

Appeal Decision

Inquiry held on 13-16 June 2017

Site visit made on 15 June 2017

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 02 August 2017

Appeal Ref: APP/Q3115/W/16/3161733

Thames Farm, Reading Road, Shiplake, Henley-on-Thames RG9 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Claire Engbers against the decision of South Oxfordshire District Council.
 - The application Ref P16/S0970/O, dated 18 March 2016, was refused by notice dated 14 September 2016.
 - The development proposed is up to 95 dwellings and associated public open space and landscaping.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 95 dwellings and associated public open space and landscaping at Thames Farm, Reading Road, Shiplake, Henley-on-Thames in accordance with the terms of the application Ref P16/S0970/O, dated 18 March 2016, subject to conditions set out in a schedule attached to this decision.

Procedural matters

2. The application was submitted in outline form with all matters except for access and strategic landscaping reserved for future consideration. The appeal will be determined on the same basis.

3. A draft Deed of Agreement made under to Section 106 of the Town and Country Planning Act (as amended) was submitted at the Inquiry. A completed, signed and dated Deed of Agreement was submitted after the close of the Inquiry and is included as Inquiry Document 26 (ID26).

The appeal site and its surroundings

4. The site is a field of about 5.65 hectares of semi-improved grassland. The site slopes gently downwards from west to east to a boundary to the A4155. The north boundary of the site is partly to Bolney Lane, a bridleway that provides vehicular access to a few properties and is part of the Chiltern Way footpath, and partly to the site of a redundant barn, which is within the Appellant's control. Between the boundary and the bridleway is a tree belt that screens views across the site from the public right of way. To the north-west of the site is a dwelling, accessed off Bolney Lane and set in substantial grounds, and to the west is land associated with another residential property further to the west. Along this west boundary is a high hedgerow that prevents views across the site from the west.

5. To the south of the site are small paddocks associated with residential properties on Woodlands Road, a country road that has a junction with the A4155. Along the east boundary to the A4155 is a tree belt. The aforementioned road junction is on the inside of a significant bend in the A4155 and on the outside of the bend is a triangular grassed island on which stands a War Memorial. From here Station Road extends eastwards within the village of Lower Shiplake to a railway station close to the River Thames. The village is the major part of the settlement of Shiplake and expanded because of its proximity to the station. The minor and probably original part of the settlement, where there is a church and a college, is Shiplake, which is to the south-west of Lower Shiplake. Shiplake itself has two elements; historic development including the church and the college alongside the river on the south-east side of the A4155, and relatively modern development including a primary school on the north-west side of the road.

6. The site is about 1.5 kms from the outskirts of Henley-on-Thames (Henley) and about 2.5 kms from its centre. Woodlands Road winds its way through Harpsden Wood and Harpsden village, which lies close to the south boundary of the town. A bus service along the A4155 provides access to Henley and, further afield in the other direction, to Reading, from bus stops at the junction of Bolney Lane and the main road. A rail service from Lower Shiplake provides access to London Paddington, via a connection at Twyford. On the opposite side of the A4155 to the site, from Bolney Lane, is a public footpath (FP242/26) that diagonally crosses a paddock to the termination of Northfield Avenue, a tarmaced private residential road that has a junction with Station Road close to the railway station, where there is a public house and a small grocery shop/post office.

Planning history

7. An outline planning application for development of the site was submitted on 8 July 2013 and was refused on 30 October 2013. A subsequent appeal against that refusal of outline planning permission, which was the subject of an eight day Public Inquiry, was dismissed on 20 May 2015. A challenge to the dismissal of the appeal was brought to the High Court and was successful. The decision of the High Court was challenged but was upheld in the Court of Appeal only insofar as the possibility of requiring off-site highway works by imposition of a Grampian type planning condition had not been adequately addressed.

The proposed development

8. The proposed development is for up to 95 dwellings, 40% of which would be affordable houses, and associated public open space and landscaping. The strategic landscaping for consideration, leaving landscaping within the site for future consideration, is 13,366 square metres of tree and woodland planting, to include over storey and under storey species, along the frontage of the site to the A4155, and along the same road frontage to the site of the redundant barn. Also for consideration in this decision is the proposed vehicular access into the site about in the middle of the site frontage, an existing access would be closed up, and off-site pedestrian footpaths along the main road to the north and south. These will be described further in consideration of the third main issue.

