



Appeal Decision

Inquiry Held on 27 - 30 April and 24 - 25 May 2021

Site visits made on 21 April and 11 June 2021

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/V3120/W/20/3264500

Land South of Steeds Farm, Coxwell Road, Faringdon

- 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 Welbeck Strategic Land II LLP against the decision of Vale of White Horse District Council.
 - The application Ref P18/V0259/O, dated 30 January 2018, was refused by notice dated 27 August 2020.
 - The development proposed is outline planning application for up to 125 dwellings and associated public open space. All matters except access reserved.
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application for up to 125 dwellings and associated public open space all matters except access reserved at Land South of Steeds Farm, Coxwell Road, Faringdon in accordance with the application Ref P18/V0259/O, dated 30 January 2018, and the conditions in the Schedule at Annex 1 to this decision.

Preliminary Matters

2. The virtual Inquiry sat for four days between 27 and 30 April 2021, adjourned, and resumed on 24 May 2021. An informal, unaccompanied site visit was made before the Inquiry opened and a further unaccompanied site visit after it closed.
3. Documents that were submitted during the course of the Inquiry are listed at Annex 2 (referred to as ID1, ID2 etc).
4. A certified Deed of Agreement made pursuant to S.106 of the Town and Country Planning Act 1990 (as amended) (S106 Agreement), dated 10 June 2021, was submitted post close of the Inquiry and in accordance with an agreed timetable. The S106 Agreement contains planning obligations including in relation to the provision of affordable housing and the payment of financial contributions towards affordable housing, various on- and off-site infrastructure, primary and early years education, highways works; the management and delivery of public open space and public art on the site, as well as monitoring fees. The extent to which certain provisions of the S106 Agreement meet the tests set out in the Framework and Regulations 122 of the Community Infrastructure Regulations 2010 (as amended) are a main issue in this appeal. The weight I attach to the provisions of the S106 Agreement is dealt with later in this decision letter.

5. The development plan includes policies from the Vale of White Horse Local Plan 2031 Part 1 (LPP1)¹; Vale of White Horse Local Plan 2031 Part 2 (LPP2)²; and the Great Coxwell Neighbourhood Plan, made July 2015 Review 2020³. Other material considerations include the National Planning Policy Framework, revised February 2019 (the Framework); the Government's Planning Practice Guidance (PPG); and RICS Guidance Assessing Viability in Planning Under the National Planning Policy Framework 2019 for England (RICS Guidance)⁴.
6. The application was submitted in outline, with all matters reserved save for that of access. Items such as drainage, layout, internal access and landscaping shown on the submitted drawings are treated as being only illustrative. I have also considered the scheme on the basis that 125 dwellings could be provided, although the outline proposal would not preclude the development of a lesser number.

Background and Main Issues

7. The greenfield appeal site is situated on the south western outskirts of Faringdon and is a part of the 'South of Faringdon' strategic site allocation and where the principle of new residential development is accepted within the LPP1⁵. The northern part of that strategic site allocation, Steeds Phase 1, has been built out and is near completion.
8. Following a process of independent viability assessment, review and negotiation at application stage, the Council's planning officer had recommended the outline scheme for approval to its Planning Committee; and on the basis that the full affordable housing and complement of infrastructure contributions as sought in accordance with Policies CP24 and CP7 of the LPP1 could not viably be provided⁶. It is not my role to arbitrate on the comments and discussions from the Committee meeting. As was their prerogative, Members resolved not to accept their officer's recommendation, nor the affordable housing and infrastructure contributions being offered.
9. The third of the three reasons for refusal related to the absence of an S106 Agreement to secure the provision of affordable housing, delivery of infrastructure works and various financial contributions, which has now fallen away. The first and second reasons, relating to the provision of affordable housing and financial contributions, instigated a fresh review of the scheme's viability by both sides. Whilst some aspects of the appellant's viability case have emerged since the Statements of Case, I have determined the appeal based on the substance of all the evidence now before me in this appeal.
10. There is no longer disagreement over on-site public art and healthcare contributions. This leaves the primary area of dispute hinging on the matter of scheme viability and whether an enhanced level of affordable housing and leisure contributions could be provided. The Appellant is also arguing that the leisure infrastructure contributions sought by the Council do not satisfy the tests of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations (Regulation 122 tests), even if it would be viable to provide them.

¹ CD7

² CD8

³ CD9

⁴ CD26

⁵ Allocated in LPP1 Core Policy 4 for around 200 dwellings (CD4)

⁶ LPP1 Policy CP24 requires 35% affordable housing at a split of 75/25 affordable rent/shared ownership. LPP1 Policy CP7 seeks contributions to infrastructure on and off-site infrastructure. Subject to scheme viability.

11. The appeal site is proximate to various designated heritage assets⁷. While heritage is not a matter in dispute, and I note the Statement of Common Ground between the main parties on this, Section 66(1) of the Act⁸ imposes a statutory duty on the desirability of preserving a listed building or its setting; while paragraphs 193 and 194 of the Framework require great weight be given to the significance of a designated heritage asset, which can be harmed by development within its setting. Any identified heritage harm carries great weight, therefore, the matter of heritage has been considered as a main issue.
12. With the above points in mind, I consider the main issues in this appeal to be:
- Whether or not the proposal would be viable whilst making a policy-compliant provision for affordable housing and other infrastructure contributions;
 - Whether, subject to it being viable to provide them, the disputed leisure contributions comply with the Regulation 122 tests and are justifiably sought; and
 - The effect of the proposed development on the settings and significance of the relevant designated heritage assets.

