation ground and East Hendred village hall); refuse bin provision; street naming provision; public transport infrastructure and services contributions; provision of a toucan crossing facility on Reading Road; contribution to the Featherbed Lane Improvement Scheme; site access works; and improvements to cycle/pedestrian access and paths.

73. Evidence of the necessity, relevance and proportionality of these obligations was set out in detailed submissions from both the District and County Councils, which were considered at the Inquiry. They demonstrate the basis for the obligations, how they relate to the development proposed, set out how any financial contributions have been calculated and whether the CIL regulation pooling limits have breached. They indicate the planning policy basis for them. In my judgment these provide persuasive evidence that the above obligations meet the tests set out in the Regulations.

74. I do not consider, however, that the obligation towards rugby pitch provision meets the tests. Having heard from the Parish Council, it is clear that its desirability and deliverability in East Hendred is highly questionable and, as such, I am not persuaded that it meets the tests of relevance and necessity (indeed, it is duly negated by the Deed of Variation).

**Conditions**

75. A list of proposed planning conditions was discussed at the Inquiry. I have made amendments in the light of those discussions. This is to improve precision, clarity and enforceability, as well as to avoid overlap.

76. The conditions specifying the reserved matters, the time limits for submission of reserved matters and commencement of development, compliance with the approved plans, that defining the number of dwellings permitted, and that securing the older persons accommodation on the Mather House site are necessary to ensure legal compliance and/or to provide certainty.

77. Conditions tying the reserved matters application to the relevant parameter plan, and in relation to storey numbers, are necessary in the interests of character and appearance. A condition in relation to housing mix is necessary in the interests of ensuring a mixed and balanced community in line with the ambitions of the Framework. That relating to noise is necessary in the interests of ensuring appropriate living conditions for any future occupiers. A Construction Management Plan condition is necessary to ensure that there is no adverse impact upon the living conditions of the occupiers of surrounding dwellings or the local highway network during construction. A drainage condition is required to ensure that the site is properly drained and a piling condition is necessary to ensure protection of sub-surface drainage infrastructure. The Travel Plan condition is necessary to ensure that opportunities for non-car related modes of transport from the site are maximised, in line with national and local planning policy. An ecological management condition is required to ensure that appropriate ecological

protection, mitigation and enhancement is secured in line with agreed recommendations.

78. I have imposed a contamination investigation condition in the light of the written concerns of the Council's contaminated land and environmental protection officers about the extent of work done to date.

79. The proposed conditions relating to an archaeological scheme of investigation are unnecessary in the light of the consultation response from the Oxfordshire County Council's archaeology section, which confirms that there are no archaeological constraints to the application and does not request the imposition of archaeology conditions. That relating to the off-site highway works is unnecessary as these matters are addressed by planning obligations and that relating to management of construction traffic can be addressed by the Construction Management Plan condition.

**Conclusion**

80. I have found that there would be some harm to the character and appearance of the area, and views from the AONB, arising from the appeal proposal. As noted in my reasoning, however, I do not consider this harm to be significant given the changing context of the immediate area of the Greensands site and the nature of the views of it. I am also satisfied that the appeal proposal is in accordance with LP2031's Spatial Strategy, having regard to the lack of a five-year supply of deliverable housing sites in the ring fence area, and consider that this accord outweighs the limited harm to the character and appearance of the area. This is not to say that this will always be so, and other decision makers may reach a different conclusion having regard to the facts of the proposal before them, but it is in this instance.

81. Thus, in relation to the main issue, I conclude that, having regard to the requirements of local and national planning policy and guidance for the delivery of housing, and the effect of the proposed development on the character and appearance of the area, the appeal site is an appropriate location for the development proposed. I consider that the proposal accords with the development plan when taken as a whole and that there is no weight of material considerations that would support a refusal of planning permission.

82. I conclude, therefore, for the reasons given above, and taking all other matters into consideration, that the appeal should be allowed.

*Richard Schofield*

INSPECTOR

## APPEARANCES

*FOR THE COUNCIL:*

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| Mr Tom Cosgrove QC | Instructed by Vale of White Horse DC |

He called:

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| Mr Peter Radmall | Peter Radmall Associates |
| Mr Terence Gashe | Ferax Planning |
| Mrs Clare Roberts | Vale of White Horse DC |

*FOR THE APPELLANT:*

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| Mr Sasha White QC | Instructed by West Waddy ADP |

He called:

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| Mr Alastair Macquire | Aspect Landscape Planning |
| Mr Alan Divall | West Waddy ADP |
| Mr John Ashton | West Waddy ADP |

*INTERESTED PERSONS:*

Dr John Sharp (East Hendred Parish Council)
Mr Roger Turnbull (East Hendred Parish Council)
Mr Derek Harford
Ms Mary Thomas
Mr John Rhodes
Ms Nadine Haig
Ms Julie Cottee
Mrs Janet Shelley
Mr Mark Beddow

