



Appeal Decision

Inquiry Held on 10-14 September and 17 & 18 September 2019

Site visit made on 18 September 2019

by Kenneth Stone BSC Hons DipTP MRTPI

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

Decision date: 14th October 2019

Appeal Ref: APP/Q3115/W/19/3220425

Land to the east of Reading Road, Lower Shiplake

- 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 Retirement Villages Developments Ltd, Vortal Properties Ltd & Dr Harjot Bal against the decision of South Oxfordshire District Council.
 - The application Ref P18/S3210/O, dated 21 September 2018, was refused by notice dated 21 December 2018.
 - The development proposed is described as 'the development of land to the east of Reading Road to consist of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2); associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures'.
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Decision

1. The appeal is allowed and planning permission is granted for the development of land to the east of Reading Road to consist of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2); associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures at Land to the east of Reading Road, Lower Shiplake in accordance with the terms of the application, Ref P18/S3210/O, dated 21 September 2018, subject to the conditions contained in the schedule at the end of this decision.

Procedural matters

2. The application seeks outline planning permission with all matters, except for access, reserved for future consideration. The plans on which the Council took its decision, and which are the subject of this appeal, were identified in the Planning and Landscape Statement of Common Ground (PLSoCG) and confirmed at the start of the Inquiry as Site Location Plan No. 4602-LP01A, Site Parameters Plan 4602-PL110G, Building Parameters Plan 4602-PL111J and Site Levels Parameters Plan 4602-PL113. The parameters plans confirm the limitations on development and on which the landscape and various assessments have been undertaken. The proposed access is shown on plan 1606-30 SK24 and a footway link to the north is detailed on plan 1606-30 SK19A. I have had regard to these plans in my decision.

3. The application was supported by an Illustrative Site layout 4602-PL112H. This is an illustrative plan identifying one way in which the scheme could come forward but does not form part of the formal details for which approval is sought.
4. Two Statements of Common Ground had been produced in advance of the Inquiry; the first related to Planning and Landscape matters and the second on Highways matters. An Addendum to the Statement of Common Ground on Highway Matters was submitted during the Inquiry (APP3). This confirmed that it was agreed that South Oxfordshire District Council and Oxfordshire County Council, as local planning authority and as highway authority respectively, no longer sought to pursue any highway or transport related reasons for refusal. This was on the basis of further speed surveys and additional plans identifying that the visibility splays included on drawing SK24 were to be maintained and that the details of the footway on drawing SK19 A could provide for a footway, with a minimum width of 1.5m, within the highway boundary and that the structure must be maintainable within the highway boundary or via easement/land dedication. The structural details would be provided as part of a section 278 agreement prior to implementation. As such the first part of reason for refusal 1, related to accessibility by sustainable modes of transport, and the entirety of reason for refusal 2, related to visibility and geometry of the proposed access, had been satisfactorily addressed. These matters however remained issues for third parties.
5. A completed planning obligation, dated 18 September 2019, in the form of an agreement under section 106 of the Town and Country Planning Act 1990 as amended (106 Agreement) was submitted on the final day of the Inquiry and I deal with its provisions in my reasoning below.
6. Closing submissions were provided in writing at the close of the Inquiry but were not read out. The appellant provided a brief response to the closing submissions of the LPA in writing by the close of play on that day (APP15). The LPA confirmed there were no additional matters raised on which they wished to comment.
7. A completed planning obligation, dated 20 September 2019, in the form of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 as amended (UU) was submitted, on 23 September 2019, (APP16) in line with the timetable agreed at the Inquiry. I deal with its provisions in my reasoning below.
8. It is agreed in the PLSocG that a completed section 106 agreement would partially address reason for refusal 4 in respect of the infrastructure needs of the development. The Council confirmed in closing that it accepted that with the Community Levy Infrastructure contributions and planning obligations submitted by the appellant the development would make adequate provision for its infrastructure needs therefore satisfactorily addressing reason for refusal 4 in respect of infrastructure matters, other than affordable housing.

Main Issues

9. On the basis of the above the main issues are:
 - Whether the proposed development is in accordance with the spatial strategy;

- The effect of the proposed development on the landscape character and appearance of the surrounding area;
- The effect of the use of the proposed access on highway safety of users of Reading Road; and
- Whether the proposal makes adequate provision for affordable housing.

Reasons

10. The development plan for the area comprises the South Oxfordshire District Council Core Strategy (adopted December 2012) (CS) and the saved policies of the South Oxfordshire Local Plan 2011 (adopted January 2006) (LP).
11. The PLSocG sets out the policies that the Council and appellant consider are the most relevant to the appeal proposal at 3.4 (for the CS) and 3.6 (for the LP).
12. The CS policies identified are: CSS1 which sets out the overall strategy for development in the district. CSR1 which sets out the scale and nature of housing in villages and also states that local character and distinctiveness will be protected. CSM1 and CSM2 which seek to support improvements to transport infrastructure, enable modal shift, encourage sustainable modes of transport and ensure development proposals are supported by appropriate transport assessments and travel plans amongst other matters. CSEN1 which seeks to protect the landscape character and key features of the district against inappropriate development. Policy CSQ3 seeks to ensure that new development is of a high quality and inclusive design, while CSH3 requires 40% affordable housing provision on all sites where there is a net gain of three or more dwellings and CSH4 requires a mix of dwelling types and sizes to meet the needs of current and future households (including specialist accommodation for older people). CSI1 requires new development to be supported by appropriate infrastructure.
13. In terms of the LP the policies identified are: G3 which seeks to resist development that would give rise to development that would increase traffic in relatively inaccessible or isolated rural locations. Policies G2, G4 and C4 which seek to protect the environment, the countryside and the landscape setting of settlements and which are generally carried forward into the CS by CSEN1. T1 which identifies transport requirements for new developments in respect of access and convenience. Policy D1 which requires the principles of good design and the protection and reinforcement of local distinctiveness to be taken into account and D12 which requires a contribution to public art, although the Council conceded that public art would not be appropriate given the nature of the development.
14. The appellant also draws attention to policy CSH1, which sets the amount and distribution of housing in the plan period, primarily on the basis of seeking to justify that the plan is out of date as the requirement within the policy is based on the revoked South East Regional Strategy and not set on the basis of an objectively assessed need, amongst other matters.
15. The aforementioned policies include the policies referred to in the reasons for refusal and given the main issues I have identified I am satisfied that they are the policies most important for determining this appeal.