Reasons

Viability

13. The main parties are in agreement that the approach to viability should follow the PPG and RICS Guidance, and that a benchmark land value (BLV) should be established on the basis of the existing use value (EUV) of the land, plus a premium to the landowner⁹. Specific disagreement comes in establishing precisely what the EUV for the appeal site should be; the premium; and the implications of any abnormal, site-specific infrastructure and professional fee costs. I shall deal with each in turn.

Existing Use Value

14. The Appellant's primary position is that that the EUV should be based on the appeal site's value as amenity land, more precisely for use as pony paddocks¹⁰. The Council contends the EUV should be based on the site being in agricultural use and that an amenity/pony paddock use would represent an alternative use value (AUV).
15. The appeal site comprises around 7 hectares of arable fields on the edge of a settlement. The Local Plan Viability Study recognises that sites on the edge of a town may be used for agricultural or grazing use but have a value over and above that of agricultural land due to their amenity use¹¹. For the purposes of the 2014 Viability Study, sites previously in agricultural use of 5 hectares or more are assumed to fall into the category where agricultural land represents the EUV.

⁷ Grade I listed building known as The Great Barn; the Great Coxwell and Little Coxwell Conservation Areas; and the Badbury Camp Schedule Ancient Monument

⁸ The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act)

⁹ Paragraph: 013 Reference ID: 10-013-20190509

¹⁰ Will Seamer Montagu Evans LLP Proof of Evidence: Viability 29 March 2021 (MEPoE)

¹¹ Local Plan Viability Study 2014 (the 2014 Viability Study) (CD16)

16. The site is on the outskirts of Faringdon and located where pony paddocks may be desirable. However, the appeal site is not only in excess of the 5 hectare threshold given for 'paddock' value in the 2014 Viability Study, it is also significantly larger than the comparable amenity land sales evidenced by the Appellant¹². Perhaps more critically, beyond its size, the extant characteristics of the appeal site make it lacking in any obvious practical features that would lend it to being used as pony paddocks.
17. The RICS Guidance clarifies that permitted development and a use within the same use class are only in the existing use when no alterations are necessary to implement the use¹³. The facts on the ground lead me to the view that a number of material alterations would be necessary to implement a paddock/amenity use at the appeal site. Indeed, its sheer size and location close to a busy main road indicate that it would require some means of enclosure and subdivision in order for horses or ponies to be kept safely and accessed easily. The site is currently in arable production and lacks mains services; a source of fresh water, shelter and appropriate grazing would also, to my mind, be elemental to an amenity/paddock use.
18. The PPG sets out that where it is assumed that an existing use will be refurbished or redeveloped, this will be considered an AUV when establishing BLV¹⁴. The term 'refurbishment' and 'redevelopment' may, in general terms, be more analogous to a building than a field. Providing fencing and leaving land to pasture may also be within normal agricultural practices. Be that as it may, it does not indicate to me that the site, as it currently exists, could function as a pony paddock. Rather, I consider that the sum of necessary changes to facilitate such a use would, in combination with the time and degree of investment they would warrant, amount to the site's re-development or refurbishment.
19. I find the contention that the EUV should be based on amenity/paddock use unpersuasive when considering the site's size and existing characteristics. In my judgement, amenity/paddock use more aptly represents the value of the land for a use other than its existing use; that is an AUV. Drawing all of this together, I am of the opinion that the EUV of the appeal site should be based on its value in agricultural use.
20. On an agricultural EUV basis, the Council and Appellant's valuations, being £163,400 and £189,000 respectively, are relatively close. The Appellant concedes that the evidence of agricultural land transactions in the local area is 'somewhat historic'¹⁵, casting doubt over whether the circa £27,000 per acre figure reflects the decrease in agricultural land value that ostensibly happened between 2017 and the final quarter of 2020. Furthermore, that per hectare figure is a rounding up of the average of the price per hectare of local transactions¹⁶.
21. The KF Appraisal¹⁷ comparables include guide as well as achieved sales prices. However, the transactions are more recent and have clearly taken account of site-specific factors, including land grade. The appeal site's liability to flooding

¹² Para 3.23 MEPoE

¹³ Para 5.4.3 CD26

¹⁴ Paragraph:017 Reference ID: 10-017-20190509

¹⁵ Para 3.32 MEPoE

¹⁶ Para 3.31 MEPoE

¹⁷ Knight Frank appraisal 15.03. 21 Appendix 5 DJC PoE 30.03.21 (KF Appraisal)

and division by a drainage ditch seem to me legitimate limiting factors that might influence a slightly lower-than-average value. Conversely, I fail to see why the site's proximity to the edge of a settlement would be particularly advantageous to agricultural land valuation; whereas its smaller size and attractiveness as a bolt-on to another local farm, and presumably its proximity to a main road, might.

22. On the evidence and cases put to me, I find the Council's valuation to be more convincingly substantiated. On this basis, and adopting the Council's approach, the EUV of the appeal site would be £163,400.