9. Included in the proposed development, shown on drawings for illustrative purposes and not for consideration at this time, are over 15,000 square metres of public open space, 330 square metres of allotments, three local areas for play (LAP), and two balancing ponds alongside the strategic planting that would be parts of a sustainable drainage scheme.

Planning policy

10. The development plan, for the purposes of the appeal, is saved policies of the South Oxfordshire Local Plan (SOLP), the South Oxfordshire Core Strategy (SOCS), and the Joint Henley and Harpsden Neighbourhood Development Plan (NDP).

11. SOCS policy CS1 carries forward the presumption in favour of sustainable development that is set out in the National Planning Policy Framework (NPPF), SOCS policy CSS1 sets out an overall strategy for the District, and SOCS policy CSH1 sets out the amount and distribution of housing in the District for the plan period. SOCS policy CSR1 sets out the scale and nature of development that will be allowed in villages in the District but also states that local character and distinctiveness will be protected. SOCS policy CSHEN1 sets out a strategy for Henley including the identification of land for 400 new homes, whilst NDP policy H1 allocates land for 500 new homes. SOCS policy CSEN1, which generally carries forward SOLP policies C4, G2 and G4, seeks to protect the District's distinct landscape character against inappropriate development.

Neighbourhood Planning Written Ministerial Statement

12. A Neighbourhood Planning Written Ministerial Statement (NPWMS) was issued on December 2016. The NPWMS states that, with regard to the status of the NDP, policy 49 of the NPPF will not apply if the NPWMS is less than two years old, the NDP has been part of the development plan for less than two years, the NDP allocates sites for housing, and the local planning authority can demonstrate a three year supply of deliverable housing sites.

Reasons

13. The main issues are; first, housing land supply; second, the effect of the development on the character and appearance of the area; third, the effect of the proposed development on highway safety including the safety of pedestrians and cyclists; and fourth, whether the proposed housing scheme, in NPPF paragraph 7 terms, would be sustainable development.

The first issue – housing land supply

14. The Council accepts that they cannot demonstrate a five years' supply of housing land so relevant policies for the supply of housing in the SOCS and in the SOLP are not up to date. But the main parties disagree on whether they can demonstrate, with regard to the NPWMS, a three years' supply of housing land. They agree that the most up-to-date full objectively assessed need (FOAN) for housing within the District is the Oxfordshire Strategic Housing Market Assessment (SHMA) published in April 2014. They also agree, with regard to paragraph 47 of the NPPF, that a buffer of 20% should be applied in recognition of the Council's persistent under delivery of housing, and that previous under supply should be addressed in the first five years of the remaining plan period.

15. The SHMA indicates that the FOAN for the District is 725-825 dwellings per annum (dpa). The Council, in their calculations, has used the midpoint of this range, 775 dpa; a figure that has been accepted in previous appeal decisions that have been submitted in evidence. But in none of these decisions was the NPWMS a material consideration and in all of the decisions it was generally not disputed, as in this case, that the Council could not demonstrate five years of housing land supply. In this case the NDP is part of the development plan and satisfies, setting aside the

three year housing supply criterion, the NPWMS. In accordance with the NPWMS policies for the supply of housing in the NDP should not be deemed out of date if the Council can demonstrate a three year supply of deliverable housing sites. It is necessary therefore to ascertain whether the Council can demonstrate a three year supply of deliverable housing sites.

16. The Appellant's planning consultant maintained, in his proof of evidence, that, for various reasons, the upper limit of the SHMA range should be used in calculations. But in a supplementary proof of evidence he put forward two other scenarios; an uplift in the SHMA FOAN to account for the under supply of affordable housing, and an uplift to account for a significant unmet need for housing in Oxford, a need which it is accepted will be met by increasing supply in the District local authority areas of the County. The former scenario is referred to in the SHMA (the under supply of affordable housing in the District is recognised to be critical) and to meet affordable housing need in full housing land supply should be 965 dpa. The latter scenario is not mentioned in the SHMA but is considered in a draft replacement SOLP (DSOLP), which makes provision for an additional supply of 3,750 dwellings in the District over the plan period of 22 years, 170 dpa, which, if added to 825 dpa, would result in a housing land supply requirement of 995 dpa.

17. The significant unmet need for housing in Oxford is universally recognised and is to be addressed through the development plan process across the County, and in South Oxfordshire is being addressed in the draft DSOLP. This policy document is at an early stage in the process leading to adoption and, crucially, has not been the subject of independent examination. It is not known whether an additional supply of 3,750 dwellings in the District will survive that process. Addressing the unmet need is clearly required but it is too early for this need to influence housing supply in the District. Increasing housing supply for this reason is premature and there is no support for a housing requirement of 995 dpa.