## DOCUMENTS SUBMITTED DURING PROCEEDINGS

1. Erratum to Mr Divall's Proof
2. Draft Costs Application by the appellant
3. Draft S106 agreement
4. Opening Submissions of the appellant
5. Opening Submissions of the Council
6. Statement by East Hendred Parish Council
7. Comparative assessment of landscape witnesses' conclusions
8. Letter from Pye Homes 24 February 2017
9. VoWH DC planning permissions and resolutions to grant 1 April 2016 to 31 January 2017
10. Appeal decision 3032691
11. Legal judgement in 'Crane', 'Daventry' and 'Barker Mill'
12. Updated delivery information regarding disputed sites, submitted by the council
13. Responses to Inspector's questions re 5YHLS
14. Response to Inspector's question re extent of brownfield land at Greensands
15. Closing Submissions on behalf of the Council
16. Closing Submissions on behalf of the appellant
17. Email correspondence from Oxfordshire County Council's Countryside Access Strategy & Development Officer, 2 March 2017
18. Further email correspondence from Oxfordshire County Council's Countryside Access Strategy & Development Officer, 2 March 2017

## DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF PROCEEDINGS

19. Completed S106 agreement
20. Deed of Variation to S106 agreement

## SCHEDULE OF CONDITIONS

1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with approved plan Location Plan 428 L01 and in general accordance with Parameter Plan Framework Masterplan 428 P01 Rev B and Parameter Plan Open Space Plan 428 P04 Rev B.

5) The total number of dwellings authorised by this permission shall not exceed 75 and any reserved matters application(s) submitted pursuant to condition 1 shall be limited to this maximum in total. Of these 75 dwellings no more than 65 shall be constructed on the Greensands site and no more than 10 shall be constructed on the Mather House site.

6) No dwelling hereby approved shall exceed two storeys in height and no dwelling constructed on the Mather House site as part of this permission shall exceed a single storey in height.

7) The mix of any market housing authorised by this planning permission, including details of size and type, shall be agreed in writing by the local planning authority as part of any relevant reserved matters application(s). Development shall thereafter be implemented in accordance with the approved mix.

8) Each unit of the development upon the Mather House site hereby permitted shall be occupied only by:

- persons aged 55 or over;
- persons living as part of a single household with such a person or persons; or
- persons who were living as part of a single household with such a person or persons who have since died.

9) Prior to the submission of a reserved matters application a revised bat emergence and re-entry survey as appropriate shall be completed to update the findings of the Bat Survey Report (Lockhart Garratt, September 2015). The results of the surveys together with an impact appraisal and specific mitigation strategy as necessary for the reserved matters application shall be submitted to and approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved mitigation strategy.

10) No development, including site clearance works, shall take place until an Ecological Management Plan (EMP) to include biodiversity enhancement measures for the sites has been submitted to and approved in writing by the local planning authority. The plan shall demonstrate how the development will deliver a net gain for biodiversity when compared to baseline ecological status as outlined in chapter 4 of the Extended Phase 1 Habitats Survey (Lockhart Garratt, September 2015), including a scheme for ongoing management as necessary, as well as measures to avoid adverse impacts upon retained habitat, including trees and hedgerows, during construction. Thereafter, the development shall be carried out in accordance with the approved EMP.

11) A detailed noise assessment following on from the recommendations of the Outline Planning Noise Assessment (Cole Jarman, 25 September 2015) shall be submitted for approval in writing by the Local Planning Authority in support of any reserved matter(s) application and will determine the extent and specification of the noise mitigation measures required on the sites. Development shall thereafter be carried out in accordance with the recommendations of the approved detailed noise assessment.

12) No development shall take place until a detailed design and associated management and maintenance plan for a scheme (or schemes) of surface water and sewage drainage from the sites has been submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme(s) shall thereafter be implemented in full prior to first occupation of any dwelling on the respective site(s).

13) No impact piling shall take place until a piling method statement detailing the depth, duration and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure and to minimise noise and vibrations, and the programme for the works, has been submitted to and approved in writing by the local planning authority. Any piling, and prior notification to affected neighbouring properties of such, must thereafter be undertaken in accordance with the terms of the approved piling method statement.

14) No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of:

- hours of work at and deliveries to the site;
- access and routing arrangements for construction and delivery vehicles;
- contractor and visitor parking areas and compounds, including storage areas for plant and materials, site offices and other temporary buildings;
- vehicle wheel washing facilities to ensure that mud and debris is not spread onto the adjacent public highway;
- loading and unloading areas;
- all dust suppression measures to minimise dust emissions arising from construction activities on the sites;
- a scheme for recycling and/or disposing of waste materials arising from the demolition and construction works;
- any security hoarding and/or fencing;

- the overall monitoring methodology; and
- the responsible person (site manager/office) who can be contacted in the event of a complaint.

The approved CMP shall be adhered to throughout the construction period.

15) Prior to first occupation of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the local planning authority with proposals to maximise travel to and from the sites by modes other than the private car. It shall include targets for sustainable travel arrangements and effective measures for the on-going monitoring and review of the Travel Plan. The Travel Plan shall thereafter be implemented in accordance with its agreed timetable and details.

16) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within five days of the report being completed and shall be approved in writing by the local planning authority.