Landowner premium

23. The landowner's premium is the second component of the BLV. There is no definitive answer in policy or guidance to how the premium should be calculated. Rather, the PPG establishes the premium to the landowner should reflect the *minimum return* (my emphasis) at which a reasonable landowner would be willing to sell their land; and provide a *reasonable incentive* (my emphasis), in comparison with other options available, for the landowner to sell while allowing a sufficient contribution to fully comply with policy requirements¹⁸. The RICS guidance reiterates that the premium should provide a reasonable incentive for a landowner to bring forward land for development, while allowing a sufficient contribution to fully comply with policy requirements. It is the minimum return that would persuade a reasonable landowner to release the land for development, rather than exercise the option to wait or any other options available to the landowner¹⁹.
24. The Appellant considers that if the valuation of the appeal site is to be based on its agricultural use, the premium should be 20x; while the Council considers that a 10x premium would be appropriate. With an EUV of £163,400, the Appellant's 20x premium would result in a BLV of £3,268,000; a 10x premium would result in a BLV of £1,634,000.
25. Various sources of premiums and uplifts were offered, which can range from anywhere from 10x to 28x for agricultural land. However, the range of premiums put to me, or those analysed in the Council's own viability study and assessments, appear to pre-date the latest policy and guidance and, inevitably, do not reflect the site-specific and policy circumstances relevant in this case.
26. Taking the Appellant's argument that the premium should be 'sufficient to incentivise' the specific landowner to sell or that 'the premium required to incentivise the landowner to sell sites with lower EUVs is higher' would, in my view, be problematic²⁰. On the other hand, for a premium to be linked simply to the EUV does not take account of the requirement to allow sufficient contribution to fully comply with policy requirements as endorsed by the PPG.
27. I take the point that Steeds Phase 1 neighbours the appeal site and was a fully policy-compliant scheme when it transacted in 2016. But, that scheme was not subject to a viability assessment so the assumptions are neither clear nor necessarily comparable. Additionally, that site was built out by a volume housebuilder, which is not yet certain in this case; and S106 contributions to make a policy-compliant scheme were considerably less than required of the

¹⁸ Paragraph: 013 Reference ID: 10-013-20190509

¹⁹ Para 5.3.2 CD26

²⁰ Para 3.37 MEPoE

appeal site. Historically, a site's location in a high value area or an allocation may have greatly influenced landowner expectations. The latest Framework and PPG guidance has sought to resolve the more market-driven 'circular' approach, while premium should be decided on a case-specific basis. With this in mind, the decisions and transactions as cross-checks, nor may not fully-reflect current policy requirements.

28. The landowner may well be disappointed upon comparing what was achieved on neighbouring land for a seemingly similar type of development and the Council's own Viability Study documents may also suggest uplifts for agricultural land being higher than 10x EUV. That said, the land value must represent the policy compliant implications of a site at the time it is developed. The reasonable expectations of the local landowner in this case would realistically have to be tempered by the policy requirements, including greater S106 contributions.
29. There are other options the landowner could exercise. One could be to wait and hold onto the land; thereby the landowner would gain no return. Alternatively, the landowner could decide to sell on the basis of the AUV being amenity/paddock land, although this would yield no premium. Comparing these other options and striking a balance between the aspirations of the landowner and the aims of the planning system, that is making provision for full affordable housing and contributions, I fail to see why a premium 10x EUV would not reflect either a minimum return or a reasonable incentive to release the land at the appeal site. Thus, I am content to follow the Council's approach and consider the BLV in this case should be £1,634,000.

Build Costs

30. The Inquiry heard much evidence on the detailed costs of developing the site for the purposes of viability. It is agreed that the costs should be based on BCIS Median, to which it would be appropriate to apply a 15% allowance for externals, plus any abnormal costs, plus a contingency; and that garage build costs should be at £50 per m². The main parties are also in agreement that electric vehicle charging points (EVCPs), drainage ditch realignment and culvert would be additional cost items.
31. I shall focus on the various items of outstanding disagreement between the main parties' respective quantity surveyors, as set out in the costs tracker provided during the Inquiry²¹.
32. In respect of changes to the Building Regulations, it is recognised that these will be forthcoming and that the costs of complying with the new Regulations would fall outside the BCIS build costs or externals allowance. Although the precise timetable remains unclear, it is common ground that the changes will not apply if a building notice is served by June 2022 and each plot is built out by June 2023²². It has been put to me that the timescales within the June 2020 MEVA are unrealistically tight²³ and that it would not be sensible for a developer to build some houses to different standards. However, it is far from conclusive that the cut-off dates will not be met and taking the Appellant's timetable, they surely would. The matter of market fluctuations is un evidenced and applies risk to any development. Even if not all buildings are commenced by June 2023,

²¹ Appendix 1 Wakemans/JA Costs and Comments tracker (ID4)

²² MHCLG Transitional arrangements in practice p. 102 Future Homes Standard 2019 Consultation, January 2021

²³ Montagu Evans Financial Viability Assessment June 2020 (2020 MEFVA) (CD25)

should that be the eventual cut-off date, the uplift in build costs would be the type of costs typically encountered and absorbed through contingency; a matter to which I will turn in more detail subsequently.

33. The rising main and pumping station is an unresolved technical item that had been factored into early MEVAs and subsequently removed. It therefore cannot be said that these costs were unexpected yet, equally, it cannot be said that works are not required. I do not know why the costs of the rising main and pumping station were not allowed for, but there seems consensus that the costs of this element could be in the region of £600,000. The scope for future cost savings through negotiation with Thames Water or the neighbouring landowner is uncertain and so I accept the cost for this item is justified.
34. Of the outstanding disputed costs, the debate was whether they fall within the 15% allowance for externals or constitute a site-specific infrastructure cost. While I have considered each cost individually, it is generally accepted that the appeal scheme would involve development of a straightforward greenfield site where issues such as ground contamination, demolition or archaeology are not present, and where the market is currently buoyant.
35. The PPG does identify that site-specific infrastructure costs might include access roads, SuDS systems and green infrastructure²⁴. In my view, the development's requirement for non-frontage roads, paths, landscaping, trees and footpaths, public open space, attenuation and fencing would be part and parcel of the planned and expected costs of what is to be a fairly standard scheme. These costs would all therefore be appropriately covered within the 15% uplift for externals in the BCIS rates. The need for a 350mm capping layer has not been substantiated through any specific site investigations. If a capping layer for non-plot roads was required, it would, in my opinion fall within the 15% for externals.
36. A suitable contingency is necessary to cover the costs that are not known. A 5% contingency is added in all MEFVAs and accepted as being 'fair and reasonable' in the Council's viability PoE²⁵. This, in my view, would be reasonable and expected even for a greenfield development such as this, as it would provide insurance against items that are not known.
37. 8% for professional fees has been maintained and inputted into both the Appellant and Council's appraisals. Notwithstanding professional fees can range or that fees of 5%, 6% or 7% for greenfield sites have been mentioned, I do not know the precise nature of the schemes where those lower figures were accepted. That the appeal site will be built out by a volume housebuilder is currently a matter of assumption, albeit a reasonably likely one. Therefore, it cannot be said that the cost savings associated with supply chains and economies of scale necessarily apply. I am therefore satisfied the 8% given for the professional fees is reasonable.
38. Drawing all of this together, the 'additions' to be made to costs would be the £99,425 of costs set out in the Appraisal 1a²⁶ plus the £600,000 for the rising main and pumping station; keeping the contingency at 5% and professional fees at 8%. There is no guarantee at this stage that the scheme will be built out