16. The South Oxfordshire Local Plan 2033 is in preparation. It has been submitted for examination with two sets of initial questions and comments provided noting that a further set will be produced. I was also informed that newly elected members are taking the opportunity to consider the plan and how to proceed. Given the current position, stage of plan preparation and the remaining steps required before adoption the plan and its policies can be given no more than limited weight. This is a matter agreed by the parties in the PLSoCG.
17. There is also a Neighbourhood Plan area designated for Shiplake and Lower Shiplake. However as yet no draft plan has been published.
18. Housing Land Supply in Oxfordshire: Written Statement HCWS955 (WMS) was a Written Ministerial Statement by the Secretary of State for Ministry of Housing Communities and Local Government. As part of its commitment to the Oxfordshire Housing and Growth Deal the government introduced planning freedoms and flexibilities to support the ambitious plan-led approach for housing in Oxfordshire. For the purposes of decision taking authorities in Oxfordshire need only demonstrate a 3 year supply of deliverable housing sites in the context of paragraph 11(d) in the National Planning Policy Framework (the Framework).

Spatial Strategy

19. The overall strategy for the CS is set out in CSS1 and seeks to focus major development at Didcot, while supporting the regeneration of the town centres of the main towns and enhancing the larger villages. Other villages in the rest of the district, which would include Lower Shiplake, will be supported by allowing for limited amounts of housing and employment. Outside the towns and villages any change will need to relate to a specific need. Policy CSR1 then provides the policy framework for dealing with housing in villages and states housing will be allowed where the scale and nature of development is as set out in the table. The table entries for smaller villages, which Lower Shiplake is identified as, provides for infill development on sites of up to 0.2 ha (equivalent to 5-6 houses) and rural exceptions if need shown.
20. The proposal seeks consent for the development of a field on the edge of a smaller village, Lower Shiplake. The plan does not, through policy, identify countryside, but in the context of this appeal and on the basis of my site visit I am satisfied that the site is beyond the built up part of lower Shiplake and more appropriately considered to be countryside, not within the village, albeit it is adjacent to the settlement edge, I address this matter in greater detail below. Given the definition of infill development in the CS the scheme would not constitute infill and the site is not a rural exception or would not relate to the specific needs of agricultural industry or enhancement of the environment. These are matters accepted in the PLSoCG. On this basis the proposal is in direct conflict with policies CSS1 and CSR1.
21. In the context of the specific development type, an extra care development, Policy CSH4, which seeks a mix of dwelling types and sizes to meet the needs of current and future households, at bullet point 4, states specialist accommodation for older people should be provided in the new greenfield neighbourhoods and will be permitted in other suitable locations. Advice on suitable locations can be seen at paragraph 7.42 following the policy which advises such accommodation should be located on sites in or adjacent to the

towns or within the larger villages. The site does not meet the requirements of policy CSH4 with which it conflicts in this regard.

22. On this issue I conclude that the proposed development conflicts with the spatial strategy and in particular policies CSS1, CSR1 and CSH4 in so far as it directs specialist accommodation for older people.

Character and appearance

23. The site is located in the National Character Area 110: Chilterns but the parties agree that given the scale of development it would have little influence on the overall character of the NCA. Of more relevance is the Landscape Character Assessment for the Local Plan 2033 dated November 2017. This identifies the site as lying within the Thames Valley and Fringes Character Area and within that within the semi enclosed dip slope landscape type. The key characteristics of this landscape type highlight the sloping ground around the foot of the Chilterns dip slope next to the valley floor around Lower Shiplake. Bullet points two and four draw attention to the mixture of medium scale fields and smaller scale field pattern and the predominantly rural character with ribbon development on minor roads and localised influences from roads and built-up areas around settlement edges. Importantly they, in particular, draw attention to a differentiation between land to the west of the A4155 which has medium scaled fields and a predominantly rural character and by inference less urban influences. The key characteristics of the area also include a strong structure of hedgerows, trees and small blocks of woodland providing visual containment and moderate intervisibility.
24. The appeal site is an unmanaged field, including encroaching scrub, with a shallow dry valley and is enclosed on three sides with mature tree and hedge vegetation. The fourth side has an open fence demarking the boundary. The site is reasonably representative of the character area and the landscape type east of the A4155. The existing boundary vegetation in association with the general land form and topography in the area results in the site being visually contained with limited intervisibility from medium and longer views from all surrounding directions. The site is heavily influenced by the settlement edge of Lower Shiplake, particularly to the north east where the properties in Baskerville Lane do not have any significant vegetation on the boundaries.
25. The settlement edge around Lower Shiplake is not well defined. There are areas where there is an evident strong urban edge such as at Baskerville Lane. However, there are large detached properties dispersed along New Road to the east of the site, along Mill Lane to the south east and at the junction of Mill Lane, New Road and the A4155 to the South. Similarly, although on the west side of the A4155 Woodlands Road incorporates large detached properties. Characteristics similar to these lead the Inspector in respect of an appeal at Thames Farm (APP/Q3115/W/16/3161733), a short distance to the north west, to describe the area, in terms, as 'developed countryside'. This resulted from a recognition that the site was outside the settlement, within the countryside, as here, but also recognising the distinction between the more rural larger field patterns to the west of the A4155 with areas which although within the countryside were strongly affected by urban influences including the urban edge of the settlement and development along minor roads in the surrounding area which were not within the built up area of the settlement but still had an important influence on the character of the locality. Whilst a somewhat unusual

phrase it is a reasonable characterisation of the area surrounding this appeal site also.