18. The affordable housing position across the District is a matter of serious concern. Only 29 affordable units have been delivered in the last six years against a need for 50 units per annum. Two sites with planning permission will provide 14 affordable units, a commuted sum of £800,000 will be paid towards affordable housing on a site with planning permission for a C2 use, 12 key worker units will be included in the redevelopment of a hospital site in Henley, and there is a site in the District that should provide 68 affordable units but planning permission has not been granted for the development. These are the only certain and probable sites where affordable units will be provided in the future. But there is no policy support for redressing the affordable housing situation, in an appeal decision, by increasing housing supply over the first five, or even the remaining years, of a plan period. There is, in this regard, no support for a housing requirement of 965 dpa.

19. The affordable housing situation is serious, or even dire, and circumstances have changed since previous appeal decisions for housing developments in the District were issued. For this reason there is good reason, as a matter of planning judgement, to take, as a starting point, the highest figure in the range set out in the SHMA; 825 dpa. The Appellant has challenged other contributory factors leading to the Council's assessment of their five year land supply; when the 20% buffer should be applied, the contribution to housing supply of sites with planning permission for C2 uses, build-out rates, lead-in times for sites with planning permission, and the deliverability of some sites without any form of planning permission.

20. The consistent approach taken in recent years by Inspectors is to apply the 20% buffer after the shortfall is added to the housing requirement. There is no evidence to justify a different approach.

21. In his supplementary proof of evidence Mr Durrant indicated that contributions to housing supply from C2 sites could be discounted because the Council does not set out the approach to be taken on this matter in the SOLP, which is required by the National Planning Practice Guidance (NPPG). But he drew back from this stance in scenarios he put forward in a document presented at the Inquiry (ID23). The NPPG states that "Local planning authorities should count housing provided for older people...against their housing requirement". The Council accepts, however, that housing provided on C2 developments included in the AMR should be discounted by 20% to account for non-implementation.

22. The Annual Monitoring Report of 2017 (AMR) assumes that build-out rates will be 50 dpa. Unchallenged evidence provided by the Appellant suggests that this is optimistic and that a realistic build-out rate, taking all factors into account, is 45 dpa. The Council's assessment of lead-in times from final approval to housing completions is too optimistic. A recent comprehensive study conducted by a major planning consultancy, 'Start to Finish: How Quickly do Large-scale Housing Sites Deliver?', concludes that the lead-in time for sites for up to 100 dwellings is 1.9 years and for larger sites is 1.8 years; the Council generally assumes a lead-in time of one year for all sites. In addition, many of the sites allocated in the AMR do not have any form of planning permission and others with outline planning permission have stalled at reserved matters stage.

23. The sites included in the AMR were assessed in Mr Durrant's supplementary proof of evidence. The assessments included the deliverability of some sites, within the agreed five year period commencing on 1 April 2017, and the Council's over optimistic lead-in times and build-out rates. This evidence was not challenged at the Inquiry and Mr Durrant's assessment is reasonable. So is his acceptance, at the Inquiry, that C2 sites should be included though discounted by 20%.

24. The agreed shortfall to be included in the housing land supply analysis is 1,553 dwellings. The FOAN requirement for the relevant five year period, agreed by both main parties, is 4,125 dwellings giving an overall requirement of 5,678 dwellings. Applying a 20% buffer to this overall requirement gives a total requirement for the five year period of 6,814 dwellings (rounded up from 6,813.6), or 1,363 dpa. Housing supply during this period, from sites included in the AMR and from windfalls, should be 4,086 dwellings (this figure is included in Mr Durrant's tables in ID23). On the basis of these figures the Council cannot demonstrate three years of housing land supply, though they would if the annual requirement had been found to be 1,362 rather than 1,363.

The second issue – character and appearance of the area

25. The site lies within the 'Thames Valley and Fringes' character area as identified in the South Oxfordshire Landscape Assessment of 2003, and, more specifically, within the 'Parkland and Estate Farmland' landscape type. This landscape type has a mature, well managed and usually well-wooded character. The site itself, setting aside tree belts along the north and east boundaries, does not display this character. It is overgrown agricultural land that is neither well managed nor well-wooded. The tree belts, which are the subjects of Tree Preservation Orders, are characteristic of the area and contribute, together with substantial areas of woodland such as Hundsdon Wood to the north-west, to the overall character of

the area, which is largely pastoral agricultural land interspersed by blocks and belts of woodland, and villages, both dispersed and concentrated.

