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## Appeal Decision

Inquiry opened on 10 October 2023 and closed on 20 October 2023

Site visit made on 9 October 2023<sup>1</sup>

**by David M H Rose BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> November 2023**

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### **Appeal Reference: APP/Q3115/W/23/3323268**

#### **Land west of Thame Road, Chinnor**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Gleeson Land against the decision of South Oxfordshire District Council.
  - The application Reference P22/S4643/O, dated 21 December 2022, was refused by notice dated 18 April 2023.
  - The development proposed is: 'Outline planning application for up to 150 residential dwellings including up to 40% affordable housing, creation of new vehicular access off of Thame Road and provision of public open space including a children's play area with associated infrastructure and earthworks. All matters reserved except accessibility to the site, for vehicles in terms of the positioning and treatment of access to the site (as updated by additional information 24 January, 1 March and 6 March 2023).'
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#### **Decision**

1. The appeal is dismissed

#### **Preliminary Matters**

##### **(i) The Inquiry**

2. The Inquiry opened on Tuesday 10 October 2023. I heard evidence over a period of six days followed by Closing Submissions on the final day<sup>2</sup>. As well as the Appellant and the District Council (the Council), the Inquiry was attended by Chinnor and Sydenham Parish Councils (the Parish Councils), a Rule 6(6) Party, who presented evidence on several topics and cross-examined some of the Appellant's witnesses.
3. I also heard from a representative of the Chilterns Conservation Board and several local residents. In addition to the numerous objections received at application stage, and during the appeal, a petition of some 1,813 signatures was submitted at the Inquiry<sup>3</sup>.

##### **(ii) Reasons for Refusal and Statements of Common Ground**

4. The Council's decision notice records eight reasons for refusal under the following broad headings:

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<sup>1</sup> The accompanied site visit took place before the opening of the Inquiry and prior to hearing landscape evidence. I made a further, comprehensive, unaccompanied visit on 16 October 2023

<sup>2</sup> The Inquiry did not sit on 19 October 2023

<sup>3</sup> Comprising 1,668 (unknown) 'supporters' and 145 names and addresses

- (1) Conflict with development plan strategy.
  - (2) Effect on landscape character, the setting of the Chilterns Area of Outstanding Natural Beauty (AONB) and visual separation between settlements.
  - (3) Increased risk of groundwater entering foul drainage system, increased risk of flooding and absence of sequential test.
  - (4) Loss of best and most versatile agricultural land.
  - (5) Insufficient information to make an informed and reasoned decision on the impact of the development on archaeology.
  - (6) Poor pedestrian accessibility and lack of transport infrastructure would result in an unsustainable form of development.
  - (7) Absence of legal agreement to secure affordable housing.
  - (8) Absence of legal agreement to secure infrastructure to meet the needs of the development and insufficient primary school capacity in Chinnor that could not be mitigated by the development.
5. Prior to the opening of the Inquiry, a series of Statements of Common Ground, between the Appellant and the Council, clarified several matters.
  6. On landscape (reason 2), there is agreement on: the scope and methodology used in the preparation of the Landscape and Visual Impact Assessment (LVIA); the selection of viewpoints; and that the illustrative photomontages provide a reasonable representation of the indicative proposed scheme. Matters of dispute focus on the overall effect of the scheme on landscape character, the setting of the AONB and visual amenity.
  7. Regarding ground water and risk of flooding (reason 3), it is confirmed that the main flood risk along Thame Road relates to foul flooding from sewers. It is acknowledged that the increase in foul flow from the proposed development would heighten the risk of flooding without any mitigation (network reinforcement). It is also agreed that there is no foul flooding on the development site.
  8. Thames Water '*Statement on foul water capacity*' dated 22 September 2023, indicates '*Working with Gleeson Land, Thames Water has identified an opportunity to construct the offline attenuation shaft within the Land west of Thame Road, Chinnor development site. This opportunity would provide additional capacity to the existing foul sewer network in Chinnor for the proposed development on the site, as well as other consented development in the catchment*'.
  9. Both parties consider that suitably worded planning conditions could be imposed to resolve the issues associated with the original reason for refusal.
  10. In terms of archaeology (reason 5), following the submission of further information, it is confirmed that the objections have been addressed, subject to pre-commencement conditions.
  11. On transport matters, the Council raised no objections to the proposed site access in safety and capacity terms. However, it did not accept the uncontrolled crossing point and inadequate footway provision on Thame Road and the distance to existing bus stops.

12. It was indicated that the objection could be overcome by means of an alternative access strategy, incorporating a pedestrian link to Windmill Close and the provision of a pair of bus stops (reason 6). This was set out in Drawing ITB16294-GA-011 Rev D (Rev D) and subject to consultation in the locality<sup>4</sup>. I am satisfied that nobody would be prejudiced by my consideration of this drawing.
13. Although the Appellant initially maintained its position on the acceptability of the original access arrangements, it subsequently agreed, during the Inquiry, to adopt Rev D, following confirmation from the Council's landscape witness that the additional loss of hedgerow, over and above that associated with the original access, would not be materially worse. Thus, reason 6 was no longer at issue. Nonetheless, the Parish Councils pursued the wider issue of accessibility in relation to local services and facilities.
14. The Planning Statement of Common Ground sets out that, subject to the completion of Planning Obligations, in tandem with the Community Infrastructure Levy payment, the proposed development would secure policy compliant delivery of affordable housing and infrastructure necessary to meet the needs of the development including education, leisure, sports and recreation and healthcare. Accordingly, reasons for refusal 7 and 8 would fall away on completion of a legal undertaking.
15. Other important matters of agreement clarify that the appeal site contains 2.7ha (25%) of Grade 2 agricultural land contributing with Grade 3 land to a combined total of 6.2ha (58%) of best and most versatile agricultural land.
16. Further, it is not disputed that Chinnor provides a good range of services and facilities including schools, public transport connections, healthcare, leisure and retail opportunities, as acknowledged in a number of appeal decisions. The site is well placed to take advantage of these services as all are located within a reasonable walking and cycling distance from the centre of the site.
17. On housing land supply, the Council's published housing land supply (September 2023) accepts that the district does not have a five-year supply of deliverable housing land. Although the extent of the shortfall is disputed, it is agreed<sup>5</sup> that the *'tilted balance'* in paragraph 14 of the Framework is engaged. This requires, in short, that the development should be approved unless *'..... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits .....'*
18. Notwithstanding the above, the Parish Councils pursued a number of these matters as indicated in the main issues below.