²⁴ Paragraph: 012 Reference ID: 10-012-20180724

²⁵ Para 61 David Coate Adams Integra Development Viability/Affordable Housing Proof of Evidence 30.03.21 (AIPoE)

²⁶ Adams Integra Development Appraisal 1A 13 May 2021 (Appraisal 1A)

by a volume house builder at a Lower Quartile rate, giving no certainty at this stage of a 'buffer'.

Viability conclusions

39. In respect of residual land value (RLV), and taking construction contingency to be 5%, the RLV is taken by the parties to be £2,916,214. Congruent to the Council's viability conclusions, I find the BLV in this case would be £1,634,000²⁷. Even taking into account the additional cost items as above and making appropriate adjustments²⁸, and including all the disputed leisure contributions that would be in the region of £526,000²⁹, I calculate that the RLV would be still be in excess of the BLV.

40. I therefore come to the conclusion that, taking into consideration the viability evidence before me, the development could viably provide more than the affordable housing contributions currently proposed. Indeed, I conclude that the scheme would be viable whilst providing the full policy-compliant provision for affordable housing (that is at 35% with a 75/25 tenure split affordable/shared ownership) as sought by LPP1 Policy CP24.

41. Setting aside the conformity with the Regulation 122 tests, I likewise conclude that the proposal would be viable with the inclusion of the full complement of other (leisure) infrastructure sought in respect of LPP1 Policy CP7.

42. I have before me an S106 Agreement that secures the affordable housing and leisure infrastructure contributions at the levels sought by the Council. It is not the case that any lack of affordable housing or disputed contributions would render the proposal unsustainable or provide a reason to withhold granting planning permission. I turn next to the content of the S106.

Leisure contributions and the Regulation 122 tests

43. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 requires that if planning obligations contained in S.106 Agreements 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.

44. LPP1 Policy CP7 requires all new developments provide for, inter alia, off-site infrastructure requirements arising from the proposal, delivered by an appropriate financial contribution. LPP2 Policy DP34 and the Developer Contributions SPD³⁰, indicate that major development sites are required to provide financial contributions towards providing or improving off-site provision of leisure and sports. That is, subject to meeting the Regulation 122 tests.

45. CIL compliance and the burden of justifying contributions rests with the Council and is a matter I would have to satisfy myself of, irrespective of whether or not the Appellant advanced a case against various leisure contributions during the course of the appeal.

46. The Council is seeking £215,371 towards floodlighting, drainage and the pavilion at Faringdon Rugby and Cricket Club. The Council's CIL Compliance

²⁷ Para 75 David Coate Development Viability/Affordable Housing Rebuttal 23.04.21

²⁸ As set out in para 6b) Faringdon S106 Mechanism Agreed Note (ID12)

²⁹ The S106 disputed contributions package less the public art contributions now agreed

³⁰ Developer Contributions – Delivering Infrastructure to Support Development SPD (CD10)

Statement³¹ sets out that this sum has been calculated on the basis of the population proposed by the development. However, whilst there may be aspirations towards improving lighting and facilities, to my mind rugby and cricket facilities would be of benefit to a relatively small sub-section of the population associated with the development. This causes me to doubt the sum of money being sought, especially in comparison with the sums requested for the general leisure facilities at Faringdon Leisure Centre or the more specific squash and tennis facilities.

47. On the evidence before me, the Council have failed to properly justify the implication of the proposed housing on these facilities in relation to their catchment and the likely levels of participation. There is insufficient evidence on the evidence on the necessity of contributions, in relation to the implication such participation would have on the ongoing maintenance of those facilities. Therefore, I am not satisfied that the level of contribution at the Rugby and Cricket Club is proportionate or amply justified.
48. £107,425 is sought towards football pitch improvements at Tucker Park. The CIL Compliance Statement identifies this being a proportionate cost towards improvements and enhancements for the population generated by the proposal. As with rugby and cricket, I do accept that the development would create some increase in use of the football pitches, which may require improvements to provide additional capacity. However, the need to improve the quality and capacity of pitches was identified in a study from 2015³². I therefore find the evidence-base behind the football pitch contributions to be of some vintage causing me to doubt whether the contribution fully reflects the current need, or contributions already made from more recent developments. I therefore find that the Tucker Park football pitch contribution has not been justified.
49. To my mind, a very small proportion of the increased population associated with the development would utilise Faringdon Bowls Club. Furthermore, the £6,066 contribution being sought by the Council would be towards improvement and expansion of the existing car park, a very specific project. While noting that the sum requested has been calculated utilising the Sports England Calculator, there is very little evidence to indicate the extent to which the population generated by the proposal would utilise the car park or benefit from improvements to it. On this basis, I am unconvinced that the contribution towards car part improvements at Faringdon Bowls Club is justified.
50. Various contributions are sought in respect of improvements and enhancements at Faringdon Leisure Centre (sports hall, swimming pool, health and fitness, and squash). The Appellant contends that these are unjustified, principally based on there being no current capacity issues. Each of the leisure contributions ought, to my mind, to fairly reflect the increase in population resulting from the development and the proportion of the development that would be able to access and utilise Faringdon Leisure Centre. Whether or not there is capacity at Faringdon Leisure Centre, a current requirement for specific built infrastructure, or funding in place for a new boiler system, I consider it not unreasonable to consider that the impact of the development would generate a need over time for maintenance, improvements and enhancements of those facilities. Thus, these contributions would be directly attributable to