26. The settlement of Shiplake has both concentrated and dispersed elements. There are the concentrated elements of Lower Shiplake and Shiplake, and dispersed elements such as that on both sides of Woodlands Road. In this location detached dwellings set in substantial grounds extend, on the north side of the road, up to its junction with Bolney Lane. The dwellings are largely screened by trees and other vegetation in views from the road and the character of the area surrounding the site and to the west of the A4155 is of developed countryside, in contrast to the character of Lower Shiplake, to the east of the road, which is dense village development. The site is, in this regard, in the countryside and lies outside the built-up area of Lower Shiplake. However, taking into account residential development to the south and west of the site, the dwelling to the north-west of the site, development on the north side of Bolney Lane which includes a derelict nursery, the barn between the site and the lane, and a residential property to the east of the site with a frontage to the A4155, it is worth noting that the site is within developed, rather than open, countryside.

27. The proposed development would result in the loss of trees in the tree belt alongside the road, particularly to create a new vehicular access but also to facilitate the introduction of footpaths leading to Bolney Lane where it meets the road. The loss of these trees would be more than offset by the planting of new trees, in accordance with a Tree and Woodland Management Plan. As noted by the Inspector who considered the previous appeal "...in the medium term the proposed planting scheme would be likely to enhance frontage tree cover. In the longer term the proposal would establish a more extensive, diverse and sustainable woodland across the frontage of the site, the landscape benefits of which would outweigh the negative arboricultural impacts of the removal of parts of the existing woodland". The planting proposals for the development that is the subject of this appeal exceed those of the previous scheme so there is good reason to agree, in this decision, with the views expressed by the previous Inspector.

28. The proposed development would result in a fundamental and profound change in the character of the site. But in terms of its effect on the character of the immediate surrounding area the development would have only a moderate adverse effect, and it would have a negligible effect on the character of the 'Thames Valley and Fringes' character area as a whole. In this regard the site is well contained by tree belts and is within a developed part of the countryside. The proposed housing scheme would concentrate existing development in the countryside and would have an overall moderate adverse effect on the character of the area.

29. In terms of the effect of the proposed development on the appearance of the area there are filtered views across the site from Bolney Lane and from the A4155, and more distant views from FP242/26. But over storey and under storey planting would replace and reinforce the tree belts and the development would be largely screened in views from public vantage points. Any glimpses that there would be of the development would be similar to those of the concentrated elements of the settlement, and would not be unusual or detrimental to the appearance of the area.

30. The greatest visual effect of the development would result from the highway works on the A4155. The introduction of a ghost right turn lane, a pedestrian refuge island, another traffic island, the widening of the road to accommodate the right turn lane, and other works such as the introduction of footways on both sides

of the road, would have an urbanising effect on the area for users of the highway. But the majority of pedestrian activity along this section of the A4155, apart from pedestrians on the Chiltern Way crossing the road, would be associated with the development itself, and drivers and passengers in vehicles would only glimpse the highway works on their journey through the area. In this regard, also, the highway works are close to the outskirts of the urban area of Henley. The proposed development would have only a minor adverse effect on the appearance of the area.

31. The urbanising effect of the highway works would be exacerbated by the introduction of a scheme of roadway lighting between Bolney Lane and Station Road; a suggested planning condition would generally require the prior approval and implementation of such a scheme. But such a condition was not a recommendation of the Highway Authority and if future traffic conditions and other factors dictate that lighting is required on the aforementioned section of the A4155, or on any other section of the road to the north or south, they could implement powers to introduce such lighting. Consequently, particularly at this outline stage in the planning process, the suggested condition is unnecessary.

32. The proposed development would have a moderate adverse effect on the character, and a minor adverse effect on the appearance, of the area. To this limited degree the proposed development conflicts with SOCS policies CSR1 and CSEN1 and with SOLP policies C4, G2 and G4.

The third issue – highway safety

33. The proposed vehicular access into the site would be in the middle of the site frontage and the pedestrian refuge island would be close to the north-east corner of the site. A footpath would extend along almost the entire site frontage and would continue southwards for a distance of about 160 metres to a point where there would be a crossover of the A5155, north of the War Memorial island, to a new section of footpath on the east side of the road, which would connect with an existing footpath that extends into Lower Shiplake along Station Road. Another new footpath on the east side of the road would extend from the pedestrian crossing via the refuge island to Bolney Lane where there is a southbound bus stop. From within the site a new footpath would meander through the tree belt to continue alongside the road also to Bolney Lane where there is a northbound bus stop.