**(iii) Planning Obligations**

19. A draft Deed of Planning Obligations, made between the District Council, the County Council, the Landowner and the Appellant, pursuant to section 106 of the Town and Country Planning Act 1990, was before the Inquiry.
20. However, it was not possible to execute the Deed, in the manner intended, before the close of the Inquiry due to unforeseen circumstances. I allowed additional time for the parties to reach an agreed solution.

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<sup>4</sup> CD8.1 – CD8.9

<sup>5</sup> Paragraph 6.19 of Christopher Whitehouse's proof confirms

21. The indication was that this would be presented in a form that would require the imposition of a condition, on any grant of planning permission, precluding any works unless and until a former interest in the site had been determined and subsequently bound by the obligation<sup>6</sup>.
22. I am satisfied that the circumstances in this case are 'exceptional'; the need for a section 106 agreement is agreed between the parties; and its principal terms are agreed. On this basis, it would have been possible to impose a negatively worded condition to secure the terms of the agreement. I have proceeded on the basis that the final agreement would be available before issuing my decision<sup>7</sup>.
23. The main obligations are financial contributions to the District Council for street naming and numbering and the provision of waste and recycling receptacles.
24. Financial contributions in favour of the County Council relate to: education contributions to provide additional nursery, primary, secondary and special needs education facilities to serve the development; a travel plan monitoring fee; a public transport infrastructure contribution (bus stops); a public transport services contribution (towards additional bus services serving Chinnor); a waste contribution (towards expanding/improving facilities at household waste recycling centres serving the development).
25. The agreement would also secure 40% affordable housing within the development; measures for the management of public open space; and specified highway works including upgrading the public footpath between the development site and Mill Lane to the south.
26. There are additional deeds to bind the two Councils to performance and transparency.
27. The Compliance Schedules provide justification related to the underpinning tests set out in Regulation 122(2). There is clear validation through extant development plan policies and calculations related to additional education needs and public transport contributions. The contributions are agreed and appear to be fair and reasonable. I am satisfied that the Obligations meet the requirements of paragraph 57 of the National Planning Policy Framework<sup>8</sup> and Regulation 122(2).

## **Main Issues**

28. At the opening of the Inquiry, on the understanding that the anticipated legal obligations would be completed, I identified the main issues as follows:
  - 1) the extent to which the proposal would harm the character and appearance of the countryside, having particular regard to the setting of the Chilterns Area of Outstanding Natural Beauty; the landscape setting of Chinnor; the visual amenity of people in and around the settlement; and the visual separation of Emmington and Sydenham towards Chinnor;

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<sup>6</sup> ID42, ID43 and ID44

<sup>7</sup> ID48

<sup>8</sup> Hereafter the Framework

- 2) the adequacy, or otherwise, of the proposed arrangements for pedestrian accessibility on to Thame Road and connectivity with 'everyday' community facilities and services in the village;
- 3) whether sufficient evidence has been submitted to demonstrate that the loss of best and most versatile agricultural land from within part of the site would be the most sustainable choice from reasonable alternatives on the premise that areas of poorer quality land should be used first in preference to that of a higher quality;
- 4) the extent and consequences of the shortfall in the Council's housing land supply;
- 5) whether, or to what extent, the proposed development complies with the development plan, having particular regard to its spatial strategy and the availability or otherwise of community infrastructure; and
- 6) whether or not the tilted balance under paragraph 11(d) of the Framework is engaged; and the determination of the resultant planning balance, in light of all material considerations.

## **Reasons**

### **The first main issue: Landscape**

#### **(i) Introduction**

29. The Appellant and the Council agree that the appeal site, and its immediate context, is not covered by any statutory landscape designations and it does not constitute a '*valued landscape*' as defined by paragraph 174 of the Framework. Further, the AONB is located on rising topography approximately 1.7km to the south of the appeal site and south of the built-up area of Chinnor. The appeal site and Chinnor are within the setting of the AONB.
30. Local Plan Policy ENV1(1) requires the highest level of protection to be given to the landscape and scenic beauty of the Chilterns and development affecting its setting will only be permitted where it conserves, and where possible, enhances the character and natural beauty of the AONB.
31. Local Plan Policy ENV1(2) seeks to protect South Oxfordshire's landscape, countryside and rural areas against harmful development.
32. The most relevant published assessment is the South Oxfordshire District Council Landscape Character Assessment 2017. The appeal site is shown to be within LCA3: The Clay Vale save for the small eastern corner of the site, around New Farm, which forms part of LCA5: Eastern Vale Fringes. In turn, these are divided into Landscape Character Types LCT20: Undulating Semi-enclosed Vale and LCT18: Semi-enclosed Rolling Downs respectively.

#### **(ii) Landscape value**

33. Although it is agreed that the Appellant's LVIA follows the appropriate methodology, disputes remain around overall professional judgement. In terms of the Landscape Value Assessment, the Appellant reaches an overall assessment of '*Medium*' whereas the Council's evaluation is one of '*Medium high*'.

34. Some of the differences relating to the relevant factors are narrow. However, in my view, the Appellant relies too much on the proximity of the site to the settlement at the expense of the wider setting of the wooded Chilterns escarpment. In this regard, I consider that the AONB is the dominant element of 'distinctiveness', 'perceptual (scenic)' and 'functional' descriptors.
35. Further, the Appellant's assessment of 'none' for 'recreational' value, having recorded that 'the site is not publicly accessible', overlooks the public right of way that runs along the south-western boundary of the site (165/8/10) linking with right of way 165/9/10 in the direction of Sydenham.
36. Accordingly, the overall landscape value attributed by the Council is to be preferred.