26. The strong degree of containment resultant from topography and vegetation would significantly reduce the impact of the development of the site on the character of the area. An impact that would be further reduced with structural landscaping, maturing planting and the management and maintenance of the existing tree and hedge screening. The replacement of the field with built development would have a negative effect but given the level of containment and the urban influences close by this would not significantly detract from the wider character of the landscape and the negative effects would be localised and limited.
27. In terms of the visual effect and the appearance of the area again the strong containment created by vegetative cover on the principal site frontage of the A4155 would ensure that there would be limited views into the site. These features would be further strengthened with landscaping and managed, following development, ensuring any residual effect would be reduced. There would, self-evidently, be the loss of some trees on this frontage to facilitate the access which would provide for an opening up of views into the development at the access point but this would be limited in width and not dissimilar to other accesses and junctions in the vicinity of the site. The opening of views into the development would result in a negative effect that would be harmful however with no footways on the A4155 past or opposite the site the views would be from motorists or passengers in passing vehicles and would be for a limited duration.
28. The proposals are in outline although parameters plans form part of the proposals and identify areas where built development would occur, buffer zones where built development would not be provided, but include landscaping, and structural landscaping zones. The parameters plans also identify building heights. Reserved matters details in respect of the development would give the Council control over building footprints, detailed design, articulation in the built form, elevational treatment etc. In this regard concerns over a potential institutional appearance of the development could be addressed and a more domestic appearance of development secured. Even so there are examples of institutional buildings in the area, Shiplake College, and larger detached domestic buildings such that the scale and nature of buildings could reasonably be controlled to ensure the buildings did not appear significantly out of keeping.
29. To the east of the site the properties in New Road sit on higher ground and would have views down into the site, there would also be glimpsed views for walkers along New Road, albeit such views would be limited in number given the screening of hedges along the boundaries of the road. Similarly, there would be views of the development from properties in Baskerville Lane given the open eastern boundary and the open boundaries to these properties. The proposals parameters plans identify a strong landscape buffer around the north eastern corner of the site which would assist in mitigating the effect of the development when matured. Although there is no entitlement to a view the appearance of the area would change and would be adversely affected for a number of receptors in the immediate vicinity of the site, albeit this would reduce as landscaping matured.

30. Further afield, in views from the west, the dipping topography and tree screen would ensure that there was limited if any views of the development once completed and landscaping had matured. If limited views are obtained this would be of roof tops amongst a well treed landscape and would be reasonably integrated with the existing character and appearance of the area. Similarly views from the south would be restricted and limited due to topography and tree cover and structural landscaping would reduce any residual effects.
31. Insofar as the development would have an effect on the separation of settlements and in particular Shiplake and Lower Shiplake an undeveloped field would be developed on the edge of Lower Shiplake that is closer to Shiplake. However, this is at a low point in the surrounding topography and well screened. There is limited intervisibility between the settlements. There is dispersed development at the Cross Roads of the A4155 and Mill Lane and development along Mill Lane and New Road, these areas already provide development in the intervening area between Shiplake and Lower Shiplake. On that basis I am satisfied that there would not be harm to the separation of settlements resultant from the proposed development.
32. Given the above I conclude that the proposed development would conflict with LP policies G2, G4 and C4 which seek to protect the countryside and landscape setting of settlements in the district, albeit this harm would be localised and limited. Similarly, there would be conflict with CS policy CSEN1 which brings these policy protections forward into the CS to protect the countryside and where possible enhance it.

Highway safety

33. In the HSoCG, as supplemented by the addendum to the HSoCG (APP3), it was confirmed that Oxfordshire County Council, as local highway authority, SODC, as local planning authority and the appellant agreed that the proposed access junction and previously agreed visibility splays would be acceptable (at both 30 mph and 40 mph speed limits) as illustrated on SK24. It is also agreed that a footway of a minimum width of 1.5m and associated structures could be provided within the highway boundary. In the light of these points it is accepted by the main parties that the first part of reason for refusal 1, related to accessibility, and the whole of reason for refusal 2, related to visibility at and geometry of the access, had been satisfactorily addressed.
34. Safety and accessibility concerns however have been raised by local residents the parish council and the Oxfordshire County Councillor.
35. Although Inquiry time was spent debating the recent change to the increased speed limit the additional evidence in terms of speed surveys and overtaking surveys demonstrate that the average speeds had not increased and were of a similar order during the operation of the 30 mph speed limit and the 40 mph speed limit. The technical highway experts accept that the evidence demonstrated that the visibility splays were adequate. There was no robust or credible evidence to justify departing from the position agreed in the Statements of Common Ground. Similarly there was no challenge to the geometry of the access.
36. In terms of the footway the proposal shows a new footway from the north western corner of the site along the eastern boundary of the A4155 to join with the footway further to the north. This footway would be a minimum of 1.5m in

width and include a retaining structure. Although concerns were raised that there would be insufficient space to accommodate a footway, retaining structure and space to maintain such, the evidence provided demonstrates that a footpath and retaining structure could be erected within the space. The structures would have a long lifespan and given the nature of the detail could be inspected from within the highway boundary. The detail of the footway and maintenance would be further secured through the UU for works in the highway. The details of the design of the footway link can be secured by condition. On this basis I am satisfied that the footway link can be achieved and would facilitate pedestrian access to Lower Shiplake.