34. The lack of reliable data identified in the previous appeal decision has been addressed and the Council has not expressed any safety concerns with the proposed vehicular access into the site or with the pedestrian footpath links to Bolney Lane. Their concern is solely, other than for cyclists using the A4155 for access to Henley, with the safety of pedestrians using the proposed crossing of the A4155 to the north of the War Memorial. This concern is, furthermore, solely for the safety of pedestrians crossing from west to east given the proximity of the bend in the road close by to the south. In this regard there is more than adequate visibility in both directions for pedestrians crossing from east to west. The Council maintains that visibility southwards towards approaching traffic in the nearside lane does not meet the standards set out in Local Transport Notes 1/95 (LTN1/95) and 2/95 (LTN2/95).

35. Manual for Streets 2 (MfS2), which was published in 2010, does state that "...advice on the assessment and design of pedestrian crossings is contained in LTN1/95 and LTN2/95..." and that "...advice on the choice of crossing type and their design is given in LTN1/95 and LTN2/95...", and a very recently published Design Guide for Walking in Oxfordshire which has been adopted by Oxfordshire County Council (OCC) does state that "All crossings should be designed with reference to

LTN2/95...". But the 'design' of pedestrian crossings includes many factors such as footway surfaces, widths and crossfalls, guarding, lighting and signage, as well as visibility of approaching vehicles and their sight stopping distances (SSD). Visibility of vehicles at crossings is not referred to in LTN1/95 though it is in LTN2/95.

36. Visibility requirements at all types of crossings are set out in Table 1 of LTN2/95 and it is these that the Council has applied to the proposed crossing of the A4155. But the visibility requirements, which are based on those set out in the Design Manual for Roads and Bridges (DMRB), are 22 years old and SSDs of vehicles nowadays are significantly less than they were when the LTNs were published. Whilst the LTNs may be relevant for the aforementioned 'design' factors and others, there is no reason to favour the visibility requirements of LTN2/95 over those set out in MfS2, even though these are set out as if they relate to the design and layout of road junctions. In this regard visibility for drivers of vehicles at road junctions is no different to visibility for pedestrians at road crossings; they are both related to the SSDs of approaching vehicles.

37. Visibility at the proposed crossing is more than adequate to the north so pedestrians at the proposed crossing would be able to wait until there is no traffic from that direction before concentrating on traffic approaching from the south. If there is no traffic visible approaching around the bend a pedestrian would deem it safe to cross the road. The critical factor therefore, at that moment in time, is whether the driver of a vehicle approaching from that direction, on seeing the pedestrian step into the road, would have sufficient time to stop; this being the SSD of the vehicle. With vegetation removed from alongside the road, which could be maintained if the crossing was to be brought into use, it is agreed that visibility for pedestrians at the crossing, to the kerb of the road to the south and from an 'X' distance of 2 metres, would be 57.6 metres, and from a 'X' distance of 1.5 metres would be 59 metres. The proposed footway would be 2 metres wide so it is realistic to accept the latter X distance, which has been agreed by the main parties to be an acceptable minimum.

38. It is agreed by the main parties that an automatic traffic counter (ATC2) on the bend has established that the highest peak hour 85th percentile wet weather northbound speed of traffic is 36.5 mph. This would be unlikely to change if roadside vegetation was to be removed because road junctions on the bend and the bend itself are likely to suppress the speed of traffic. From Table 7.1 in MfS2 the SSD for a wet weather speed of 37 mph, slightly more than that which has been recorded, is 56 metres and adjusted for bonnet length is 59 metres. This latter distance is the same as visibility at the proposed crossing from the accepted minimum X distance of 1.5 metres. Using traffic speed data recorded for the purposes of the application and applying the appropriate standard set out in MfS2 it is reasonable to conclude that the proposed crossing of the A4155 to the north of the War Memorial would be safe for pedestrians.

