



## Appeal Decision

Inquiry opened on 17 August 2021

Accompanied site visit made on 23 August 2021

**by Philip Major BA(Hons) DipTP MRTPI**

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

**Decision date: 15<sup>th</sup> September 2021**

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**Appeal Ref: APP/Q3115/W/21/3272377**

**Land at Lady Grove, Didcot OX11 9BP**

- 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 Manor Oak Homes against the decision of South Oxfordshire District Council.
  - The application Ref: P20/S1577/O, dated 4 May 2020, was refused by notice dated 6 October 2020.
  - The development proposed is the erection of up to 150 dwellings including public open space comprising a country park, a LEAP and additional green infrastructure provision with all matters reserved other than access.
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### Preliminary Matters

1. The original application was made for up to 176 dwellings. The change to no more than 150 dwellings was offered by the Appellant. I confirmed that this was a change which I was prepared to accept at the Case Management Conference held on 14 June 2021 since the change would not result in prejudice to any party.
2. In the period between the refusal of planning permission and the opening of the inquiry a number of matters have been agreed between the Appellant, South Oxfordshire District Council, and Oxfordshire County Council. This has helpfully resolved a number of issues and reduced the matters of disagreement. Statements of Common Ground on several matters set out the agreed positions and note the reasons for refusal which are no longer pursued.
3. The development plan includes the South Oxfordshire Local Plan 2035 (LP) which was adopted in December 2020. It is agreed that the most important policies within the development plan for the determination of this proposal are STRAT1, STRAT3, H1 and H2. I deal with those policies later in this decision.
4. Recent appeal decisions relating to land at Little Sparrows, Sonning Common<sup>1</sup>, and land to the east of Sandringham Road, Didcot<sup>2</sup> have been referenced in this case. These cases differ materially from the case before me. At Sonning Common the appeal site was within the AONB. At Sandringham Road the topography is dissimilar, with an open boundary to the AONB. The latter was determined prior to the adoption of the Local Plan and both with different evidence relating to housing land supply. These differences mean that the

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<sup>1</sup> APP/Q3115/W/20/3265861

<sup>2</sup> APP/Q3115/W/20/3255846

cases are of limited relevance in my overall deliberations. I have determined this case on the basis of the evidence before me.

## **Decision**

5. The appeal is allowed and planning permission is granted for the erection of up to 150 dwellings, public open space comprising a country park, a LEAP and additional green infrastructure provision with all matters reserved except for access at land at Lady Grove, Didcot OX11 9BP in accordance with the terms of the application, Ref: P20/S1577/O, dated 4 May 2020, subject to the conditions set out in the schedule at the end of this decision.

## **Main Issues**

6. In light of the agreements reached on several matters as noted above the main issues in this case are now:
  - i) Whether the Council can demonstrate a 5 year supply of deliverable housing land;
  - ii) The effect of the proposal on the character and appearance of the landscape and the setting of the adjacent Area of Outstanding Natural Beauty (AONB);
  - iii) The relationship of the proposal with the spatial strategy for the area, and the planning balance.

## **Reasons**

### ***Housing Land Supply***

7. In the latest monitoring report (of June 2021) the Council claims to have a 5 year housing land supply (5HLS) of some 5.33 years. The Appellant assesses supply at no more than about 4.2 years. The discussion at the inquiry took the form of a round table session in which disputed sites were closely examined. I will deal with the most important of those below, but it is worth emphasising that my consideration of this matter necessarily differs from that of the Inspector who determined the Sonning Common appeal noted above. That is largely because the evidence before me has been prepared in light of the latest monitoring report, which was not available to the Sonning Common Inspector. In addition further documentation has been provided in relation to some sites, and the list of disputed sites is different. Hence, although the Sonning Common decision is a material consideration here, I have reached my own assessment of the current situation relating to 5HLS. In this appeal there is a total of 16 disputed sites.
8. Much was made at the inquiry of the fact that to be included within a 5HLS a site should have a realistic prospect of housing delivery, and not a certainty of delivery. This is clearly explained in both the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). It is self-evidently logical to me that certainty would be too high a bar to set, and that the best expert assessment based on robust and up to date information and sound judgement will provide the most cogent evidence of likely delivery. With that in mind I turn to those sites which I regard as the most critical to an assessment of future housing delivery and where, in my judgement, delivery is likely to fall short.