**(iii) Landscape character**

37. The key characteristics of the Clay Vale, and with reference to the Undulating Semi-enclosed Vale, include scattered villages; a gently rolling or undulating landform; a planned agricultural landscape with a typical pattern of medium to large rectilinear fields bounded by regular hedgerows; a predominantly agricultural, arable, land use; small blocks of woodland across the landscape; and some localised intrusion of main roads, overhead power lines and built development.
38. Landform across the Clay Vale ranges between some 50m AOD and 110m AOD. There is a higher point within White's Field immediately to the south-east of the site (116m AOD)<sup>9</sup>. The elevated ridgeline of the AONB is also noted and acknowledged as characteristic in long distance views.
39. Recommendations to protect, conserve, enhance and restore the landscape qualities of the district include: '*minimise the visual impact of intrusive land uses at the fringes of ..... villages ..... with the judicious planting .....; maintain the nucleated pattern of settlements .....; maintain local distinctiveness .....; and protect the sparsely settled character of the landscape .....'*.
40. Whereas the appeal site exhibits some of the defined key characteristics, some are less apparent. For example, according to the 1900 OS map, the site sits within a distinct, large, triangular field at odds with those of more rectilinear form arising from enclosure. Further, Chinnor, from the way it has expanded irregularly from its historic core, cannot now be identified as a nucleated settlement.
41. However, Chinnor has a broadly common north-western edge, albeit the dwellings served by Burgidge Way (former garden centre site) have a pronounced presence. Although it is claimed that the appeal site has a strong association with the settlement edge, I consider that existing built development, and related land uses, are a limited influence on the landscape. In this regard, they have, in the main, a strong delineating landscaped interface with the open countryside which is reinforced by the extensive backdrop of the AONB escarpment.
42. Despite being crossed by overhead power lines, carried by pylons, the appeal site is firmly anchored in the countryside where the proposed development, by virtue of its location and scale, would be perceived as a significant

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<sup>9</sup> To the south-east of LCT20 and within LCT22 Urban Areas

incursion into the landscape. Although the site, in its present form, is a minor component of the wider patchwork of semi-enclosed fields, its contribution would be overwhelmed by the uncharacteristic nature of the proposal. As a result, the distinctive qualities of the Clay Vale would be eroded to a serious degree in that new buildings would have a marked adverse effect on the juxtaposition of built form and landscape.

43. The Appellant asserts that the appeal site forms part of a changing village edge, and that development within it would form a proportionate addition to the historic and more recent growth pattern. Admittedly, the village edge has altered over time, but that is not to say that building, as proposed, beyond its present limits would fall into a zone of transition where further development would be in harmony with landscape character. Indeed, the increased influence of the settlement, on rising ground, would undermine the relationship of the Clay Vale landscape with the backdrop of the AONB.
44. Before moving on, the Appellant has sought to reinforce its proposition by comparing the proposal with landscape capacity assessments for two sites north of Mill Lane and to the immediate south-east of the appeal site<sup>10</sup>.
45. The site now known as Pilmore Meadow, a comparatively smaller enclosure, was identified as having mature hedgerow boundaries, notably the northern boundary '*beyond which lie the open fields*'. The appeal site is one of those fields. As such, it has material differences in its characteristics since it is not a '*well contained site*' (the north-western boundary is fragmented and of limited screening quality); and photographs taken in March 2022<sup>11</sup> show the site to be plainly visible above the hedgerow bordering Thame Road.
46. Although the assessment acknowledged that development would extend village form northwards of Mill Lane, this was seen to be counter-balanced by the adjacent school and a further assessment site to the east of White's Field, bordering Thame Road (Windmill Close).
47. This site, again smaller than the appeal site, was considered to be influenced by the built form of Chinnor, typical of the transition landscape and well related to the village centre. Both sites have since been developed. It is evident that the location of the appeal site and its defining characteristics renders comparison to be of no material value.
48. Finally, to the former garden centre site, despite the favourable extract from the officer report, I cannot agree with the Appellant's judgement that '*the appeal site has capacity in landscape terms to accommodate the nature of change proposed*'. Overall, I conclude that the emphasis placed by the Appellant on the relationship of the site with Chinnor, and comparison with other sites, distorts its position on landscape character.

**(iv) Visual effects**

49. By way of introduction, it is recognised that visual effects would be localised and within the envelope identified by the Appellant's '*Extent of Visibility Plan*<sup>12</sup>. A single panoramic view from Chinnor Hill, within the AONB, would be some 2.17km distant, filtered and in the context of the existing built-up area of Chinnor.

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<sup>10</sup> CD7.6 Landscape Capacity Assessment for Sites on the Edge of the Larger Villages of South Oxfordshire

<sup>11</sup> Appellant's Landscape & Visual Proof of Evidence: Appendices Viewpoint 8

<sup>12</sup> Appellant's Landscape & Visual Proof of Evidence: Appendix JM1 (Drawing 7852/ASP7/EVP)