39. The pedestrian route into Lower Shiplake via the proposed crossing of the A4155 to the south of the site, is the shorter of the two routes that would be available to residents of the proposed development. If they considered it to be unsafe for any reason the alternative via FP242/26 is accepted by the Council to be a safe route. The footpath is only about 1.5 metres wide and unmade, and has kissing gates at both ends, and the Council and local residents do not consider it to be a suitable route into Lower Shiplake, given in particular its limited width, for the wheelchair disabled and for pushchairs. The Section 106 Deed of Agreement provides for the payment of £30,000 to OCC for the improvement of the footpath

between Bolney Lane and Northfield Avenue. This would be sufficient for resurfacing and for the installation of gates at either end that would comply with the requirements of the Disability Discrimination Act 2005.

40. Once resurfaced the footpath would be wide enough for two pushchairs of ordinary width to pass. In addition, the footpath is only about 160 metres in length and it is unlikely that two wheelchair users would be using it at the same time from opposite directions. Even if this was to occur a wheelchair user on the straight footpath would be visible to the other who could wait, for what would not be an unreasonable period, for the footpath to be available for use. The route into Lower Shiplake via FP242/26 is a realistic and usable alternative to the route via the main road and Station Road. The footpath is not lit but it is short and across an open paddock and this factor would not prevent its use. Though it is slightly longer it is a more attractive route, via a footpath through a paddock and along a private residential cul-de-sac to the heart of the village, than the route that would require crossing the main road close to the bend at the War Memorial.

41. Comments regarding the safety of cyclists relate to the route along the A4155 to Henley. The road is busy with vehicular traffic, including buses and lorries, and is not a particularly hospitable route for cyclists but the distance from the site to the outskirts of the town is only about 1.5 kms and there are no accident records relating to cyclists on this short stretch of the main road. The route along the A4155 into Henley is not an unsafe route for cyclists. The pedestrian route into Lower Shiplake via the proposed crossing of the A4155 to the north of the War Memorial would be a safe route, as would be the alternative route via FP242/26 and Northfield Avenue. It is worth noting that the proposed pedestrian routes have been the subject of a road safety assessment and audit and that the Highway Authority has no concerns regarding the safety of pedestrians, cyclists or traffic.

42. Residents of the proposed housing scheme would have safe pedestrian access to Lower Shiplake and safe cycling access to the village and Henley. The proposed development would not be detrimental to highway safety and, in this regard, does not conflict with SOLP policies T1 and G2.

The fourth issue – sustainable development

43. Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development and that, for decision-taking, this means, where relevant policies of the development plan are out-of-date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Paragraph 7 of the NPPF states that there are three roles of sustainable development; economic, social and environmental.

44. The proposed development whilst under construction would create direct and indirect construction jobs, and when occupied would introduce an economically active development population into the area. There is no evidence, in this regard, to indicate that the proposed development would not benefit the economy of the area. The development would contribute to the supply of market and affordable housing required to meet the needs of present and future generations and there is no reason to suppose that the scheme, the design of which would be developed at reserved matters stage, would not be a high quality built environment. The proposed scheme meets the economic and social roles of sustainable development.

45. With regard to the environmental role of sustainable development the proposed housing scheme would not have any significant adverse effect on the character and appearance of the area, other than of the site itself which is to be expected, and residents of the development would have safe pedestrian, cycling and pedestrian access to Lower Shiplake, Henley and the wider area. There are bus stops close by to the site for public transport access to Henley and to Reading, and the station for railway access to London is within reasonable walking distance. It is common ground between the main parties, furthermore, that other environmental matters are either mitigated by the Section 106 Deed of Agreement or could be by imposition of planning conditions, and that the proposed scheme would improve biodiversity through the enhancement of existing tree belts and by the introduction of landscaping and balancing ponds. All other matters raised by local residents regarding the proposed development have been considered but they do not, either individually or collectively, alter the conclusion that the proposed housing scheme meets the environmental role of sustainable development.

46. The proposed housing scheme satisfies the three roles of sustainable development set out in paragraph 7 of the NPPF.

Other matter

47. Mr Boros, a local resident, has referred to a legal covenant that he claims restricts development of the appeal land for housing purposes and therefore casts doubt on the deliverability of the proposed development. Without conclusive legal evidence that the covenant would restrict development of the land this matter cannot influence the overall decision in this appeal.

Conditions and Section 106 Unilateral Undertaking

48. At the Inquiry the Council and the Appellant submitted an agreed list of 16 conditions (ID20), though three of these were deleted and three were amended during a discussion towards the close of the Inquiry. All of the remaining conditions as amended, except a lighting condition referred to in paragraph 32, are necessary and otherwise meet the tests set out in the Planning Practice Guidance. They have been imposed though they have been simplified or amended where necessary, in the interests of clarity and precision and given that no development could commence until all reserved matters have been approved. The reasons for the conditions are given in the schedule.