*Sites with no current planning permission*

9. The Benson NDP Site 2 (Site No 1929) has an undetermined outline application at present. It is in due course expected to provide 80 units, and the Council expects a total of 60 units over years 4 and 5 of the current 5 year period. But as pointed out by the Appellant issues remain unresolved in relation to agreements with the County Council. Part of the site has now been sold, and this may well affect any subsequent applications for the approval of reserved matters. Although this is an allocated site in a Neighbourhood Development Plan (NP) it seems to me that there are significant imponderables which might affect future timings of permissions, applications, agreements and lead-in times. As a relatively small site delays might be expected to be shorter than for larger sites, but nevertheless I do not have sufficient information here to be confident (that is for me to reach a point of accepting a realistic prospect of delivery) that this site will deliver as quickly as predicted. The Council was unable to give any indication of when a reserved matters application might be submitted. I do not rule out some delivery within the 5 year period but the evidence is not strong enough to support the Council's case in its entirety. A more realistic viewpoint, in my judgement, is to expect perhaps half of the delivery predicted by the Council. I therefore deduct 30 dwellings from this site.
10. Newnham Manor (1561) has a resolution to grant outline planning permission, but is required to be referred back to the Planning Committee. It is a site which is expected to deliver 100 dwellings. A S106 agreement is expected in winter 2021. It therefore seems likely that the delays which have so far been acknowledged would bring the issuing of any planning permission close to the beginning of year 2 of the 5 year period. The application has been with the Council for a considerable period of time and although I accept that the Council is seeking to work with the developer I have too little in the way of firm evidence to persuade me of the realistic prospect of this entire site being built out in the 5 year period. There would inevitably be some time required after planning permission (outline or reserved matters) was granted before building could commence on site. Rather than delivery commencing in year 3 it seems to me that year 5 would be more likely. I therefore discount 80 dwellings.
11. Ladygrove East (1011) is a site which has planning applications outstanding and is expected in due course to provide upwards of 700 dwellings. It is an allocated site. There have been issues relating to the provision of the northern perimeter road, but it seems that at least 250 dwellings could be provided prior to that road being completed. The Appellant has conceded that in light of recent activity some delivery on site is possible within the 5 year period. But the Council's view that delivery is likely to commence in year 3 seems too optimistic. On a site of 250 plus dwellings which at present has no planning permission I consider that a more realistic timeframe would be year 4 onwards at least. I have noted the comments made on behalf of the prospective developer of that site, but those comments do not assist in predicting when delivery on site is likely. For the reasons above I discount 80 dwellings from the Council's assessment.
12. Didcot Gateway South (1010) is acknowledged to be a site with several interested parties involved (including Homes England). There is no planning permission and the latest intentions have been sent out for consultation. I acknowledge that the inclusion of Homes England is likely to give delivery some

fresh impetus, but there is little in the way of firm information which suggests when any delivery might commence. Total units over time are expected to number 300 and the Council has suggested delivery of 91 can be expected over years 4 and 5 of the 5 year period. However, it seems that the site has been beset by delays over the years and although Homes England will no doubt assist in bringing a scheme or schemes forward there is at present no indication of when that might be. A masterplan has been commissioned and some demolition has been authorised. But I have no tangible evidence of significant progress towards the preparation or submission of planning proposals. In my judgement this scheme is not likely to make any contribution to the delivery of dwellings over the 5 year period. I therefore discount the 91 suggested by the Council.

13. Watlington NDP B & C (1938 and 1939) do not have planning permission as yet and await a S106 agreement. Pre application discussion for reserved matters have been held, but it is clear that the outline permission has already been significantly delayed by the current lack of a S106 agreement. Given that developer trajectories were based on earlier dates for the S106 agreement it seems likely that there will be some delay. Each of these sites is expected to contribute 60 dwellings, with first deliveries in year 3 and full build out within the 5 year period. Given current delays and the evidence before me I consider that to be overly optimistic. However, I do accept that some delivery is likely on these sites and I therefore discount the Council's expectations by a total of 60 units (50%).
14. Bayswater Brook, Elsefield (1895) is an allocation made in the South Oxfordshire Local Plan 2035 (LP) for 1100 dwellings. A hybrid planning application is expected in early 2022. The difference between the parties relates to predicted trajectories. On a large site such as this evidence suggests that lead-in times are elongated (as reported in the document authored by NLP<sup>3</sup> and submitted by the Appellant). That leads the Appellant to conclude that no delivery is likely on this site in the 5 year period. I agree with that position. Indeed the Council only predicts delivery commencing in year 5 and in my judgement that is overly optimistic (albeit that the Council is not as optimistic as the developers). I recognise that the trajectory before me formed part of the evidence base for the Local Plan Examination in 2020, but I must deal with the information now. From what I have read and heard I consider that the Appellant's evidence is more compelling in this case. I discount 50 dwellings from supply for this reason.
15. Northfield, Garsington (1894) is similar to the previous site in being an allocation of the LP, in this case for 1800 dwellings. My comments on this site mirror those on the previous site, but in this case I note that the rate of progress is reported as being slower, and this leads me to discount the 50 dwellings predicted by the Council.
16. On the basis of the above I discount a total of 431 dwellings from sites which currently have no planning permission. The Council's supply position therefore reduces from 6101 to 5670. With an agreed requirement of 5727 that equates to a supply of 4.95 years. I turn now to consider, briefly, one of the other disputed sites on which I am not satisfied delivery will take place at the pace predicted by the Council.

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<sup>3</sup> Start to Finish, How Quickly do Large-Scale Housing Sites Deliver? Nathaniel Lichfield & Partners (November 2016)