37. Whilst there were concerns raised that given the nature of future residents the gradients within the site and the distance would make this unattractive. However, although for elderly occupants these are not necessarily infirm and the detail of the gradients could be designed to accommodate resting locations. Moreover, the pedestrian access would also enable access by foot for visitors and employees etc. The footway link would therefore improve the accessibility of the site for modes of transport other than the private car.
38. Concern was also expressed that although the footway link may provide access to nearby bus stops given the nature of the residents the bus stops, particularly that on the west side of the A4155, would remain unattractive for residents due to the volume and speed of traffic. Again these stops would be reasonably attractive for visitors and employees and given the evidence from the Highways witness regarding interval spacing particularly outside the rush hours I am satisfied that the bus stops would be a viable method of transport for those who chose to use them.
39. The application was supported by a transport assessment and an outline travel plan and a detailed travel plan can be secured by condition.
40. The nature of the development includes the provision of facilities for future residents, which can include an onsite shop for day to day needs, library, and community facilities. A mini bus service is secured through the section 106 planning obligation to facilitate planned trips for future residents this would further add to the ability for future residents to access surrounding facilities by means of transport other than the private car. The nature of the residents, given the age restriction for occupation of the development, would reduce the need for access to employment, schools, sports facilities etc. Overall given the combination of services and facilities, the existing access arrangements and proposals and the nature of the future residents I am satisfied that the proposed development would be reasonably accessible for this form of development.
41. On the basis of the above I am satisfied that the proposed development would not result in an adverse effect in terms of highway safety for users of Reading Road (A4155). There would therefore be no conflict with policies CSM1 of the CS or policies T1 and G3 of the LP and that it would be in accordance with CSM2 of the CS.

Affordable housing

42. Policy CSH3 in the CS states 40% affordable housing will be sought on all sites where there is a net gain of three or more dwellings subject to viability. The main parties challenge the interpretation of the policy as contended by the

other party. As Mr Green points out the meaning of development plan policy is a matter of legal interpretation. To that end I have been provided with various opinions from each side setting out the legal basis of their interpretation and why it should be followed. There is no clear and unequivocal legal position that emerges from those opinions. What is clear is that the policy is not unambiguous or clear hence the differing opinions. A point further confirmed by the fact SODC had not applied policy CSH3 affordable housing requirement in respect of C2 development until relatively recently.

43. The proposed development is agreed to be C2. That is a residential institution in the context of the Use Classes Order. The policy as read states that the required level of affordable housing will be sought on sites where there is a net gain of three or more dwellings. The issue revolves around, in part, whether the accommodation provided would result in the provision of dwellings. As individual elements it is not unreasonable to consider each of the separate units of accommodation as dwellings. They have the form, function and facilities one would associate with a dwelling. However the development proposed is more than the provision of individual units it is the collection of a number of units the occupation of which is restricted and which the occupants have access to communal facilities and which require occupants to have a level of care need; hence the C2 classification. It would be inappropriate to dissect the development into its constituent parts and conclude that one element triggered the affordable housing threshold. The policy refers to the site. The site in this case incorporates the whole development. The development consists of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2) and associated communal facilities. Parts of the development could not be implemented independently, the communal facilities and extra care is an integral component of the development. In this regard I am of the view that the development does not result in a net gain of three or more dwellings but results in the provision of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2) and associated communal facilities, as the description of development confirms.
44. I was also referred to policy CSH4 by the Council to support its contention and in particular the reasoned justification at paragraph 7.42 where it states 'where any scheme providing specialist accommodation for the elderly (with or without care) includes an affordable housing component, this can count towards the overall 40% affordable housing requirement if part of a wider development'. I draw two points from this paragraph; firstly, the first sentence refers to 'where appropriate, specialist accommodation should be provided on a mixed tenure basis...' this would suggest that it is only in appropriate circumstances meaning there are circumstances where it would not be appropriate. I would suggest that that could very well be in the context of a retirement village where the service charge and model requires a different approach as discussed above. Secondly, the very fact there is a need in the paragraph to confirm that any affordable provision made within schemes for specialist accommodation can count towards the 40% affordable housing provision suggests, or appears to treat, the two as different elements.
45. The Council do not seek on site provision which the third bullet point of the paragraph requires. In this context the Council recognise the very different nature and model of the proposed development and therefore seek a payment in lieu. The calculation of the payment is not set out in policy or guidance and

even if I concluded it was appropriate to make such provision I am not satisfied that the level of contribution sought has been fully justified.

46. The final element I have had regard to is the basis on which the policy was justified. I accept that it is not appropriate to seek meaning for the interpretation of policy in background documents outside the plan. However, there is some strength in the argument that the justification for the 40% threshold and viability assessment related to the core strategy sought to justify the threshold based on market housing and did not consider extra care housing and whether this would be a viable threshold for that form of development. It would appear the Council acknowledge that position in that such work has been undertaken in the context of the emerging development plan. It is not for me to go into the detail of that in this appeal, however the fact such work is being undertaken acknowledges that there is potentially different consequences of a threshold for affordable housing for different types of development. When added to how the Council originally interpreted the policy for a number of years after its adoption, such that it did not require affordable housing on C2 developments, this in my view reflected its understanding of the policy as originally conceived and drafted and implemented.
47. On the basis of the above I conclude that there is not a requirement for the provision of affordable housing from the proposed development through policy CSH3 with which the proposals do not therefore conflict.