50. In reviewing the proposals, I have had firmly in mind the parameters plan; the illustrative layout based on a '*considered landscape-led approach*'; and the Appellant's anticipation of the effects of mitigation at year ten.
51. Starting with the '*Important Views*' identified in the Sydenham Neighbourhood Plan, I am satisfied, from my site visits, that the appeal proposal would not impinge on any of these.
52. Walking along footpath 165/9/10 from Sydenham, running diagonally across the fields and in the direction of Chinnor, it is apparent, from viewpoint 11, that the bulk of the appeal site lies behind a block of woodland and that the proposal would add very little to the established composition of rooftops in Pilmore Meadow.
53. Progressing beyond the wood, and looking from the vicinity of the overhead lines, the rising topography of the appeal site is readily apparent. The barn at New Farm is noticeable in the background and some of the roofs in Pilmore Meadow come into view as subservient elements to their landscape backdrop of the escarpment. The proposal would represent a prominent and largely unrelated addition to the settlement.
54. Moving to and beyond viewpoint 9, parts of the appeal site itself continue to be visible either through gaps in the foreground hedgerow or above the hedge forming the south-western boundary. Reference points include some of the roofs in the direction of Thame Road, and the tops of residential properties in Pilmore Meadow that sit low and disguised by established planting. The proposed development would sweep across this foreground, pulling significantly away from the settlement into the wider countryside, with added impact from the increasing elevation towards Thame Road and the likely presentation of some rooflines against the sky.
55. From the approach into Emmington from Thame Road, around viewpoint 10, the appeal site is seen to occupy a wide block of undeveloped land between the generally peripheral buildings at the former garden centre, New Farm and Pilmore Meadow. Despite the diminishing effect of distance and the intervening hedgerows and tree cover, the proposed development, central to the view, would be perceived as sprawling across an open field with a consequential compounding influence of built form. Although sitting well below the escarpment and ridgeline of the AONB, I consider that the proposal would significantly diminish the primacy of this well-wooded backcloth.
56. Taking the public right of way alongside the Old Rectory and through and beyond the churchyard (viewpoint 16), views towards the appeal site are intermittent because of intervening hedgerows and tree cover. The most telling impact would be on the approach to Thame Road, in the vicinity of viewpoint 23.
57. Here, the bulk of the former garden centre development is conspicuous and the roof tops of Pilmore Meadow are also apparent. These appear as compact and unrelated elements, separated by the broad sweep of the appeal site, and with no real semblance of forming part of a larger settlement. The proposed development would undoubtedly change perception by creating a more-or-less continuous urbanised edge above, and broken by, foreground hedgerow and related landscaping. Again, the perceived importance of the AONB would be reduced.



58. Thame Road carries frequent, fast moving, traffic between Chinnor and Sydenham/Emmington in the direction of Thame. It is undulating and it has a narrow footway on its north-eastern side. Viewpoint 7 illustrates the degree to which the proposal would be contained by the roadside hedgerow but the photomontage at viewpoint 8, at a greater distance, provides a more telling prediction of adverse impact.
59. In this regard, the proposed development would link the disparate groups of the former garden centre site and Pilmore Meadow, and even with the benefit of the illustrated landscaping, the development would result in a very pronounced redefined north-western edge to Chinnor.
60. Having crossed Thame Road, and taking footpath 165/8/10 (forming the south-western boundary of the land to the north-west of the appeal site and the appeal site itself linking to Mill Lane), the separate elements of the former garden centre site and Pilmore Meadow are visible, notably from viewpoint 14.
61. Although the proposal would sit in front of the latter, it would occupy a broad swathe of countryside, projecting well forward of the settlement, rising to the east and with increasing association with the former garden centre. The effect of new building on the higher land would impinge on the perception of the AONB.
62. Progressing towards and within the appeal site, there are instances where topography and the roadside hedgerow along Thame Road diminish the influence of the former garden centre site and/or Windmill Close, thus lessening any claimed rationale for the appeal proposal. In any event, these form a very restricted backdrop, limited to the south-eastern corner of the site.
63. Viewpoint 1, in the north-western corner of the site, clearly demonstrates that the combination of foreshortening distance and topography would seriously diminish the contrast between the escarpment and the Clay Vale landscape.
64. Looking next from White's Field, viewpoint 4, it has been demonstrated that it would be possible to retain part of the open countryside aspect over the site. Given the nature of this recreational facility and adjoining urban influences, I am satisfied that the quality and enjoyment of this asset for a variety of purposes would not be seriously devalued.
65. Finally, from the footpath providing countryside views from the east (between viewpoints 6 and 12<sup>13</sup>) the former garden centre development and the presence of pylons are apparent. Despite predicted robust foreground landscaping, the appeal proposal would draw development northwards and intensify its impact on the rural landscape.
66. In summary, it is agreed and confirmed that the effect of the development would be very localised. However, the Appellant's case is based on the premise that *'the proposals have been designed to be sensitive to the setting of Chinnor, positively embedding the scheme within the village edge and the surrounding countryside .....*<sup>14</sup>.

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<sup>13</sup> Public Right of Way 165/3/30

<sup>14</sup> Appellant's Landscape and Visual proof: paragraph 4.5

67. For my part, I consider that the influence of existing built development on the north-western edge of Chinnor has been overstated and the impact of the proposed development has, as a result, been underplayed. On this basis, I disagree with the proposition that *'the appeal site forms part of a changing village edge and that development within it would form a natural and proportionate addition to this historic and more recent growth pattern<sup>15</sup>'*. In my opinion, the visual impacts of the proposal would be very marked and well beyond those portrayed by the Appellant.

**(v) The setting of the AONB**

68. The Chilterns Conservation Board – Position Statement: Development affecting the setting of the Chilterns AONB was adopted in June 2011. It recognises that the setting of the AONB does not have a geographical border; and the location, scale, materials or design of a proposed development will determine whether it affects the natural beauty or special qualities of the AONB. Distance from the AONB will also be a material factor.

69. The document notes that *'many issues in relation to new development within the setting of the Chilterns AONB can be resolved through careful design, appropriate materials, location and layout and mitigation measures from landscaping .....<sup>16</sup>'*. This chimes with paragraph 176 of the Framework in that *'..... development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas'*.

70. It is accepted that harm to the setting of an AONB can, potentially, cause harm to the designated area itself. Policy DP4 of the Chilterns AONB Management Plan, 2019 – 2024, requires decision takers to take full account of whether proposals in the setting of the AONB harm the designated area.

71. Flowing from my conclusions on the landscape and visual effects of the proposed development, although the Appellant has sought to demonstrate effective mitigation, the proposal, by virtue of its location, would create significant added emphasis to the built-up area of Chinnor in the foreground of the AONB.