17. Wheatley Campus (1418) is still occupied by Oxford Brookes University. An outline planning permission has been granted. Although the University has indicated its intention to dispose of the site and vacate it over time, there is no firm evidence of the timescale for this other than an intention to fully exit the site by 2024. I accept that some facilities may well have moved already, but the information before me is that the site has not yet been marketed. Any timescales for reserved matters application(s) are therefore unknown. The trajectory suggested by the Council would see delivery begin in the year of 2024/25. That seems unlikely, certainly on the scale suggested, unless the University had moved out earlier than intended. On the balance of evidence before me I accept the evidence of the Appellant as being more persuasive here. This results in a further 168 dwellings being discounted from delivery. That would leave the supply position at about 4.8 years.
18. In light of this finding I do not need to consider in detail the other sites in dispute. Suffice to say that I do find the Appellant's evidence cogent in many respects, but not necessarily to the extent that all of the predicted shortfall in delivery would occur. Inevitably, as is often the case in situations such as this, the actual outturn is likely to be somewhere between the respective assessments of the Council and the Appellant. However, I lean towards the more cautious approach of the Appellant. For that reason it is my considered judgement that the Council is not in a position to demonstrate that it has a 5 year supply of deliverable housing land. In reality it is likely to be somewhat short of the, roughly, 4.8 years I have indicated above, but not as low as the 4.18 years calculated by the Appellant.
19. The lack of a 5 year supply is significant, of course, in that it triggers the 'tilted' balance as set out in paragraph 11 of the NPPF. The policies that are most important for determining the appeal are deemed to be out of date. That does not mean that they carry no weight, however, and I deal with that point in considering the other main issues.

### ***Character and Appearance***

20. The appeal site itself is made up of 5 fields. The southern 4 fields are relatively narrow and elongated, are currently pastureland, and have a strong east to west orientation. They are divided by vegetation consisting mainly of mature trees and significant hedgerows. The northernmost field is in arable use and is more open, being wider, although it is also surrounded by vegetation. Land immediately to the east of the site forms part of the North Wessex Downs AONB, albeit that Hadden Hill Golf Club adjoins much of the appeal site and is atypical of the character of the AONB. The site is well enclosed and there is little impression of the surrounding landscape from within it.
21. The area falls within the ambit of various landscape studies, the most relevant of which deal with the finer grain of this particular locality. Key characteristics of the area are described in terms such as gently rolling topography, medium to large fields bounded by hedgerows, predominantly rural and arable character but with intrusions of built form at Didcot, some tree cover and woodland blocks, comparatively strong landscape structure, extensive views from hilltops, and intervening transport corridors. These descriptions are applicable in large part to the wider landscape around the appeal site, and to the northernmost field. However, the 4 southern fields have a more intimate

- feel. They are strongly enclosed and, although clearly never part of a formal parkland composition, have something of the feel of parkland.
22. A landscape capacity study from 2017 assessing sites on the edge of towns, including Didcot, found the western part of the appeal site (with land further north) to have medium visual, landscape and wider landscape sensitivity. Overall landscape sensitivity of the study area is assessed as being medium/high partly as a result of being in the setting of the AONB. However, it is interesting to note that the study finds that the southern part of the site studied (which is the western part of the appeal site) has a distinct character. Potential impacts of development of the study area include some matters which would not result from the proposed development, such as the loss of views across open fields to Wittenham Clumps, and loss of views of the listed farmhouse to the north. Other impacts would result from the appeal proposal, including the loss of pasture and meadow.
  23. The Appellant has assessed the landscape susceptibility and sensitivity of the appeal site as medium to high. This accords with the landscape capacity study noted above, albeit that the appeal site would extend further to the east. That seems to me to be a reasonable conclusion. I am less convinced that the appeal site warrants an assessment of high susceptibility and sensitivity. Similarly I do not agree that the landscape of the site should be afforded high value, rather than the medium value assessed by the Appellant. None of the site is within a designated landscape, and though the pastoral fields are not common hereabouts, they are not so distinctive that they could be said to bring the site into the category of a valued landscape in the terms set out in the NPPF. There is nothing in the assessment of the appeal site which suggests that it has any characteristics which take it beyond the ordinary and into the category of being valued. The presence of a large number of protected trees is of course a visual benefit, and adds to the attraction of the site, but it does not add sufficient to elevate the site to something which is atypical and more valuable than the general landscape hereabouts.
  24. The adjacent AONB has little intervisibility with the appeal site. Any views to and from the AONB are limited to a narrow section in the north-east corner of the appeal site. Elsewhere topography, strong boundary vegetation and the planting on the golf course limit any visible interaction. The character of this part of the AONB is well set out in the Integrated Landscape Character Assessment. The section dealing with the Moreton Plain includes descriptors similar to those used in other studies, such as large arable fields, clumps of woodland, and the influence of Didcot. The assessment also notes that the scale of landform is not as dramatic as that to the south. A key issue is the potential for development to impinge on AONB boundaries, particularly at Didcot.
  25. Drawing these various threads of study and evidence together I have little difficulty in accepting that the landscape character of the appeal site is of medium value and sensitivity. The value of the AONB immediately to the east is, of course, very high (by definition). Hence this proposed development, in the setting of the AONB, must pay due regard to that situation.
  26. The appeal site has advantages in that it is well enclosed by topography and vegetation. The development proposed, as set out on the parameters plan, would not directly impinge on the AONB. Intervisibility would be minor in