³¹ CIL Compliance Statement March 2021

³² Playing pitch Study Final Report 2015 (CD12)

the development. The sums sought are evidenced as being calculated on a proportionate basis and, in my judgement, are reasonably related in scale to it. It follows that I am satisfied that the contributions sought in relation to improvements and enhancements of the health and fitness facilities, the sports hall, squash facilities, and the swimming pool at Faringdon Leisure Centre are justified.

51. £1,232 is sought towards the provision of marked running routes within Faringdon. There may be a network of footways and footpaths in the vicinity of the appeal site. Even so, I consider the sum of money sought would be fairly and reasonably related in scale and kind to the development, supporting the policy requirements for off-site leisure that would promote the health and well-being of its new residential population. Thus, this athletics contribution would comply with the Regulation 122 tests and is justifiably sought.
52. The sum of £14,884 is sought towards improvements and enhancements of outdoor tennis facilities in Faringdon. Whether or not the tennis facilities are at capacity does not preclude a need for refurbishment or upgrading of the existing facilities that would, in all reasonable likelihood, be utilised by a proportion of the future population of the appeal proposal. In my view, the contribution for outdoor tennis facilities would be justified by policy requirements, proportionate to the population increase that would arise from the development and reasonably related in scale and kind to it.
53. The contribution sought in respect of a multi-use games area (MUGA) at Tucker Park has been calculated using the Sports England Calculator. The 2014 Leisure Study³³ identifies a need for youth provision/MUGAs and it seems reasonable to expect that such a provision, for which the Town Council have a costed plan, would be fairly and reasonably related in scale and kind to the development and is justified.
54. In conclusion, on the disputed leisure infrastructure contributions, I find that the contributions sought in relation to football pitches Tucker Park, the outdoor bowls and the cricket and rugby clubs have not convincingly been shown to be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question. Therefore, the requirements of the Regulation 122 tests would not be met for these leisure contributions and they have not been justified.
55. On the other hand, I am satisfied that the contributions sought towards the sports hall, swimming pool, health and fitness and squash facilities at Faringdon Leisure Centre, along with the athletics, outdoor tennis and MUGA at Tucker Park contributions, would all be reasonably related in scale and kind to the development and therefore justified in respect of the Regulation 122 tests.

Heritage Assets

56. I must have special regard to the desirability of preserving a listed building or its setting³⁴. No equivalent statutory obligations for the settings of Conservation Areas or Scheduled Monuments exist, but, paragraphs 193 and 194 of the Framework³⁵ confirm that great weight should be given to the significance of a designated heritage asset and that that significance can be

³³ P. 20 Leisure and Sport Facilities Study Appendices 2014 (CD13)

³⁴ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act)

³⁵ National Planning Policy Framework, Revised February 2019 (the Framework)

harmed by development within its setting. In respect of Little Coxwell, I agree with the main parties that the appeal scheme would not affect the character and setting of the Little Coxwell CA, causing no harm to its significance as a designated heritage asset.

57. Badbury Camp, a Scheduled Monument, is an Iron Age hillfort that rises to the west of the appeal site. Although its relationship between the surrounding countryside is fundamental to an understanding of why it stands where it does, that relationship has been altered by changes over time, including settlement development. From what I have seen and read, the significance of the hillfort is due to its surviving defence structure and buried archeologically evidence of its former occupation; its woodland setting and the views it affords across the surrounding landscape. The local topography and vegetation severely limit intervisibility between Badbury Camp and the appeal site, which does not contribute meaningfully to its setting. I therefore conclude that the proposed development would not harm the significance of the heritage asset, either through any direct impact on buried archaeological remains within the scheduled area, or through its development within its setting.
58. The Grade I listed building known as The Great Barn is a monastic farm building dating from the 13th century. As well as the considerable interest derived from its age, architecture, materials and construction, the significance and special interest of The Great Barn is informed by its historic associations and the influence this had on the land and agricultural practices in the local area. The Great Barn is an important structure connected, if not still functionally so, with the agricultural landscape and historic settlements around it, which form a part of its setting. The appeal site forms part of the lands historically associated with The Great Barn and, to some slight extent, provides a continuing connection to an essentially agricultural landscape. Thus, the appeal site contributes in a small way to The Great Barn's overall significance as a designated heritage asset.
59. Irrespective of limited intervisibility or that intervening planting may screen or soften the proposed development from certain vantages, the appeal scheme would reduce something of the open, agricultural landscape that is of value to the setting and significance of The Great Barn. Some harm would arise as a result; however, I find the degree of harm would be less than substantial and at the lower end of that scale. Paragraph 196 of the Framework requires less than substantial harm be weighed against the planning benefits of the proposal.
60. The special interest and significance of the Great Coxwell Conservation Area (CA) is, in part, derived from the integral relationship between the historic and the vernacular buildings, some of which are listed, and its development over many centuries as a small rural settlement. The appeal site is part of the undeveloped lands surrounding Great Coxwell, which creates a green 'buffer' and emphasises its rural character. In this way, the appeal site is part of the conservation area's setting that contributes to its significance as a whole.
61. The proposal would reduce the extent of open, undeveloped agricultural land that forms the setting of Great Coxwell, lessening the undeveloped 'buffer' between it and Faringdon. The proposal would diminish, to a very small extent, the rural context around Great Coxwell, causing some harm to its setting and significance, although that harm would be less than substantial and at lesser end of that scale.