Other matters

48. South Oxfordshire District Council is one of the authorities that has signed up to the Oxfordshire Housing and Growth Deal. As a consequence the WMS referred to above confirms that for the purposes of decision taking authorities in Oxfordshire need only demonstrate a 3 year supply of deliverable housing sites in the context of paragraph 11(d) in the National Planning Policy Framework (the Framework). The PLSoCG confirms that the Council has been able to demonstrate a three year supply of housing land since 2018. The CS is more than 5 years old and therefore the standard method for the calculation of the 5 year housing supply position should be used. In APP2 the appellant sets out its position on the 5 year housing supply position. Whilst it seeks to discount a number of supply sites from the Council's supply position, from its statement dated June 2019 (9.75 using the standard method or 5.17 based on the Local Plan), based on the definitions in the Framework the appellant still concludes that based on the standard method the Council could demonstrate a 6.26 years supply, whilst measured against the Local Plan it would be 3.22 years. Given the WMS flexibility the Council need only demonstrate a 3 year supply for decision taking purposes and therefore which ever way it is calculated paragraph 11(d) of the Framework is not engaged due to a failure to make an adequate housing land supply provision. I note the Council dispute the appellant's supply side figures however there is little value in conducting a forensic examination of the position given the overall conclusions.
49. The Appellant does not seek to make the case that paragraph 11(d) is engaged due to a shortfall in the housing land supply position or in respect of the Housing Delivery Test, which the Authority meets.
50. Concerns have been expressed with regard to the additional noise and disturbance that would be introduced as a result of the development. The site is not a tranquil location. The main road A4155 runs past the site, the

settlement edge of Lower Shiplake is in close proximity to the northern boundary. There are residential properties to the east on New Road. The proposed development would provide for accommodation for elderly people. There would be some consequent increase in activity given the site is presently an open field and would be developed such that attendant noise associated with comings and goings and general movements would be introduced. However, these are not significantly different from the residential accommodation of Lower Shiplake and the surrounding development. It would not lead to a significant increase in noise and disturbance.

51. Property values, per se, are not material. The factors that may lead to such changes such as changes to the character and appearance of the area or proximity to development and the consequences of it are matters that I have had regard to in considering this appeal.
52. The living conditions of the occupants of nearby properties through a loss of outlook would not result in a material effect. There is adequate separation between the existing properties and the site. The site proposals also include additional structural landscaping and planting which would further mitigate any impact.
53. Lighting of the site was discussed and it was suggested that this would primarily be through bollard lighting. The appellant's landscape witness confirmed that he had reviewed the site on a site visit and did not consider that there was an issue in terms of additional lighting. Lighting can be more fully addressed through condition or the reserved matters and I have no evidence before this inquiry to demonstrate that there is an in principle objection on this ground and there is no reason why an acceptable lighting scheme could not be designed.

Benefits

54. The PLSocG recognises and agrees that there is a high level of need for housing for older people in the Oxfordshire Housing Market Area and within South Oxfordshire. Indeed, in closing the Council accepts that, and continues to accept, that whatever the estimate of need that is used there is a need for extra care housing and that the appeal scheme would help to meet that need. The Council however do question the extent and nature of that need.
55. It is not disputed that there is an ageing population in South Oxfordshire, with significant increases projected for the over 75 age range. It is also not disputed that South Oxfordshire has a significant owner occupation rate, above the national average, and that this is more so for older people. The need to address the needs of this section of the population is therefore likely to increase. A position that the Oxfordshire Market Position Statement 2019-2022 (OMPS) draws attention to.
56. The Council introduced the OMPS to the inquiry to support its position regarding the nature and extent of that need but accepted that it did not have the expertise or evidence to robustly defend or explain the conclusions or evidence upon which that document was based. The document seeks to address the position of the County Council and NHS Oxfordshire Clinical Commissioning Group to enable engagement with care providers across all services to ensure the population has access to a wide range of good value, high quality and innovative services. However, in respect of Extra Care

housing it specifically excludes retirement villages from its definition of Extra Care housing. It does however also encourage the development of retirement villages as it recognises that these will suit the needs of many Oxfordshire residents.

57. The assessment of need in the OMPS is based on an estimate of need of 25 'extra care units' for every 1000 people aged over 75 derived from the Housing Learning & Improvement Network fact sheet 1. The appellant has undertaken its own assessment of need and identified a need based on 45 units per 1000 people, split two thirds for leasehold and one third rented based on the tenure profile in the area. The OMPS also projects provision based on assumed provision up to 2026 and 2031. There is little clarity on the degree of certainty of this assumed provision. The parties accept that the appropriate forum for a detailed analysis of the level of need would be more appropriately at a Local Plan examination and given the lack of robust analysis of the derivation of much of the OMPS figures there are legitimate reservations around, what the statement actually seeks to cover, whether this represents an assessment of the minimum need in the district or a reasonably achievable target. When added to the specific exclusion of retirement villages from consideration in the document this undermines the weight that I put on this document in this appeal.
58. On the basis of the above, in broad terms, I am satisfied that there is a need for the provision of extra care housing, that that need is high, and given the population profile that the need is likely to increase. There is currently under provision to meet that need and the evidence I have before this Inquiry to suggest that that need would be met in the medium to longer term is not robust. I am therefore satisfied that this is a factor which should weigh positively in the planning balance and given the evidence before me my judgement would be that that should attract significant weight.
59. In terms of the benefits that derive from the provision of extra care housing these are not significantly challenged. There would be an advantage to the future residents of the development as the specialist housing would provide for a range of lifestyle facilities for social, cultural, educational and recreational activity. There is access to a range of services and care that can respond flexibly to the needs of the residents. There are advantages to health providers as the care needs of residents can be changed dependant on circumstances which can facilitate earlier discharge from hospitals as support in the home can be easily organised, this has obvious cost advantages. Care provision at this point can also reduce the need for admissions to hospital and other pressures on GP and A&E services. There is evidence that demonstrates the provision of specialist housing would have a role in freeing up under occupied family housing, facilitating downsizing, bringing this housing back onto the market. There is with significant proportions of households over 65 under occupying properties in South Oxfordshire. Given the reasonable scale of this development I give these benefits derived from the occupation of this development significant weight.
60. Concern was expressed regarding the mix of the size of units provided as this was focused on two bed units. There is the opportunity to address this at reserved matters and a number of the units could have a third bedroom identified within the models currently operated by the developer. There was evidence to suggest that two bedrooms are more appropriate for this type of

development but that is a matter that can reasonably be explored in the reserved matters application and would not change my conclusion on the principle of the proposal or the benefits derived from it.