- nature. Furthermore, that intervisibility would include the strong influence of Didcot itself, such that the appeal development would not add to that influence on character in any material way. The magnitude of change to the setting of the AONB would be small, and I agree with the Appellant's assessment that the effect on the character of the AONB and its setting would be at worst minimal. The Council's suggestion that the effect would be moderate and adverse is not borne out by the evidence or my site visits.
27. There is much agreement between the main parties in relation to landscape effect in the wider area, including land to the north, south and west which is not within the AONB. Landscape effects are assessed as being negligible, and I agree with those assessments. Of course the site itself would change and the landscape effect here would be greater. However, given the nature of the proposals and the retention of high levels vegetation I am satisfied that the effect would be no more than minor to moderate and adverse.
28. There is also a measure of agreement in relation to the visual impact of the proposal. Because of the limited extent of the intended built area on site, the retention and supplementing of vegetation, and the limited public access, from the majority of viewpoints effects are assessed as no more than minor to moderate adverse levels. The public footpath which crosses the north of the site and links into the AONB provides the most critical viewpoints. The sensitivity of receptors here is high to very high. When crossing into the AONB and venturing further to the east the tranquillity of the area becomes greater, and the sensitivity of the receptor to change increases. However I do not consider that this occurs immediately on leaving the appeal site since the influence of the urban area of Didcot (albeit that this is behind the receptor) is still important. The development of the dwellings in north-east Didcot will enhance this influence to a greater degree over time.
29. Those walking the public footpath in an easterly direction will be anticipating the AONB and would pass the proposed development quite quickly, its visual influence waning rapidly. In the alternative, walking towards the west, the eye is drawn to the built up area of Didcot, and the proposed development would appear as a minor and relatively unobtrusive element of the town. There would be a moderate and adverse impact on visual amenities in the short term, but over time as the proposed open space and landscaping matures the impact would reduce to a minimal level. Similarly I consider that the impact from the bridleway to the east of the golf course would be minor at any stage of development. My assessment therefore differs from that prepared by the Council, which in my judgement overstates any adverse impacts.
30. Taking this issue in the round it is my conclusion that the proposed development would have some short term adverse impact of a minor to moderate nature, but in the longer term the impact would be mainly restricted to the site itself. The overall effect on the character and appearance of the landscape generally, and the setting of the AONB in particular, would be small. I accept that the development has been designed to date, and could be further developed, in a manner which ensures the minimisation of impacts on the AONB setting, in accordance with the advice of the NPPF.
31. LP Policy ENV1 does not strictly follow the advice of the latest NPPF in that it sets a higher bar for development in the setting of an AONB. It is therefore inconsistent with the NPPF to a degree, and this lessens the weight I attach to

the policy. In any event the proposal would accord with part 2 of ENV1 as it would, amongst other matters, for example, make provision for the protection and enhancement of trees and vegetation, and would not materially impact on skylines or perceptual features. Given the inconsistency of Policy ENV1 with the NPPF the minor nature of the conflict with it (first bullet point of part 1 of the policy only) the conflict is of little weight in this appeal. I do not subscribe to the suggestion that part ix) of Policy STRAT 1 (which has an overall objective of protecting and enhancing countryside and areas within the AONB) can be read separately. ENV1 is logically a more detailed development of STRAT1 and in my judgement should be read as the primary policy dealing with landscape matters in this case.

### ***Spatial Strategy and Planning Balance***

32. As noted above the most important policies for determining the appeal are out of date. This is notwithstanding the relatively recent adoption of the Local Plan. The overarching objectives of the LP are set out in Policy STRAT1. This includes that major new development should be focussed in the Science Vale, including sustainable growth at Didcot Garden Town (DGT). Policy STRAT 3 deals with DGT itself. This policy sets out detailed objectives for development within the DGT masterplan area. The masterplan area is identified clearly and the boundary is uncontentious. The appeal site falls within it and is shown as an undesignated area in the DGT delivery plan, though with various aspirations for some woodland on the land. It was described as 'white land' at the inquiry but I have not seen any suggestion that this is a formal status. The DGT delivery plan is not intended to be prescriptive and indicates that it is not a rigid blueprint, and that flexibility is critical given the delivery period expected of some 15 years. The delivery plan has no formal status and its aspirations therefore carry limited weight. Nonetheless it identifies the area of north-east Didcot to the west of the site (where housing delivery is underway) and Ladygrove East, which is an allocated site, a short distance to the south of the appeal site.
33. Policy STRAT3 (part 2) indicates that housing allocations in Didcot are made in Policy H2 (to which I refer below) and that development in the masterplan area will be expected to follow the masterplan principles (part 6). I am satisfied that the proposal would be capable of following those principles, which largely deal with the physical form of development. Furthermore I consider that there is nothing in the appeal proposals which conflicts with any part of the policy as a whole save for the potential to be in breach of part 2.
34. LP Policies H1 and H2 are most important. H1 is permissive of housing on allocated sites (some carried forward from previous plans). If not allocated the policy sets out a number of criteria which any proposed development should meet. The appeal proposal does not satisfy any of the criteria. Furthermore it is not encompassed by any other part of the policy; the proposal therefore conflicts with Policy H1. That conflict is acknowledged by the Appellant. Policy H2 seeks to make provision for new housing in Didcot. The appeal site is not one of the allocated sites and gains no support from that policy. But in any event Policy H2, although providing for the delivery of 6339 homes on named sites, does not deal specifically with other sites (those are dealt with by Policy H1). The weight attaching to those policies is reduced as they are out of date.