49. During the discussion the Appellant sought to have the condition that requires the prior approval of details relating to the reserved matters amended, to allow the construction of the new site access before the submission of the necessary details. But the specific need for the amendment has not been indicated and, given that no construction of the development could occur before approval of reserved matters and that a wide access off the A4155 already exists, the amendment sought is not necessary.

50. With regard to the Section 106 Deed of Agreement, in favour of the Council and OCC, Schedule 1, principally, covers the provision of 40% affordable housing units and the transfer of these units to an affordable housing provider. Schedule 2 of the Deed covers the payment of District Contributions, for recycling and street naming, and Schedule 3, principally, covers the provision and future maintenance, of public open space, local areas for play and allotments, and the payment of commuted sums for the maintenance of woodland areas, the play areas, the open space and the sustainable urban drainage scheme that would be part of the

development. Schedule 4 of the Deed requires the payment of County Contributions, towards public transport improvements, bus stop infrastructure, primary school transport and rights of way improvements, and Schedule 7 requires the prior approval and implementation of off-site highway works and the payment of a commuted sum for the future maintenance of the works.

51. The obligations of the Undertaking are all related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Deed of Agreement therefore complies with the tests set out in the National Planning Practice Guidance and with Regulation 122 of the CIL Regulations 2010 (CIL) and, with regard to clause 2 of the Deed, is required if planning permission is granted for the development. There is no conflict with CIL Regulation 123(3).

The planning balance and overall conclusions

52. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement of planning law is at the heart of the balancing exercise. The planning balance requires planning judgement to be exercised.

53. Paragraph 47 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years' worth of housing against their housing requirements, and paragraph 49 states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 215 of the NPPF states that weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

54. There is no five year supply of housing land, and with regard to the NPWMS no three year supply of housing land, so policies for the supply of housing in the SOCS, SOLP and NDP are not up to date. The main parties agree that SOCS policies CSS1, CSH1, CSR1 and CSHEN1, in particular, are not up to date. This is a significant material consideration. Paragraph 14 of the NPPF states that, for decision taking purposes and where relevant policies for the supply of housing are out-of-date, granting planning permission unless any adverse consequences of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

55. The adverse consequences of granting planning permission for the proposed development is limited to the less than significant harm that would be caused to the character and appearance of the countryside. The benefits of the proposed development would be the contribution it would make to partially redressing the significant and persistent shortage of housing land in the District and the serious shortage of affordable housing. As a matter of planning judgement, when assessed against the policies in the NPPF as a whole, the adverse consequences do not significantly and demonstrably outweigh the benefits of the proposed housing scheme, which is therefore sustainable development. There is, as stated in paragraph 14 of the NPPF, a presumption in favour of sustainable development.

56. As previously mentioned the proposed development conflicts with SOCS policies CSR1 and CSEN1 and with SOLP policies C4, G2 and G4. These policies,

that generally seek to protect the character and appearance of the countryside, are consistent with one of the core planning principles of the NPPF. They must therefore, in the light of paragraph 215 of the NPPF, be afforded moderate weight. But the presumption in favour of sustainable development is a material consideration of significant weight and indicates, in this case, that the appeal must be determined other than in accordance with the development plan.

57. The appeal is allowed and outline planning permission is granted, subject to conditions, for 'up to 95 dwellings and associated public open space and landscaping' at Thames Farm, Reading Road, Shiplake, Henley-on-Thames

John Braithwaite

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Green Of Counsel instructed by the Solicitor to South Oxfordshire District Council

He called

Mr M Flood BA(Hons) DipTP MRTPI Principal of Insight Town Planning Ltd

Mr P Canavan BA(Hons) MSc Senior Planning Policy Officer at South Oxfordshire District Council

Mr R Cyples BSc(Hons) MIHE MCIHT MSORSA Senior Road Safety Consultant at TMS Consultancy

FOR THE APPELLANT:

Mr C Lockhart-Mummery QC instructed by Mr Durrant of DPDS Consulting Ltd

He called

Mr L Durrant DipTP MRTPI FRICS MInstD Group Managing Director at DPDS Consulting Ltd