62. The less than substantial harm the appeal scheme would have on the significance of The Great Barn and the Great Coxwell CA shall be weighed against the public benefits of the proposal within my overall planning balance.

The S106 Agreement

63. As I have determined that the proposal would be viable if it were to provide the full policy-compliant level of affordable housing set out in LPP1 CP24, it would be appropriate to increase the affordable housing from that proposed up to the 35% affordable housing and comprising 75% affordable rented units and 25% shared ownership units, and provision of payment of an affordable housing contribution towards a fraction of a unit. The relevant S106 Agreement contains a mechanism by which this level of affordable housing can be secured. I am therefore satisfied that the affordable housing is required as part of the scheme and is justified to ensure compliance with the development plan.

64. I have already concluded that leisure contributions sought towards the sports hall, swimming pool, health and fitness and squash facilities at Faringdon Leisure Centre, athletics and outdoor tennis contributions, are justified in terms of mitigating the potential effects of the development and to ensure compliance with the development plan. The 'essential infrastructure contributions' for health service, the Pumphouse Project, Reading Room, street naming, and waste and recycling are all justified as directly related and proportionate in scope and necessary to making the proposal acceptable in planning terms.

65. The S106 Agreement would secure contributions towards funding on-site public art; the laying out and ongoing maintenance of public open space, including a play area and access routes to retained farmland; as well as provisions to secure the management of open space, public art and landscaping on the site. These facilities and features would ensure the development provides adequate recreation and an attractive environment. They would therefore be directly related, proportionate in scope and necessary to making the development acceptable in planning terms.

66. As the proposal would have a direct impact on the demand for school places, mitigation is required. The contributions sought in respect of Primary, Early Years, Secondary and SEN Education are directly linked to the development, reasonably related in scale to it and necessary to making it acceptable in planning terms.

67. Financial contributions relating to public transport infrastructure and services, Travel Plan Monitoring, and highways works, all stem from the development. These are all warranted to ensure that the development mitigates the impact on the surrounding highways network and to ensure that future occupiers have a choice of means of travel. I am satisfied that all of these contributions are fair, reasonable and necessary to mitigate the impacts of the development.

68. As already established, contributions towards football pitches at Tucker Park, outdoor bowls, cricket and rugby are not convincingly justified as being necessary, directly related, and fairly and reasonably related in scale and kind to the proposal. Thus, the requirements of the Regulation 122 tests would not be met for these leisure contributions. Accordingly, I have afforded no weight to these elements of the S106 Agreement and I take no account of them in the overall planning balance.

The Planning Balance

69. The Appellant and the Council agree that the appeal site is an appropriate location for housing and that the appeal proposals are in accordance with the spatial strategy of the development plan. The addition of up to 125 homes, even if they are over and above the 'around 200' for the allocated site and where a sufficient supply of housing land exists, would be wholly consistent with development and national policy that seeks to boost the supply of housing and make efficient use of land. The proposal would provide affordable dwellings at a full policy compliant level and with a mix of dwellings that would contribute to the choice of homes in the District. In economic terms, there would be jobs and spend arising during the development's construction phase and future residents would feed into the local economy, supporting the range of services and facilities therein. Opportunities to access those services and facilities by a range of sustainable modes also exist. These are economic and social benefits that carry very substantial weight in favour of the scheme.
70. The harm to the significance of designated heritage assets (to the Grade I listed Great Barn and to the Great Coxwell Conservation Area) would, in each case, be less than substantial and at a minor level. In my judgement, the public benefits of the proposal, by way of planning benefits outlined above, would be sufficient to outweigh the harm that would arise to designated heritage assets and the considerable weight I attribute to that harm.
71. By way of planning obligations, the proposal would mitigate its effect on essential and other infrastructure, highways and education that would accrue as a direct result of the development. Such contributions are now an express requirement of the site allocation and policy and in mitigation for the intensification associated with development increases in Faringdon³⁶. I therefore consider these contributions to be neutral in the overall planning balance.

Other matters

72. Concerns have been raised about the additional vehicular movements likely to be associated with the proposed new housing and the potential increased pressures on the local road network and parking. While noting these concerns, I see no reason to doubt the professional assessment of the Highway Authority or the Council that there would be no reason to refuse the development on the basis of transport grounds. Furthermore, the proposal will secure highways upgrades and a travel plan in order to mitigate transport impacts and encourage sustainable travel.
73. The indicative figure of 'around 200' that the South of Faringdon strategic allocation is expected to deliver sets no circumscribed upper limit on the quantum of housing³⁷. Neither this, nor the Council's ability to demonstrate a 5-year housing land supply indicate that outline planning permission should not be granted. Fundamentally, the appeal site forms part of a strategic allocation under the development plan where the principle of development is acceptable, including in respect of locational sustainability.
74. Detailed consideration of landscape, layout and appearance can properly be dealt with at reserved matters stage and, subject to the conditions I have

³⁶ Appendix A CD7

³⁷ Appendix A Western Vale Sub-Area CD7

imposed, there is no reason to doubt that a high-quality scheme would not be delivered. I therefore give very little weight to the objections citing additional housing; the site's proximity to facilities, services and employment or the limitation of those within Faringdon; the proposals effect on highway safety, or the character and appearance of the area.