35. There is nothing in the LP which specifically rules out development on non-allocated or not currently committed sites albeit that the most important policies are clearly seeking to direct housing delivery to certain locations. I note that the Inspector who found the LP sound indicated that it would not be appropriate to indicate that housing would be permissible anywhere within the DGT area as it is necessary to maintain control over the spatial and phasing aspects of the DGT growth. But that was against the background of the then expected delivery rates and maintenance of a 5HLS, which has not been shown to be occurring. So whilst there is no housing provision policy support for the proposals, they must nevertheless be considered on the basis of their own merits against a shortfall in the 5HLS. An indisputable element of any determination of a planning proposal is that other material considerations are, depending on the facts, capable of outweighing conflict with the development plan.
36. In essence it seems to me that the judgement which has to be made in this case is quite simple. If the proposed development is in conflict with the development plan, and there is no 5HLS so triggering the tilted balance, it is necessary to make a judgement on whether the adverse impact of the development plan conflict, and any other identified harms, significantly and demonstrably outweigh any benefits of the proposal. I have taken account of the judgement in *Crane*<sup>4</sup> when the lack of a 5HLS was not sufficient in itself to justify development on a non allocated site adjacent to a village. This proposal seems to me to differ in that it relates to a site within the DGT masterplan area and the Science Vale, where development is to be concentrated. It has marked differences to *Crane*, which was considered in the context of a recently made Neighbourhood Plan. In any event the judgement and balance made in the *Crane* case decision was made on the facts of that case. That is the procedure I follow here – the case before me has its own specific considerations.
37. To summarise here on the most important policies and their impact on the proposal, I accept in part the case put by the Appellant. The essential reason for the refusal of permission in relation to the spatial strategy is that the site is not allocated. However in this regard it does not offend Policies STRAT1, STRAT3 or H2 in any different way to the conflict with H1. The point of conflict, if accepted for all those policies, is the same point of non-allocation and that it has not been intended for development. However, any conflict with STRAT1 is in my judgement of limited weight since one of its objectives is to concentrate development in the Science Vale and DGT, which this development would achieve. Similarly, any conflict with STRAT 3 is essentially the same as conflict with H1. I therefore agree that conflict with the development plan is quite narrow but is nevertheless important in my consideration of this proposal. The development plan is the starting point for any decision, and in my judgement the development plan retains a significant degree of weight despite the most important policies being out of date.
38. I note here that with regard the aspirations of the DGT masterplan, which are to be treated flexibly, that these are being addressed in just such a manner to the west of the appeal site. Here, an area of land at Ladygrove Farm, shown as retained open land on the masterplan, is being treated as an opportunity to provide housing. I do not accept that it was mistakenly shown on the masterplan as open land since this occurred on multiple different iterations of

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<sup>4</sup> Crane v SoS For Communities and Local Government and Harborough DC [2015] EWHC 425

the illustrations. The DGT delivery team has not objected to the development of this land and it indicates that the masterplan is indeed being treated with the intended flexibility. Although no decision has been made on that proposal it is included in future housing supply (at least in part) in the Council's 2021 monitoring report. Thus, in accepting a site for development previously being put forward as open space in the DGT masterplan it is clear that other material considerations are legitimately being taken into consideration. Whether or not the Ladygrove Farm site was or was not always intended as part of the housing provision of North-East Didcot (which seems unlikely given the evidence available) it is apparent that it has now been brought into play as a housing site to assist with delivery. A balanced judgement to reach that position must have been taken. In contrast, the Council's planning evidence in the case before me concentrated on the conflict with the development plan and failed to adequately address other material considerations in any meaningful way. In any case the development at Ladygrove Farm is not determinative in my consideration of this case.

39. I therefore turn to deal with those the other considerations which are put forward as benefits of the scheme. The need for housing in South Oxfordshire is not disputed. This proposal would bring a significant number of homes into the supply in a mix which accords with the aspirations of the development plan. The unmet need for housing remains nationally, and the NPPF retains in its latest iteration the desire to significantly boost the supply of housing. In this particular locality the need for housing to support the local economy in the Science Vale is not challenged and delivery has not so far been achieved at the rate required. I am not persuaded that sites will come forward at a sufficiently rapid rate in the future to make up for the initial lack of delivery. As a result I afford significant weight to the delivery of up to 150 homes.
40. In addition, the appeal site would deliver up to 60 affordable homes. This was a matter which was afforded substantial weight in a recent decision by the Secretary of State relating to a site in South Oxfordshire<sup>5</sup>. In that case the levels of affordability (or lack of) were described as 'eye-watering'. There is nothing before me which suggests that affordability has become any easier in the intervening period. Indeed, the Council accepts that the need is acute and has grown since that appeal decision. Lack of affordable housing also has an impact on the local economy. I agree that the provision of affordable housing here in accordance with the development plan should be afforded substantial weight.
41. As I have noted above the DGT delivery plan aspires to provide woodland on at least a part of the appeal site. There is, though, no identified mechanism by which to deliver that aspiration. In the event that planning permission for development is not granted it seems unlikely that any woodland would be provided in the foreseeable future. The scheme before me, however, would provide extensive areas of open space and the potential for significant tree planting. This would go some way towards meeting the DGT delivery plan aspirations. The scheme itself has been described as landscape led, and to a large extent I accept that description. The retention of trees and hedgerows, and the integration of housing into the landscape, would lead to a largely green edge to this part of Didcot. This ability to assist with the aspiration for creating a green buffer for the town incorporated within over 8 hectares of public open

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<sup>5</sup> APP/Q3115/W/19/3230827

space carries significant benefit. It also accords with the advice of the NPPF, which seeks to support the provision of high quality open spaces.