Mr P Griffiths BSc(Hons) DipLA CMLI Landscape Consultant at DPDS Consulting Ltd

Mr B Farmery MEng CEng MICE MCIHT Transport Planning Consultant and Managing Director of Cole Easdon Consultants

INTERESTED PERSONS:

Mr D Bartholomew District Councillor
Mr T Taylor Chair of Shiplake Parish Council
Mr K George Chair of Harpsden Parish Council
Mr P Boros Local resident
Mr S Gawrysiak Henley-on-Thames Town Council
Ms O Moss Local resident
Mr K Arlett Chair of Henley Town Council Planning Committee

DOCUMENTS

- 1 Appearances on behalf of the Appellant.
- 2 Council's letter of notification of the Inquiry and list of those notified.
- 3 Outline opening submissions on behalf of the Appellant.
- 4 Opening statement on behalf of the Council.
- 5 Extracts from Manual for Streets 2.
- 6 Extract from Local Transport Note 2/08.
- 7 Speed Survey in w/c 12 October 2015 at ATC2.
- 8 Extract from Design Manual for Roads and Bridges TD 9/93.
- 9 Community Infrastructure Regulations Compliance Statement.
- 10 Statement by Mr Arlett.
- 11 Statement by Mr Boros.
- 12 Page 008 of Manual for Streets 2.
- 13 Extract of Speed Survey in w/c 12 October 2015 at ATC2.
- 14 Design Guide for Walking in Oxfordshire.
- 15 Extract from Definitive Map and Statement of Public Rights of Way.
- 16 List of housing sites in Henley providing affordable housing.
- 17 Statement by Mr Taylor.
- 18 Statement by Mr George.
- 19 Statement by Mr Gawrysiak
- 20 Suggested conditions.
- 21 Suggested lighting condition.
- 22 Opinion by Mr T Jefferies.
- 23 Mr Durrant's C2 Scenarios.
- 24 Closing Submissions on behalf of the Council.
- 25 Closing Submissions on behalf of the Appellant.
- 26 Section 106 Deed of Agreement.

CONDITIONS FOR PLANNING PERMISSION P16/S0970/O

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

Reason: to comply with Section 91 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission. The development shall commence not later than one year after final approval of the reserved matters.

Reason: to comply with Section 91 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be carried out in accordance with approved drawing nos. C11748.16.01, C11748.16.701, C11748.16.705. C11748.16.801 and 3537/201 Rev. N.

Reason: for the avoidance of doubt and in the interests of proper planning.

4. No dwelling shall be occupied until the vehicular access, footways, cycle ways, driveways and turning areas that serve the dwelling have been constructed, surfaced and drained in accordance with details that shall be submitted to and approved in writing by the local planning authority before the commencement of development. The vehicular access, footways, cycle ways, driveways and turning areas provided for each dwelling shall be retained thereafter.

Reason: in the interests of highway safety.

5. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The approved CMP shall be complied with throughout the construction period.

Reason: in the interests of highway safety and residential amenity.

6. No development shall commence until a Construction Environment Management Plan for Biodiversity (CEMPB) has been submitted to and approved in writing by the local planning authority. The approved CEMPB shall be complied with throughout the construction period.

Reason: in the interests of biodiversity.

7. No dwelling hereby permitted shall be occupied until visibility splays at the site access, 2.4 metres by 94.6 metres to the north and 2.4 metres by 97.7 metres to the south, have been provided. The visibility splays shall not at any time be obstructed by any object, structure, planting or material with a height exceeding 0.9 metres as measured at carriageway level.

Reason: in the interests of highway safety.

8. No development shall commence until a Landscape Management Plan (LMP), including long term design objectives, management responsibilities and maintenance schedules for all public areas, except the woodland area adjacent to the Reading Road frontage, has been submitted to and approved in writing by the local planning authority. The LMP shall be implemented as approved.

Reason: to assimilate the development into its surroundings.

9. No development shall commence until a method statement to address the impact of the development, including lighting around the site boundaries, on the local bat population has been submitted to and approved in writing by the local planning authority. The method statement shall be implemented as approved.

Reason: to safeguard the local bat population.

10. No development shall commence until a programme of archaeological investigation work has been implemented in full in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Reason: to safeguard archaeological interests of the site.

11. No development shall commence until a drainage strategy, detailing all on and off site surface and foul drainage works, has been submitted to and approved in writing by the local planning authority. No discharge of foul or surface water from the site shall occur before the drainage strategy has been completed and brought into use.

Reason: to safeguard the water environment and to prevent flooding of the area.