61. The proposal would also result in wider economic benefits through construction jobs and local investment during construction, expenditure in the local economy following occupation, and employment at the facility. I give these benefits moderate weight given the nature and scale of development.

Conditions and Planning Obligations

62. A list of suggested conditions was discussed at the Inquiry, APP6. In considering the conditions to impose in the event that the appeal is allowed I had regard to the advice in the relevant section of the Planning Practice Guidance. The conditions that are imposed are set out in the schedule at the end of this decision, the following references to condition numbers are in relation to the conditions there. Minor textual changes to those in the schedule have been made to ensure the conditions are precise and enforceable. A number of suggested conditions have not been imposed as they covered matters more properly addressed through the reserved matters or to avoid duplication of effect.
63. Conditions 1-3 are standard time limit conditions for outline permissions while conditions 4-6 detail the development approved and the plans on which the decision is based to ensure clarity. Conditions 7 and 8 require additional details of highway and transport matters to ensure the safe and efficient operation of the highway and ensure the development would be reasonably served with modes of transport other than the private car.
64. Conditions 9 and 10 require details of mitigation for biodiversity and ecological matters to address the impacts of the development. Condition 11 requires necessary details to be included in the landscaping reserved matter to protect and retain trees to ensure the development is undertaken in accordance with the proposals as assessed.
65. Condition 12 is required to protect the living conditions of occupants of the surrounding properties and in the interests of Highway safety. Conditions 13 – 15 are required to ensure the development incorporates suitable drainage. Condition 16 is required in the interest of the character and appearance of the area and in the interests of ecology. Conditions 17 and 18 are required to ensure that the development would be safeguarded from any contamination and to safeguard any buried archaeological remains, respectively, that may exist.
66. Two planning obligations, a 106 agreement and a UU, have been completed as referred to above. I deal with the provisions of each of these separately.
67. The 106 agreement secures obligations between the Owner, developer, district Council and County Council. Schedule 1 provides for contributions towards street naming and numbering and where necessary refuse collection (in the event a private refuse collection operator is not procured). These are necessary infrastructure requirements resultant from the development. Schedule 2 controls the nature of development and its occupation. Including restrictions on age, requirement for care, necessity for health assessment and provision of personal care. The provisions also include the requirement to

secure the services of a care agency, require a basic care package, the provision of communal facilities, details of the operation of the management company and the provision of a mini bus. These matters are required to ensure the development provides extra care accommodation in line with the description of development and on the basis of the level of care and facilities that have supported the assessment of the impact of the development.

68. Schedule 3 of the 106 agreement secures financial contributions to the County Council to improve the availability of bus services following the Reading-Henley route and towards monitoring the implementation of the travel plan. The contributions are required to ensure the development is adequately served by means of transport other than the private car.
69. Schedule 4 are reciprocal obligations on the District and County Councils to use the contributions towards their intended purpose and to repay any unused moneys after an appropriate period. These are required to ensure the proper implementation and use of the referenced obligations.
70. The UU is made by the owner and developer to Oxfordshire County Council and in which they covenant to enter into the Highways agreement and carry out highway works to provide for a footway along the eastern side of Reading Road. The obligations also require provision of a traffic calming scheme. The works should all include necessary preparatory and ancillary works and amenity and accommodation works.
71. In so far as the footway requirements these are necessary to ensure the site is reasonably connected to Reading Road and Lower Shiplake and to ensure the development is adequately served by means of transport other than the private car.
72. The traffic calming measures have been offered by the appellant as an additional method of improving road safety and controlling vehicle speeds. Both parties accept that the scheme is acceptable without the traffic calming providing adequate visibility and a safe means of access and egress to the site, as I have found above. Whilst the UU includes provisions to secure these traffic calming measures, given that they are not necessary to make the development acceptable, I cannot have regard to them as a reason for granting permission.

Planning Balance

73. Planning law requires that applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration.
74. Paragraph 11(d) of the Framework advises that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, the tilted balance as it has become known. It is not part of any parties' case that there are no relevant development plan policies in this case. There are not policies in the Framework that protect areas or assets of particular importance. The operation of the tilted balance is therefore down to whether policies are out-of-date. Footnote 7 identifies that

policies would be out of date where the Council could not demonstrate a five year housing land supply, or where the Housing Delivery Test fell below a certain threshold. The five year housing land supply test in this appeal is adjusted to three years in this area, given the WMS. Neither of these circumstances persist here. However these are not the only circumstances that could lead to a conclusion policies were out of date. The appellant's contention is that the development plan's housing requirement is out of date and therefore the housing policies that flow from that are out of date, as are other policies which constrain housing in the district, and indeed the plan is out-of-date as the provision of an adequate and up-to-date housing requirement is a necessary element of the development plan and without it the plan is not consistent with the Framework and is therefore out-of-date. It is also contended that specific policies are not consistent with the Framework.