42. Alongside the provision of open space and the opportunity for extensive landscaping the Appellant has calculated a biodiversity gain in excess of 50% using current metrics (V2), and almost 30% using likely future metrics (V3). That far exceeds the current target of 10% and is a further consideration which weighs moderately in favour of the scheme.
43. It is axiomatic that the provision of new homes on the land would bring some economic benefits, but this would be true of any development on any site in South Oxfordshire. This is therefore a benefit of limited weight in relation to this specific site.
44. The appeal site is itself locationally acceptable. It is about a 20 minute walk from Didcot railway station (a little more from the farthest reach of the site) and the town centre. It is an easy walking route and would be made more so by the provision of highway crossings (which is covered by the S106 Agreement I deal with later). Similarly access by cycle would be readily achieved. I afford this locational suitability moderate weight.
45. That the homes proposed would be deliverable, at least in part, within 5 years, is not contentious. In order to facilitate that the Appellant has offered to accept a condition reducing the time available to make reserved matters applications. I am not aware of any technical impediments to an expeditious implementation of the scheme, and this is a matter in its favour to which I afford additional weight.

#### Overall Balance

46. The proposed development is in conflict with the development plan. The most important policies of the development plan are of reduced, but still significant, weight because of the lack of a 5HLS. There would be minor harm in respect of the impact on character and appearance. On the other hand the material considerations weighing in favour of the proposed development are of greater weight. The weight to the provision of market housing is significant, whilst affordable housing provision is a substantial benefit. The provision of a large area of open space is also of significant weight, and sits alongside other benefits including biodiversity gain and economic benefits. In my judgement the adverse impacts of granting planning permission (conflict with the development plan and limited landscape harm) do not significantly and demonstrably outweigh the benefits of the proposal. For that reason the proposal is sustainable development and the appeal succeeds.

#### Conditions

47. A list of conditions was provided at the inquiry which was largely agreed in the event of planning permission being granted.
48. In order that the development would have the greatest impact on housing delivery I agree that a reduced timeframe for the submission of reserved matters would be reasonable in this case. It is also reasonable that the reserved matters application(s) should be accompanied by a design code in order to ensure a high quality development. Further details required at reserved matters stage can be ensured by necessary conditions.

49. Conditions to ensure biodiversity enhancement, landscape management, bat mitigation measures and construction management are necessary and reasonable to ensure the development is satisfactorily assimilated into the local environment.
50. A number of pre-commencement conditions are necessary to ensure that the development can be delivered to a suitable standard and in order to mitigate any potential harmful effects. Other conditions are necessary to ensure that prior to first occupation of the dwellings they have suitable access, adequate services, suitable energy efficiency and electric vehicle charging points. Additional conditions are reasonable in order to protect the living conditions of occupants of the development and those surrounding. Conditions specifying the maximum number of dwellings on site and the mix of market dwellings are reasonable and necessary in order to ensure the development is satisfactory.

### **Planning Obligation**

51. An agreement pursuant to S106 of the 1990 Act has been submitted which deals with a number of matters. Contributions would be paid to the District Council to enable the provision of refuse containers and for street naming and numbering. Further contributions would be made to the County Council to facilitate the provision of education provision, public rights of way improvement, improvement to public transport, highway improvements and a travel plan monitoring contribution. In addition the obligation requires the provision of highways improvements and crossings, affordable housing to meet development plan requirements, and the establishment of a management company to provide for the maintenance of the open space and equipped play area. All associated drawings and plans are specified in the obligation.
52. I have been provided with comprehensive compliance statements detailing how the various strands of the obligation meet the tests of the community infrastructure regulations. Based on those statements I am satisfied that the obligation meets those tests and can therefore be fully taken into account by me in reaching my decision.

### **Other Matters**

53. I understand the position of the DGT delivery team, and the Didcot Town Council. Each is concerned that housing growth, though necessary, should be managed in a structured way. Nevertheless, the lack of a demonstrable 5 year supply of deliverable housing land is a significant situation. It does not mean that housing could, or should, be provided anywhere, but it does mean that suitable sites should be given proper consideration. In this case it is my judgement that in order to enhance delivery of much needed housing this site is acceptable and would not cause unacceptable harm to the objectives of the development plan or the delivery of the wider DGT.

### **Overall Conclusion**

54. For the reasons given above I conclude that the appeal should be allowed.

*Philip Major*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) Details of the 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 18 months 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 comprise no more than 150 dwellings.
- 5) The development hereby approved shall be carried out in accordance with the following approved plans:
  - Site Location plan SLP-01 Rev P1
  - Parameter Plan MANO190729 PP-01 P7
  - Site Access Option 195072 A03 Rev A
  - Proposed Toucan Crossing 196072-A2-01
- 6) The reserved matters application shall be accompanied by a Design Code, which shall have previously been approved in writing by the local planning authority in advance of the submission of the reserved matters. The Design Code shall include illustrations, sections and block testing to demonstrate the development principles of the development and shall follow the overarching principles set out in the North East Didcot Design Code. The reserved matters application shall demonstrate how it accords with the Design Code.
- 7) The reserved matters for the scheme shall be designed to secure the following mix of market dwellings:
  - 1 bed - 6%
  - 2 bed - 27%
  - 3 bed - 43%
  - 4 bed - 24%or in accordance with a mix that shall be set out for approval as part of the reserved matters submission to reflect the latest housing needs assessment.
- 8) The following additional details shall be submitted with the reserved matters application:
  - Details of vehicle and cycle parking for all dwellings;
  - Details of recycling/waste storage for all dwellings;
  - Details of all boundary treatments;
  - Details of all street lighting and street furniture;
  - Tree planting on estate roads;
  - Existing and proposed ground levels.