Conditions

75. I have considered the suggested conditions that were discussed at the Inquiry against the six tests set out in paragraph 55 of the Framework. A condition relating to dwelling mix is not necessary in light of my conclusions on viability and affordable housing. With that exception, there was very little dispute as to the need or wording of the suggested conditions. I have removed the addition of tailpieces to various conditions where I considered they would be made imprecise; otherwise, I have adopted the suggested conditions with only minor changes to add clarity as appropriate.
76. Conditions setting out the reserved matters details, timescales for their approval and the commencement of the development, the list of approved plans, and limiting the number of dwellings, are all required as in the interests of providing planning certainty and clarity.
77. A condition requiring access arrangements and visibility splays be carried out in accordance with the approved details is necessary in the interests of highway safety. A condition requiring a construction management plan is required to mitigate the effects of construction traffic in terms of highway safety and safeguarding local air quality. A condition requiring the installation of electric vehicle charging points is necessary in the interests of mitigating climate change and contributing to sustainable development. A condition requiring the submission of a Travel Plan is necessary to ensure that the future occupiers are offered a sustainable choice of means of travel.
78. A condition requiring the submission of a biodiversity enhancement plan is necessary to ensure the proposal achieves a net gain in biodiversity. Conditions requiring details of green interfaces and building heights parameters are necessary in the interests of protecting the local landscape, the setting of settlements and designated heritage assets. Conditions controlling finished floor levels and lighting are also necessary to ensure the development does not harm the character and appearance of the area.
79. Safeguarding the living conditions of future residents in respect of air quality, noise and the disturbance associated with the Coxwell Road, mean a condition requiring submission of acoustic insulation and ventilation is necessary. Conditions are required to safeguard water management and water resources as a result of the development; also, to secure details of foul and surface water drainage in order to mitigate the risk of pollution or flooding that might arise as a result of the development.

Conclusion

80. I have concluded that the proposed development would be viable whilst providing the affordable housing and, where appropriate, leisure infrastructure sought by the Council. In all respects, the proposed development would accord with the development plan; it would satisfy all the strands of sustainable development in accordance with the Framework and deliver significant public

benefits to outweigh any heritage harms. I find no material considerations that indicate to me that a decision should be made other than in accordance with the development plan.

81. For all the reasons set out above and having considered all matters raised in evidence and during the Inquiry, I conclude that the appeal should be allowed.

H Porter
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Burton of Counsel
Instructed by Solicitor to VoWH DC

He called

Mrs Tracy Smith BA (Hons) BTP MRTPI	Principal Appeals Officer
Mr David Coate BSc (Hons) MCIOB ACIOH	Associate Director, Adams Integra
Mr Gavin Johnson	Managing Director, Johnson Associates (UK) Ltd
Ms Geri Beekmeyer	Principal Infrastructure Funding Negotiator, OCC
Dr Melanie Smans	Economic Development Manager
Mrs Sarah Commins	Solicitor
Mr Edward Church BSc MSc ACIEEM	Senior Countryside Officer

FOR THE APPELLANT:

Mr Daniel Kolinsky QC
Instructed by Mr John Baird, Osbourne Clarke

He called

Mr Nathan McLoughlin MRTPI	Director, McLoughlin Planning
Mr Will Seamer RICS	Partner, Montagu Evans
Mr Anthony Hooper ACIOB	Divisional Director, Wakemans Limited
Mr John Baird	Partner, Osbourne Clarke
Mrs Alice Lack, MRTPI	Director, Welbeck Land

INTERESTED PERSONS:

Cllr David Grant	Faringdon Ward Councillor
Cllr Mike Wise	Faringdon Town Council

Annex 1
SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout (including internal access arrangements), 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 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 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 the following approved plans: Site Location Plan 7929-L-01-A; Proposed Access Arrangement Ghost Island Junction 5761.001; Framework Plan 7929-L-02 G (in respect of access only).
5. The development hereby permitted shall be limited to a maximum of 125 dwellings.
6. Prior to the first occupation of any dwelling hereby approved, the access arrangements and visibility splays shall have been carried out in accordance with the approved details as shown on the Access Arrangement Ghost Island Junction 5761.001 plan. The vehicular access and visibility splays shall thereafter be retained as approved and maintained free from obstruction to vision.
7. Concurrent with the submission of the reserved matters, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP shall include the following:
 - a) details of the biodiversity net gain metric calculations that demonstrate how the proposal will achieve a net gain in biodiversity compared to the biodiversity value of the site prior to the development;
 - b) details of the extent and location of any habitat creation or biodiversity enhancements shown on scaled plans;
 - c) details of the elevation, type and location of any species enhancements shown on scaled plans (such as bat and bird boxes etc. as appropriate);
 - d) details of strategies for creating / restoring target habitats or introducing target species;
 - e) details of the selection of specific techniques and practices for establishing vegetation;
 - f) details of sources of habitat materials (e.g. plant stock) or species individuals;
 - g) a Method Statement for site preparation and establishment of target features;

The habitat creation and biodiversity enhancements measures within the BEP shall be included within the landscaping plans that shall be submitted

as part of the reserved matters applications. The development shall be carried out in accordance with the approved BEP prior to the final occupation of the development or at the end of the next planting season (whichever is later), and thereafter be retained as approved.

8. Concurrent with the submission of the reserved matters, a Building Heights Parameters Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Building Heights Parameters Plan shall include details of building heights across the site that shall have been informed by an analysis of the site's context and sensitivity to the scale of development.

The development shall be carried out in accordance with the approved Building Heights Parameters Plan, and thereafter be retained as approved.