72. Further, it would erode the relationship and contrast between the Clay Vale landscape and the wooded backdrop of the northern edge of the AONB. Although there would be no physical effects on the AONB itself, the perceptual sense of a settlement in harmony with its landscape surroundings, and the pre-eminence of the escarpment, would be seriously compromised. However, it would not harm the AONB itself.

**(vi) Other landscape matters**

73. In identifying the main issues, I included the effects of the proposal on the landscape setting of Chinnor; the visual amenity of people in and around the settlement; and the visual separation of Emmington and Sydenham towards Chinnor. I can now take these briefly based on my earlier conclusions.

74. In terms of landscape setting, the site forms part of the open countryside; it is perceived as such; and the urban influences of Chinnor are generally well defined and contained. The influence of Chinnor on the appeal site is minimal. Accordingly, it follows that the proposal would have an adverse effect on the setting of Chinnor.

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<sup>15</sup> Appellant's Landscape and Visual proof: paragraph 3.27

<sup>16</sup> CD6.9 paragraph 19

75. Looking next at the visual amenity of people in and around the settlement, the extent to which the occupants of existing dwellings enjoy aspect over the site is minimal and realised from an already built-up setting. The reduced outlook from White's Field would not, to my mind, diminish the enjoyment of its recreational facilities and activities.
76. However, the countryside aspect of proximate footpaths would be lessened to a modest degree by the immediate and pronounced presence of the development. I am satisfied that there would be no marked loss of visual separation of Emmington and Sydenham towards Chinnor.

**(vii) Summary**

77. My overall conclusion on the first main issue is that the proposal would harm the character and appearance of the countryside, the setting of the Chilterns AONB and the setting of Chinnor. Both limbs of Local Plan Policy ENV1, referred to above, indicate that development will only be permitted where, in the case of the AONB, *'it conserves, and where possible, enhances the character and natural beauty of the AONB'*, and in relation to the wider countryside, *'development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes .....'<sup>17</sup>.*
78. In the Lady Grove appeal<sup>18</sup>, the Inspector acknowledged that ENV1(1) sets a higher bar than the final sentence of Framework paragraph 176 by reference to *'enhancement'*, in so far as it was apposite to development in designated areas but not their setting. The same might be said of the *'aspirational'* element of ENV1(2). However, Chapter 15 of the Framework begins at paragraph 174 in the following terms: *'Planning policies and decisions should contribute to and enhance the natural and local environment by .....'*
79. Even if Policy ENV1 is to be regarded as inconsistent with the Framework, the degree of inconsistency is relatively minor and, applying this, I remain of the view that there would be fundamental conflict with this policy.

**The second main issue: Accessibility**

80. Based on the evidence heard at the Inquiry, and the position reached between the Council and the Appellant, I defer consideration of this issue, and the Parish Councils' concerns, to the fifth main issue under the sub-heading (ii)(d) Transport.

**The third main issue: Best and Most Versatile Agricultural Land**

81. Best and most versatile agricultural land is both finite and non-renewable. It plays an important role in contributing to the nation's food supply. Paragraph 174 of the Framework indicates that planning decisions should contribute to and enhance the natural environment by, amongst other things, recognising *'..... the economic and other benefits of the best and most versatile agricultural land .....'*. Small losses, in cumulation, contribute to a material loss of this natural resource.

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<sup>17</sup> Inspector's note: I have noted that the two extracts have inconsistency and grammatical errors in the placing of commas – I have quoted verbatim

<sup>18</sup> CD9.3 DL31

82. Policy DES7 of the South Oxfordshire Local Plan requires new development '..... to make provision for the effective use and protection of natural resources where applicable, including: (vii) avoiding the development of the best and most versatile agricultural land, unless it is demonstrated to be the most sustainable choice from reasonable alternatives, by first using areas of poorer quality land in preference to that of a higher quality'.
83. It is telling that the Council's case<sup>19</sup> goes no further than citing that 'the Appellant has not attempted to show that there are no areas of lower quality that could be used instead'. For my part, I agree with the Appellant that paragraph 174 of the Framework does not set a sequential test and that such an exercise, required by footnote 58, is derived from paragraph 175 and the qualification of 'where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.'
84. Further, paragraph 175 relates to plan-making, rather than decisions, and, even if the two were to be read as one, 'significant' is not defined. Moreover, the anticipated loss in this case would be well below the threshold where consultation with Natural England would be engaged.
85. Overall, the proposal would conflict with policy DES7(vii), insofar as a quantum of best and most versatile agricultural land would be lost to development. However, it would be onerous and unreasonable to expect each and every applicant, where such land is involved, to undertake an exercise of unquantified 'reasonable alternatives'. I return to the weight to be attached to this limited tension, in light of all of the above, in the overall planning balance.

#### **The fourth main issue: Housing Land Supply**

86. The Council's position is that it can identify a deliverable supply of 4,521 homes against a relevant requirement of 5,623 homes, equating to a shortfall of 1,102 homes and a deliverable housing land supply of 4.02 years. The Appellant's position, having regard to the sites relied on by the Council, is that the supply is 2.9 years (a shortfall of 2,356 homes). The difference is based on whether 16 sites forming part of the Council's supply are 'deliverable' and whether a lapse rate of 10% should apply to small sites.
87. As a precursor, the Local Plan, on adoption in December 2020, sets out a housing requirement for the period 2011 to 2035. Delivery from 2011 to date has been subject to a succession of measures, progressing from the 2012 Core Strategy Housing Requirement; the Strategic Housing Market Assessment Mid-Point Requirement; Local Housing Need Determined by the Standard Method; and the Local Plan Stepped Housing requirement following adoption.
88. Over the years, there has been a range of annual under or over delivery and a running shortfall of 415 homes for the period 2011 – 2023. Moreover, on the Council's own figures the under-delivery by 2027 – 2028 will be some 1,054 homes. The Local Plan Trajectory predicts under-delivery against actual completions or predictions of 3,324 homes for the period 2020 – 2028.