The development shall be implemented in accordance with the approved details.



- 9) Concurrent with the submission of the reserved matters application, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the local planning authority. The BEP should be broadly in accordance with the outline details of habitat enhancements outlined in section 6 of the supporting Ecological Appraisal (Aspect Ecology, 30/04/2020). The BEP should include:
- Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required;
  - Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate;
  - Selection of appropriate strategies for creating/restoring target habitats or introducing target species;
  - Selection of specific techniques and practices for establishing vegetation;
  - Sources of habitat materials (e.g. plant stock) or species individuals;
  - Method statement for site preparation and establishment of target features;
  - Extent and location of proposed works;
  - Full details of a biodiversity metric assessment to demonstrate a biodiversity net gain.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements shall be delivered prior to the final occupation of the development.

- 10) Concurrent with the submission of the reserved matters, a maintenance schedule and a long-term management plan (for a minimum period of 20 years), for the soft landscaping works shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall include:
- Details of long-term design principles and objectives;
  - Management responsibilities, maintenance schedules and replacement provisions for existing retained landscape features and any landscape to be implemented as part of the approved landscape scheme including hard surfaces, street furniture within open spaces and any play/youth provision;
  - A plan detailing which areas of the site the Landscape Management Plan covers and also who is responsible of the maintenance of the other areas of the site;
  - Summary plan detailing different management procedures for the types of landscape on site e.g. Wildflower meadows, native or ornamental hedgerows.

The schedule and plan shall be implemented in accordance with the agreed programme

- 11) The reserved matters submission shall be accompanied by a site-wide bat mitigation strategy, consistent with the recommendations made in section 4.4 of the supporting Bat Activity Survey Report (Aspect Ecology, 16/09/2020), which shall previously have been submitted to and

approved in writing by the local planning authority. The site-wide bat mitigation strategy shall:

- Identify existing habitats and features on site of importance to roosting, commuting and foraging bats which must be retained and protected on site;
- Identify areas on site where habitat creation and enhancement will take place to benefit the local bat population;
- Identify areas where external lighting on site must be avoided or minimised (dark corridors); and
- Set parameters for external lighting in areas outside of dark corridors to minimise the impacts of light spill on foraging and commuting bats.

The reserved matters application shall accord with the approved provisions in the site-wide bat mitigation strategy.

- 12) Concurrent with the submission of the reserved matters application, a scheme of mitigation measures to protect future residents from noise from the adjacent B4016 shall be submitted to and approved in writing by the local planning authority. The development shall be built in accordance with the approved scheme prior to first occupation of any of the dwellings to which the noise mitigation relates. The approved mitigation measures shall be retained thereafter.
- 13) Prior to the commencement of the development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
  - Updated ecological surveys for relevant habitats and species. Updated surveys shall follow national good practice guidelines;
  - Risk assessment of potentially damaging construction activities;
  - Identification of "biodiversity protection zones";
  - Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;
  - The location and timing of sensitive works to avoid harm to biodiversity features;
  - The times during construction when specialist ecologists need to be present on site to oversee works;
  - Responsible persons and lines of communication;
  - Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 14) Prior to the commencement of the development hereby approved an Energy Statement shall be submitted to and approved in writing by the local planning authority. The Energy Statement shall include Standard Assessment Procedure (SAP) calculations in line with the recognised methodology set by Government, demonstrating how the development will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations.

- 15) Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. This shall be based on the Flood Risk and Drainage Assessment by Martin Andrews Consulting reference 277-FRA-01-B dated April 2020, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall also include:
- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
  - A range of SuDS techniques throughout the site to manage water quantity and maintain water quality;
  - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
  - Infiltration tests to BRE 365;
  - A Flood Exceedance Conveyance Plan;
  - Detailed design drainage layout drawings of the SuDS proposals including cross sections as appropriate;
  - SUDS and drainage construction details to include flow controls, headwall and trash screen details;
  - A condition survey of the culvert taking the watercourse below the adjacent highway and any watercourse along boundaries or within the confines of the site along with any maintenance remedial proposals necessary for the effective drainage of the site;
  - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
  - Details of how water quality will be maintained during construction.

No dwelling shall be occupied until the surface drainage works to serve that dwelling have been carried out and completed in accordance with the approved details.

- 16) Prior to the commencement of the development, a detailed foul water drainage scheme shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and no dwelling shall be occupied until the foul water drainage works to serve that dwelling have been completed.
- 17) Prior to the commencement of the development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority. The approved CTMP shall be implemented prior to any works being carried out on site and shall be maintained throughout the course of the development.
- 18) Prior to the commencement of the development a professional archaeological organisation acceptable to the local planning authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the local planning authority.
- 19) Following the approval of the Written Scheme of Investigation referred to in condition 18 and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of

Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the local planning authority within two years of the completion of the archaeological fieldwork.