75. Policy CSH1 sets the housing requirement for the district and distributes it to Didcot and the rest of the district. The requirement although adopted following the publication of the 2012 Framework was based on a requirement derived from the revoked South East Regional Strategy and was not based on an objectively assessed need. On this basis it is not consistent with the Framework and is out-of-date. The overall strategy set in CSS1, that for housing in villages set in CSR1 and for housing mix (including for the elderly) in CSH4 are set in the context of CSH1 and therefore must logically have had regard to that overall requirement in seeking to set the strategy. In that regard I reduce the weight that I afford to them because they will constrain housing development in the context of the overall requirement. However, the strategies do identify locations where development should and should not take place by directing development within an overall settlement hierarchy and this is not inconsistent with the Framework. The Council is able to demonstrate a 3 year housing supply, as required by the WMS, albeit this may be through permitting development in spite of the policies rather than in accordance with them. Overall, I therefore attach significant weight to these policies.
76. I have concluded above that the development would conflict with the spatial strategy including policies CSS1, CSR1 and CSH4. The general thrust of the spatial strategy is to protect the character of the district and ensure development is directed towards the most accessible locations in the settlement hierarchy. It is appropriate to ensure that development is directed towards the most suitable locations in the hierarchy for the type of development and that higher order settlements are self-evidently more accessible and sustainable. However, I have concluded that the effect on the character and appearance of the area would be localised and limited and that the development, given its nature, would be reasonably accessible. The weight I therefore attach to the conflict with the spatial strategy, the weight of which I have judged as moderate, is therefore also moderate.
77. The site is not a valued landscape but there are a number of policies in the development plan that seek to protect the countryside, landscape and require that the development should be of a high quality in keeping with the character of the area. These include policies G2, G4 and C4 from the LP and policy CSEN1 in the CS. These policies engage with the Framework's advice to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. However, they were formulated at a time where the advice provided the greater degree of 'protection' rather than 'recognition' as now. In that regard whilst they seek to address a matter

identified in the Framework there is a more onerous burden placed on the development. Whilst there is still a requirement that these matters are material and should weigh in the balance they seek to protect the countryside and landscape setting of settlements in the district. In this regard because of this inconsistency I reduce the weight afforded to these policies, a point emphasised by the fact that if applied in a strict reading they would further constrain housing and given the overall requirement on which the plan is predicated is out of date would potentially frustrate much needed housing development. I therefore give these policies moderate weight. I have concluded that the harm occasioned would be localised and limited and I therefore conclude that the overall weight afforded to the conflict with these policies would be moderate.

78. The proposals do not conflict with the affordable housing policies, the highway/transport policies, policies specifically in respect of design or policies with regard to the provision of infrastructure in the development plan given my conclusions above. There is therefore no conflict with CS policies CSM1, CSM2, CSQ3, CSH3, or CSI1 or LP policies T1, G3 or D1.
79. On the basis of the above conclusions I am of the view that taken as a whole and given the conflict with the spatial strategy and landscape policies the development would not be in accordance with the development plan. However, on the basis of the information before this Inquiry, and taking the policies together those that are most important for the determination of this appeal are out of date and therefore the tilted balance at paragraph 11 (d) of the Framework is engaged.
80. The benefits associated with the scheme are substantial, including addressing the need for extra care accommodation, in part, with the consequent benefits of freeing up under occupied properties, benefits to health care providers and the social, cultural, recreational and educational benefits for future occupiers. Added to which there would be the moderate positive economic benefits associated with the development. These benefits would not be substantially and demonstrably outweighed by the limited and localised adverse impacts to the landscape, to which I have given moderate weight, or the harm to the overall spatial strategy, to which I have also given moderate weight. This harm to the spatial strategy is also somewhat tempered by the specialist nature of the development, for elderly residents, such that it is not for a standard housing development. The proposal would therefore benefit from the presumption in favour of sustainable development in the Framework, a significant material consideration that would justify granting planning permission not in accordance with the development.
81. Even if the tilted balance were not engaged I am satisfied that the benefits associated with the development would outweigh the harm and would still provide for the material considerations that would be required to grant permission for the development not in accordance with the development plan.

Overall conclusions

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

Kenneth Stone

INSPECTOR

INTERESTED PERSONS:

Tina Dalzell	Local Resident
Fred Maroudas	Chair Shiplake Parish Council
Leigh Rawlins	District Councillor South Oxfordshire District Council
David Bartholomew	County Councillor Oxfordshire County Council
D Smith	Local Resident Lower Shiplake

DOCUMENTS submitted by Appellant

APP1	Appellant's opening statement
APP2	Paper on five year housing land supply by Tetlow King Planning on behalf of the Appellant
APP3	Addendum to Statement of Common Ground on Highways Matters
APP4	Draft Unilateral Deed of Planning Obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended)
APP5	Draft updated Deed of Agreement under section 106 of the Town and Country Planning Act 1990 (as amended)
APP6	Draft list of suggested conditions
APP7	Statutory Instrument 2013 No. 427 – The Regional Strategy for the South East (Partial Revocation) Order 2013
APP8	Extract of Inspectors report on the examination of the South Oxfordshire Core Strategy
APP9	Amendments to Tables 19, 20 and 21 in Mr Appleton's Proof of Evidence
APP10	Technical Note 7 – Supplementary Proof of Evidence of James Darrall
APP11	Draft proposed route for accompanied site visit
APP12	Appeal decision APP/G1630/W/14/3001706
APP13	Certified copy of completed Deed of Agreement under section 106 of the Town and Country Planning Act 1990 (as amended)
APP14	Closing submissions on behalf of the appellant
APP15	Written response to the Council's closing submissions on behalf of the appellant
APP16	Certified copy of completed Unilateral Deed of Planning Obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended)

DOCUMENTS submitted by South Oxfordshire District Council

SODC1	Appeal Statement on behalf of the local highway authority – Oxfordshire County Council
SODC2	Opening statement on behalf of the South Oxfordshire District Council
SODC3	a) Oxfordshire Market Position Statement 2019-2022 b) Email correspondence between District Council and County Council providing SODC with its district Council position c) Housing LIN Fact Sheet 1 – Extra Care Housing – What is it in 2015?
SODC4	Letter from Solicitor to the Council regarding its position on the