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<sup>19</sup> ID39 paragraph 38

89. This owes much to the Council's reliance on seven large strategic sites, none of which are included in its 2023 Housing Land Supply Statement since they are not expected to deliver before 2028. The consequence is that a substantial component of housing land supply will need to be delivered at an improbable rate in the last seven years of the current plan period.
90. Turning now to the disputed sites, **the former Carmel College (Ref 1673)**, the only site where the onus is on the Appellant to demonstrate with clear evidence that the site is not deliverable, has a chequered and contested history. Irrespective of whether the operative planning permission has been implemented by the discharge of pre-commencement conditions and the making of a material start (for which there is no demonstrable evidence), it is clear that this is a complex brownfield site, with heritage assets, that has laid inactive for a number of years.
91. The intentions of the developer are not known and inclusion on its website as a current development appears as a hollow gesture. The most telling factor is the findings of the Planning Inspector in paragraph 42 of the appeal decision, relating to land north of Moreton<sup>20</sup>, where the resounding rejection of the Carmel College site from the supply has not been countered in any meaningful way by the Council as might be expected. Overall, I am more than content that the Appellant has convincingly demonstrated that this site should be excluded with a loss of 166 homes.
92. Starting with the first of the sites where the onus to provide clear evidence of deliverability rests with the Council, **land to the north-east of Didcot (Ref 1009)**<sup>21</sup> is subject to a reserved matters application submitted in November 2022. Revised plans followed in August 2023. Whilst some matters relating to highways remain outstanding, these appear to be of a minor nature and resolvable without undue delay. I am therefore satisfied that there is clear evidence that this site is deliverable and should remain as part of the supply.
93. **Ref 2840** is a full application, for a Neighbourhood Centre with flatted homes, that was submitted in May 2023. The Council's Housing Land Supply Statement forecasts determination no later than 31 March 2025 and completion of 169 units, in a single phase, in 2027 – 2028. The principle of development is already established through allocation in the Local Plan and the developer has confirmed its trajectory, estimating delivery in its entirety in 2026 based on receiving planning permission in the final quarter of 2023.
94. Although the Council's trajectory appears to be cautious there are outstanding matters, not least viability that is subject to independent review. The section 106 agreement rests on this, in that it will determine the level of affordable housing and/or infrastructure contributions. To my mind, the process of confirming the developer's assessment, or otherwise, does not suggest a wholly unresolvable issue insofar as the Council's forecast clearly includes time for negotiation and resolution. In my view, there is clear evidence that this site is deliverable within the relevant period.
95. Moving on to **the care home proposal (Ref 2841)**, two, seemingly resolvable, minor issues remain. However, the development would be contingent on the implementation of the Neighbourhood Centre to provide means of access. Again, the Council's trajectory is 'conservative', and in light of my findings above, I conclude that this site has sufficient prospect of delivery.

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<sup>20</sup> CD9.13 APP/Q3115/W/22/3296061 – appeal decision dated 22 March 2023

<sup>21</sup> Including sites P22/S4011/RM (Ref 1009); P23/S1794/FUL (Ref 2840); and P23/S2003/FUL (Ref 2841)

96. Turning to the **land south of Appleford Road, Didcot (Reserved farmland Ref 2771)**, outline permission was granted in November 2022. Although the Council anticipates the submission of a reserved matters application before the end of 2023 - 2024, no further information has been submitted by the site promoter and the site is not currently in the ownership of a developer. Despite a prudent trajectory, with first completions in 2026 – 2027, there is insufficient basis to anticipate delivery within the relevant period leading to a deduction of 50 homes.
97. Remaining in Didcot, **Didcot Gateway (Ref 1010)** has an outline application under consideration as part of a larger Local Plan allocation. A series of amended plans have narrowed concerns and the latest tranche is subject to consultation.
98. The Inspector in the Moreton appeal, in March 2023, deemed that there was clear evidence of delivery. So too did the Inspector in his report to the Secretary of State dated 12 January 2023 in the Cholsey appeal<sup>22</sup>. However, the Chalgrove Inspector<sup>23</sup>, in May 2023, reached a different conclusion by identifying several potential impediments to delivery.
99. For my part, even with the early resolution of outstanding design matters, and recognising the advancement of the monitoring year, a number of potentially adverse factors would remain in play including: marketing of the site (indicated to be offered in three lots); the uncertain substance of pre-commencement conditions; the risk of not realising full delivery in 2027 – 2028; and, belatedly, the unresolved issue of a road scheme, now called in by the Secretary of State. These factors point firmly to discounting delivery from this site with a loss of 100 units.
100. **Ladygrove East (Ref 1011)** was also subject to consideration by the Chalgrove Inspector. He rolled forward delivery by one year because of an absence of detail on pre-commencement conditions and the Council's lead-in times for outline applications and first completions. That was in anticipation of planning permission being granted in April 2023. I am also mindful of the findings of the Cholsey Inspector<sup>24</sup>.
101. However, the application remains undetermined, albeit it is said that the section 106 agreement is in its advanced stages; pre-commencement and draft conditions have been agreed; and a Design Code has been subject to pre-application advice.
102. Although the site promoter anticipates first delivery of 25 homes in 2025 - 2026, its comments about the anticipation of a decision on the application and the conclusion of planning obligations, continue to show some reticence. Ladygrove East is a large site with anticipation for the first application for reserved matters to comprise a park and 250 dwellings. I cannot therefore be confident of delivery based on the promoter's qualified trajectory which leads me to roll forward first delivery into 2027 – 2028 with the loss of 50 dwellings from the expectation for that monitoring year.