- 20) No operations shall take place within the construction exclusion buffer zone as shown on the parameter plan unless previously notified to and authorised in writing by the local planning authority. Such operations shall take place strictly as approved. Any unauthorised operations which take place within the construction exclusion buffer zone shall cease immediately and be reported in writing within 2 working days to the local planning authority.
- 21) Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice such as CLR11 Model Procedures for the Management of Land Contamination and BS10175 Investigation of potentially contaminated sites. Each phase shall be submitted to and approved in writing by the local planning authority.

Phase 2, if required, shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and if significant contamination is identified to inform the remediation strategy.

Phase 3, if required, shall include a remediation strategy which is to be submitted to and approved in writing by the local planning authority to ensure the site will be rendered suitable for its proposed use.
- 22) The development shall not be occupied until any previously approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the local planning authority.
- 23) Prior to the first occupation of each dwelling hereby approved, a verification report shall be submitted to and approved in writing by the local planning authority. The verification report shall demonstrate (with photographic evidence) that the energy efficiency measures approved in the energy statement for that dwelling have been implemented in accordance with the approved energy statement. These measures shall be retained and maintained as such thereafter in accordance with the energy statement and verification report.
- 24) Prior to the first occupation of the development hereby permitted, a scheme outlining mitigation measures to address any adverse impacts on local air quality shall be submitted to and approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved details prior to occupation, or in accordance with a programme agreed in writing by the local planning authority.
- 25) Prior to the first occupation of any dwelling hereby permitted, a scheme to provide each house with on-plot electric vehicle charging points shall

- be submitted to and approved in writing by the local planning authority. The scheme shall also include electric vehicle charging points for communal parking and on-street parking and shall be implemented as approved and retained thereafter.
- 26) Prior to the first occupation of the development hereby permitted, details of the means by which the dwellings may be connected to the utilities to be provided on site to facilitate super-fast broadband connectivity shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 27) Prior to occupation of the dwellings hereby permitted the proposed means of access onto the B4016 shall be formed and laid out and constructed strictly in accordance with the local highway authority's specifications and all ancillary works specified shall be undertaken.
  - 28) Before any of the initial 70 dwellings hereby permitted are first occupied, the estate roads and footpaths (except for the final surfacing thereof) serving those 70 dwellings shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming shall be put in place in accordance with Oxfordshire County Council's specifications.
  - 29) Before any of the dwellings after the initial 70 have been occupied, are first occupied, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming shall be put in place in accordance with Oxfordshire County Council's specifications.
  - 30) Prior to the commencement of development details and specification for estate access, driveways and turning areas shall be submitted to and approved in writing by the local planning authority. The proposed vehicular accesses, driveways and turning areas shall be constructed, laid out, surfaced and drained in accordance with approved details prior to first occupation of any dwellings.
  - 31) Prior to the first occupation of the development a residential travel plan for the encouragement of the use of sustainable modes of transport shall be submitted to and approved in writing by the local planning authority. It shall include a travel plan statement and details of a travel information pack to be provided to the first residents of each dwelling upon occupation. The travel plan shall be implemented upon occupation of the first dwelling and thereafter updated upon 50% occupation (75th dwelling). It shall be monitored and reviewed in accordance with details to be set out in the approved plan.
  - 32) If proposed, no piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and a programme for the works) has been submitted to and approved in writing by the local planning authority. Any piling shall be undertaken in accordance with the terms of the approved piling method statement.



- 33) The dwellings hereby approved shall meet the following requirements:
- all affordable housing and at least 15% of market housing shall be designed to meet the standards of Part M (4) Category 2: accessible and adaptable dwellings;
  - at least 5% of affordable housing dwellings shall be designed to meet the standards of Part M (4) Category 3: wheelchair accessible dwellings; and
  - all affordable housing and 1 and 2 bed market housing dwellings shall be designed to meet the Nationally Described Space Standards.

Upon completion of the development evidence of construction to these standards shall be provided to the local planning authority if requested.

- 34) Construction works shall take place only between 07.30 and 18.00 on Mondays to Fridays, and between 08.00 and 13.00 on Saturdays. Construction works shall not take place at any time on Sundays or on Bank or Public Holidays.
- 35) No more than 50 dwellings shall be occupied until confirmation has been provided that either:
- All water network upgrades required to accommodate the additional flow have been completed; or
  - A development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.
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## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr T Cosgrove He called	Queen's Counsel
Mr L Robertson MA Dip(UD) BSc(Hons) MRTPI	Independent Chartered Town Planner.
Mr P Radmell MA BPhil CMLI	Independent landscape practitioner – took part in the landscape round table session.
Mrs T Smith BA(Hons) BTP MRTPI	South Oxfordshire District Council – took part in the housing land supply round table session.

### FOR THE APPELLANT:

Mr Richard Ground Mr B Du Feu They called	Queen's Counsel Of Counsel
Mr G Armstrong BA(Hons) MRTPI	Director, Armstrong Rigg Planning – gave evidence and took part in the housing land supply round table session.
Ms S Gruner BHons (landscape Architecture) CMLI	Associate Landscape Architect, CSA Environmental - took part in the landscape round table session.

### INTERESTED PERSONS:

Mr A Sabato	Didcot Garden Town Project Officer.
Dr N Hards	Local Resident.
Cllr D Rouane	Didcot Town Council
Officers of Oxfordshire County Council	Attended for the discussion relating to the S106 Agreement.
Mr J Bancroft	Vectos – attended on day 1 for the Appellant to answer any questions on the agreed highway position.