- section 106 Agreement undated but signed and sealed documents.
- SODC5 South Oxfordshire District Council statement on Compliance with Community Infrastructure Levy (Amendment)(England)(No.2) Regulations 2019
- SODC6 Closing submissions on behalf of the Council

DOCUMENTS submitted by Third Parties

- TP1 Statement made to the Inquiry by Leigh Rawlins
- TP2 Statement made to the Inquiry by Fred Maroudas
- TP3 Speaking note of statement made to Inquiry by David Bartholomew
- TP4 Statement made to the Inquiry by Tina Dalzell

Schedule of conditions for Appeal reference APP/Q3115/W/19/3220425

- 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 three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) No more than 65 units of extra care accommodation shall be erected on the site.
- 5) The development hereby permitted shall be carried out within the site defined by the red line on the Site Location Plan ref: 4602 LP01 A and in accordance with the following parameter plans 4602-PL 110G, 4602-PL 111J, and 4602-PL 113, the Proposed Footway Link to the North from the Site and Cellweb Construction Drawing 1606-30 SK19A and the Agreed Site Access Visibility Splays Drawing 1606-30 SK24.
- 6) Details of the site access to the development hereby approved shall be submitted to and approved in writing by the local planning authority before development commences, designed in accordance with the outline design (including location and geometry) shown on drawing 1606-30 SK24, and shall be provided in accordance with the approved design before first occupation of the development hereby approved.
- 7) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, details relating to the following shall be submitted for approval in writing by the Local Planning Authority:
 - a) Provision of a pedestrian link between the site and Reading Road;
 - b) Internal swept path analyses demonstrating refuse collection, servicing and emergency access;
 - c) The location of underground services/service strips suitable for maintenance to avoid disruption to the access; and
 - d) Provision of surface water drainage from the access road to avoid discharge onto the Reading Road.
- 8) Prior to first occupation of the development a Travel Plan, that shall include the provision of Travel Information Packs, shall be submitted to and approved by the Local Planning Authority. Thereafter the approved plan shall be implemented and maintained as approved.

- 9) Concurrent with the submission of a reserved matters application, a Biodiversity Enhancement Strategy based on the recommendations contained in chapter 6.76 of the Ecological Impact Assessment (ACD Environmental September 2018 Ref: RVD 20604) shall be submitted and approved in writing by the Local Planning Authority. The BES should include details of all 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. All enhancements should be delivered prior to occupation of the last unit and retained thereafter in accordance with the approved details.

- 10) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, a revised ecological impact assessment report shall be submitted for the written approval of the Local Planning Authority. The report shall include updated dormice, reptile and badger surveys and a detailed mitigation strategy, including measures to protect badgers from being trapped in open excavations and /or pipe culverts, to safeguard protected species, their habitats and local biodiversity. The development shall be undertaken in strict accordance with the recommendations, mitigation and enhancement features detailed in the approved updated ecological report, which should include details of implementation.

- 11) The landscaping details of the reserved matters submission shall include an Arboricultural Method Statement and accompanying Tree Protection Plan to be submitted for the written approval of the Local Planning Authority that:
 - a) identifies the trees and shrubs to be retained;
 - b) provides a comprehensive assessment of the impact of the development on the existing trees on the site and on adjoining land; and
 - c) includes measures to protect the retained trees and shrubs during the construction of the development in accordance with BS5837:2012.The existing trees and shrubs shown to be retained, shall not be lopped, topped, felled, uprooted or wilfully destroyed other than where indicated in the approved arboricultural report, without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of 5 years.

- 12) No development hereby permitted shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority, to include details of:
 - a) parking for vehicles of site personnel, operatives and visitors
 - b) loading and unloading of plant and materials
 - c) storage of plant and materials
 - d) programme of works (including measures for traffic management)
 - e) measures to prevent the deposit of materials on the highway
 - f) on-site turning for construction vehicles
 - g) measures to ensure protection of protected species and habitats during construction access
 - h) hours of construction
 - i) details of the implementation of the various measures

The development hereby approved shall be undertaken in accordance with the details approved in accordance with this condition.

- 13) Details of foul drainage provision shall be submitted to and approved in writing by the local planning authority prior to development commencing and no unit shall be occupied until the drainage provision as approved has been implemented.
- 14) Details of a Sustainable Drainage Scheme based on Quad Consult Flood Risk Assessment and Drainage Strategy reference 18253 dated 5th September 2018, shall be submitted to and approved in writing by the local planning authority prior to development commencing. These should include:
 - a) Further information on the groundwater regime at the site;
 - b) Detailed proposals for the interception, suitable conveyance and storage of surface water that is at higher risk of flowing through the site; c) Full details of a sustainable surface water drainage system based on ground permeability tests to BRE 365 and groundwater monitoring;
 - d) Design calculations with appropriate climate change allowance and storage areas sizing;
 - e) Full Suds construction details and proposals based on the above;
 - f) Detailed proposed site and floor levels;
 - g) Exceedance flood flow routing;
 - h) Timescale for the works including phasing;
 - i) A full future management and maintenance plan for the Suds features to ensure the efficient functioning of the on-site Suds.
- 15) Development shall not begin until details of the implementation, maintenance and management of the Sustainable Drainage Scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - a) a timetable for its implementation, and
 - b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
- 16) No development above the ground shall take place until details of a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved lighting scheme.
- 17) 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. Each phase shall be submitted to and approved in writing by the Local Planning Authority. Phase 2 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. A

remediation strategy shall be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use and the development shall not be occupied until the 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.

- 18) a) Prior to the commencement of the development hereby approved an Archaeological Written Scheme of Investigation, relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.
- b) Following the approval of the Written Scheme of Investigation and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and 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.

END