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<sup>22</sup> ID16 paragraph 354 (v)

<sup>23</sup> CD9.5 DL17 - 18

<sup>24</sup> ID16 paragraph 354 (vii)

103. Looking next at **West of Wallingford (Site B) (Ref 1015)**<sup>25</sup>, this forms part of a larger site under phased development. The Council confirmed that all outstanding issues had been resolved; the section 106 agreement had been agreed; and the approval of reserved matters was anticipated by the end of October 2023. The timescales for delivery had also been endorsed by the developer as realistic. On this basis, the site remains as deliverable.
104. The Neighbourhood Plan allocation for **Land West of Fairmile (Ref 1427)** has a resolution to grant full planning permission, subject to a section 106 agreement. However, there is an outstanding issue, relating to securing a footpath link over land owned by the Council, and work necessary to discharge pre-commencement conditions has not started. The anticipation of granting planning permission in April 2023, as indicated to the Cholsey Inspector<sup>26</sup>, has passed.
105. Although there is headroom, on the assumption that permission could be issued in the first quarter of 2024, progress on securing the link remains undefined. Whilst agreement in due course might be anticipated, that is not sufficient to constitute clear evidence of a successful outcome and delivery as anticipated. Hence a reduction of 70 units is warranted.
106. **The Old Reservoir Site, Woodcote (Ref 1442)** is another Neighbourhood Plan allocation. Initial concerns around drainage have been resolved through pre-commencement conditions and work is ongoing to finalise a legal agreement. There appears to be no material impediment to the grant of permission by April 2024 and subsequent anticipated delivery. This site remains as part of the supply.
107. The next site is **Land South of Newnham Manor (Ref 1561)**. The Inspector in the Chalgrove appeal identified an ongoing impediment delaying a section 106 agreement; uncertainty of pre-commencement conditions; and absence of details from the developer. He discounted the anticipated trajectory from the claimed supply in common with the Cholsey Inspector.
108. Whilst the site continues to have no more than a resolution to grant outline permission, there is evidence of further progress in securing a detailed framework plan which will form part of the section 106 agreement and a land transfer deed leading to approval. The site promoter is fully aware of the pre-commencement conditions and anticipates the submission of a reserved matters application as soon as the outline permission is issued. I am satisfied that matters have moved on and that there is now clear evidence to indicate a realistic prospect of delivery in accordance with the trajectory.
109. Returning to Wallingford, **Wallingford Site E (Ref 1676)** is a Neighbourhood Plan allocation, with outline planning permission, forming part of a larger site which is actively under construction. The dispute relates to the delivery of 36 homes at the end of the trajectory following the developer's late response to the Council's request for information and a lower build out rate. To my mind this suggests a degree of uncertainty and a conclusion of discounting supply by 36 units.

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<sup>25</sup> ID16 paragraph 354 (iv)

<sup>26</sup> ID16 paragraph 344 (x)

110. Continuing to **Wallingford Road, Goring (Ref 2246)**, this is another Neighbourhood Plan allocation. However, a full application for planning permission has remained undetermined since July 2020. Although revised plans were submitted in August 2023, it remains unclear whether these will resolve outstanding matters.
111. The promoter's comments<sup>27</sup>, whilst anticipating first completions in July 2026, fall to be considered alongside the identification of key unresolved issues relating to highways; the requirements of the Environment Agency; and the absence of work on agreed pre-commencement conditions. Even with the Council's anticipation of granting planning permission by 1 April 2024, the overall level of optimism falls well short of a clear signal of delivery and the full quota of 26 dwellings should be discounted.
112. **Kennylands Gymnastics, Sonning Common, (Ref 2255)** is a Neighbourhood Plan allocation with an outline application under consideration. As it is subject to a covenant restricting the use of the land to recreational activity, and despite pursuit by a housebuilder, it cannot be concluded that the site is deliverable. Accordingly, the nine-home proposal should be removed.
113. A Neighbourhood Plan allocation with outline permission, **Reserve Site C, Thame (Ref 2257)**, was followed by a reserved matters application, submitted by a volume housebuilder, in July 2023. Several consultees have raised concerns including the Town Council; the Drainage Officer; the Housing Development Officer; the Landscape Architect; Oxfordshire County Council on Transport matters; the Lead Flood Authority; and the Urban Design Officer.
114. Some of the matters raised seek material amendments to the scheme which are likely to delay progress on the determination of the application. Moreover, the developer has not given any indication of its delivery expectations. Notwithstanding the Council's cautious lead in times and build out rates, I am not convinced that this site should remain as deliverable for the purposes of this appeal. A reduction of 57 units is appropriate.
115. The final site in dispute is **Woodcote NDP2 Site 30: Church Farm (ref 2660)**. Although the promoter anticipates delivery of the proposed homes in 2025 – 2026, the Council has pushed back the trajectory by one year. However, the promoter is not a housebuilder; there are outstanding issues; the timescales for determination and completion of a section 106 agreement are uncertain; the site would need to be offered to the market; and a subsequent developer may have different aspirations. Overall, I consider the joint optimism to be unsupported by clear evidence leading to a reasonable expectation of delivery within the five-year period. Thirty dwellings are to be removed.
116. That brings me to the Appellant's argument that a 10% **lapse rate** should be applied to small, windfall, sites. In doing so, I note that neither the Chalgrove Inspector<sup>28</sup>, nor the Moreton Inspector<sup>29</sup>, applied a non-implementation rate. For my part, as the Council's evidence confirms that the register is updated annually by the removal of lapsed permissions, and in the knowledge that some developments will take several years to complete following first implementation, I am satisfied that no reduction should apply.

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<sup>27</sup> Appendix C to Mr Duffy's Rebuttal Proof

<sup>28</sup> CD9.5 DL31 – 32

<sup>29</sup> CD9.13 DL41



117. Drawing together these threads, the combination of the above leads me to reduce the supply figure by 594 units to 3,927 homes. Based on the annual requirement of 1,125 dwellings, the supply flowing from the evidence before me is 3.49 years. This heightens the shortfall acknowledged by the Council.
118. Moreover, looking ahead, the Council does not have any realistic vision for addressing a compounding shortfall. Its hope of encouraging applications and progressing the review of the Local Plan provide no expectation of positive and timely remedy. Further, it is not known what changes the anticipated revised Framework will eventually yield.
119. I will address the significance of these conclusions in the overall planning balance.