9. Concurrent with the submission of the reserved matters, a Green Interface Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Green Interface Plan shall include details of green interfaces along the boundaries of the site; as well as a green 'buffer' that shall be at a minimum depth of 20m along the southern and western sides of the site.

The development shall be carried out in accordance with the approved Green Interface Plan and thereafter be retained as approved.

10. Concurrent with the submission of the reserved matters, a Lighting Scheme for the external areas of the development shall have been submitted to and approved in writing by the Local Planning Authority. The Lighting Scheme shall include details of how external lighting would be directed downwards to avoid light spillage.

The development shall be carried out in accordance with the approved Lighting Scheme, and thereafter be retained as approved.

11. Concurrent with the submission of the reserved matters, an Acoustic Insulation and Ventilation Scheme for the development shall have been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved Acoustic Insulation and Ventilation Scheme, and thereafter be retained as approved.

12. Concurrent with the submission of the reserved matters, details of any off-site foul water network upgrades to accommodate the additional flows required from the development, or a housing and infrastructure phasing plan agreed in consultation with Thames Water, shall have been submitted to and approved in writing by the Local Planning Authority.

Prior to the first occupation of any dwelling, written confirmation shall have been provided that development has been carried out in accordance with the approved off-site foul water network upgrades or housing and infrastructure phasing plan.

13. Concurrent with the submission of the reserved matters, details of any off-site water supply network upgrades to accommodate the additional flows required to serve the development, or a housing and infrastructure phasing plan agreed in consultation with Thames Water, shall have been submitted to and approved in writing by the Local Planning Authority.

Prior to the first occupation of any dwelling, written confirmation shall have been provided that development has been carried out in accordance with the approved off-site water supply network upgrades or housing and infrastructure phasing plan.

14. As part of the reserved matters application, full details of the finished levels, above ordnance datum, of the ground floors of the proposed dwellings, in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority.
15. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall provide for:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) wheel washing facilities;
 - e) installation and maintenance of security hoarding / fencing;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) routing of construction traffic;
 - i) location of site offices and other temporary buildings;
 - j) delivery and construction working hours.

The approved CMS shall be adhered to throughout the construction period for the development.

16. Concurrent with the submission of the reserved matters, details of on-site foul and surface water drainage works shall have been submitted to and approved in writing by the Local Planning Authority. The submitted on-site foul and surface water drainage details shall include:
 - a) evidence that an assessment has been carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the Local Planning Authority;
 - b) detailed design information, including detailed drawings, network arrangements and calculations in support of the on-site foul and surface drainage works, which shall include calculations demonstrating the drainage system performance for a range of storms period and intensities (including 1 in 1 year, 1 in 2 years, 1 in 30 years, 1 in 100 years, 1 in 100 years + climate change);
 - c) the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation;

- d) a management and maintenance plan for the lifetime of the development that shall include the name and contact details of any party responsible for the maintenance of any on-site drainage features (outside of individual plot boundaries); arrangements for adoption by any public authority or statutory undertaker including copies of correspondence with Thames Water indicating agreement to discharge foul drainage to the public sewer; and any other arrangements, to secure the operation of the scheme throughout its lifetime.

No dwelling hereby permitted shall be occupied until the on-site foul and surface water drainage works have been implemented in accordance with the approved details.

17. Prior to the first occupation of any dwelling hereby approved, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Residential Travel Plan shall include details of:

- a) clear objectives to maximise the opportunities to promote sustainable transport access both within the development site and linking with surrounding facilities and employment;
- b) a time-bound programme of implementation, distribution, monitoring, and review of the Travel Plan;

Thereafter, the development shall be operated in accordance with the agreed details.

18. Concurrent with the submission of the reserved matters, an Electric Vehicle Charging Point (EVCP) Scheme shall have been submitted to an approved in writing by the Local Planning Authority. The EVCP Scheme shall include the specification and locations for EVCPs to be installed on no less than 93 of the dwellings hereby approved.

Thereafter, an EVCP shall be installed and available for use in accordance with the approved details (or as subsequently upgraded).

Annex 2

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 Appellant's Opening Statement
- ID2 Tony Hooper Experience and Declaration
- ID3 LPA Opening Statement
- ID4 Appendix 1 Wakemans/JA Costs and Comments tracker
- ID5 Email correspondence Thames Water re. rising main 3656_001
- ID6.1 Draft S106 27.04 - PINS
- ID6.2 Draft S106 27.04 – PINS Clean
- ID7 Email from LPA 28.04 suggested wording for EV charging point condition
- ID8.1 Cover email David Coate to Will Seamer 30.04
- ID8.2 Appendix 1A – 29 April 2021
- ID8.3 Appendix 2A – 29 April 2021
- ID8.4 Appendix 2B – 29 April 2021
- ID8.5 Appendix 2C – 29 April 2021

ID9 Recommended Conditions inc EV charging (reason amended) and mix 30.04
ID10 Fernham Fields Appeal Decision 3133745 – 30.04
ID11 Nathan McLoughlin cover email 20.05 re. updated appraisals and mechanism
ID12 Faringdon S106 Mechanism Note 20.05
ID13 Development Appraisal App 1A Adams Integra 13 May 2021
ID14 Development Appraisal Montagu Evans LLP 13 May 2021
ID15 Revised S106 Mechanism Note 24.05
ID16 234_5_21 S106 Clean for Inspector 24.05
ID18 Inspector’s suggested amendments to conditions (without prejudice) 21.05
ID17 NM TS Edit to Inspector’s suggested amendment to conditions 25.05
ID18 LPA’s Closing Submissions
ID20 Appellant’s Closing Submissions