### **The fifth main issue: The Development Plan and Community Infrastructure**

#### **(i) The Development Plan**

120. In my consideration of the earlier main issues, I have identified relevant issue specific policies namely ENV1 and DES7. In this section I confine myself to those policies which generally relate to the distribution of housing.
121. Local Plan Policy STRAT1 sets out the overall strategy for development. It includes (i) focusing major new development in the Science Vale Area; (ii) providing strategic allocations at defined settlements; and (vii) supporting the roles of named Larger Villages (including Chinnor) as local service centres. STRAT1 (ix) seeks to protect and enhance the countryside and particularly those areas within AONBs.
122. In turn, Policy H1 permits residential development at sites allocated or carried forward by the Local Plan and on sites allocated by Neighbourhood Plans. Residential development on sites not allocated will only be permitted in defined circumstances, none of which apply in this appeal. Policy STRAT2 (5) endorses the locations and trajectory for housing development as identified in Policy H1.
123. The policy for Larger Villages is found in Policy H4. As Chinnor does not have a housing allocation, the supporting text formed the basis of the debate at the Inquiry. In essence, the Local Plan proposes 15% Growth in the Larger Villages, 14% of which had been achieved, collectively, on adoption of the plan. It is said that development '*..... should be proportional, appropriate and dependent on existing infrastructure .....*'. The most appropriate mechanism was considered to be through Neighbourhood Plans and allocating development sites.
124. The Local Plan recognises that the minimum 15% growth level had been achieved in Chinnor. However, it is noted that some Larger Villages are heavily constrained and that others could plan for more than 15% growth. The level of growth should flow from Neighbourhood Plans balanced with the social, economic and environmental factors that may impact on the ability of settlements to accommodate further development.
125. Paragraph 4.30 indicates that '*the Council will support Larger Villages to allocate further development sites should the NDP so wish, where this level of growth is sustainable for that village, and where this is in accordance with national policies and guidance*'.

126. For its part, the Chinnor Neighbourhood Plan 2011 - 2034<sup>30</sup>, confirms that planning permissions granted since the 2011 base date of the Local Plan amounted to a 39% increase in growth. The consented sites were deemed to be acceptable in principle to be allocated as housing development sites under Policy CH H6.
127. On the basis that Chinnor Parish had provided excess housing against expectations, no other allocations were made. Policy CH H7 defines the Chinnor Development Boundary, within which proposals for development will be supported where they constitute sustainable development and are consistent with development plan policies. Elsewhere, development will be restricted. The appeal site lies outside the development boundary. A consistent approach is adopted in the Review version of the Neighbourhood Plan<sup>31</sup>.
128. The point at issue in Chinnor is its ability, or otherwise, to accommodate additional development other than that arising from commitments and small sites infill development. Although it is acknowledged that Chinnor has a wide array of services and facilities<sup>32</sup>, these have to be balanced against the Action Points in Chapter 10 of the plan and considered in light of the evidence from the Parish Councils heard at the Inquiry and in the many letters of representation.
129. In short, *'development which has a negative impact on communities, including by failing to provide for or locate near to sufficient services and infrastructure, runs contrary to sustainable development'*<sup>33</sup>. Broad topic headings can be identified as Education; Healthcare; Retail and Leisure; and Transport.

**(ii) Community infrastructure**

**(a) Education**

130. The evidence given on behalf of the Parish Councils details the extent to which the early-years and primary school capacity in Chinnor is already oversubscribed, resulting in some young children being transported by taxi to neighbouring towns.
131. Further, it is said that demand for places will arise from the 136 homes with permission, and yet to be built, and those arising from infill plots. This will exacerbate existing Continued Interest (waiting) lists that are growing year on year. It is to be noted that new development has attracted young families with a consequential need for higher than average or predicted school places.
132. Of the two primary schools, only Mill Lane Community Primary School has capacity for expansion from one form entry to 1.5 form entry. The existing buildings are also in need of modernisation and refurbishment. The Parish Councils calculate, without evidential contradiction, that Chinnor will require an additional 154 – 211 places to meet anticipated demand and a further 52 places to accommodate the proposed development.

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<sup>30</sup> Made Version May 2021

<sup>31</sup> ID45, ID46 and ID47

<sup>32</sup> CD6.3 paragraphs 2.37 – 2.49

<sup>33</sup> ID38 paragraph 11

133. The County Council's initial response to the planning application leading to this appeal confirms that *'the pressure on these schools is due to the concentration of housing growth the village has seen in recent years, which is having an immediate impact as children moving into the village need school places, but is also having a longer term impact as Chinnor (unlike many places) has seen a sharp increase in births since 2018, which will put further pressure on school places in the coming years'*. An accompanying table shows births in 'Lower Super Output Areas' that best fit within the catchments of Mill Lane Community and St Andrew's CoE Primary Schools to predict future school intakes.
134. The consultation response goes on to say: *'While there are currently some out-of-catchment children at both schools, since both schools serve Chinnor (and have overlapping catchment areas), it is important to consider the combined catchment area, rather than each school's individually. When this is considered, out-of-catchment numbers reduce considerably, and the extant birth increase as well as children generated by already permitted (but not yet built) housing is expected to use up any apparent capacity currently taken by out-of-catchment children'*.
135. *'If the development were to be permitted, therefore, the additional scale of primary pupil generation would mean that neither Mill Lane Community Primary School nor St Andrew's CoE Primary School would be large enough to meet the needs of its local community. Applicants would be displaced to surrounding schools, reducing the operation of parental preference for school places and increasing travel distances for students to primary schools'*.
136. *'Sufficient capacity could be provided by the expansion of Mill Lane Primary School .....*
137. The County Council's Options Appraisal to extend Mill Lane would add 15 nursery and 105 primary school places at an estimated cost of £4.7 million. The Appellant's draft section 106 contribution would fund 52 of those places, based on the County Council's calculation of 9.55 nursery children and 42.66 primary pupils generated by the proposed development.
138. Assuming the expansion of Mill Lane, as indicated, it would remain inadequate to accommodate the overall needs identified by the Parish Councils. Although not challenged, I cannot be confident about the likely level of shortfall, given the vagaries of forecasting, the assumptions about the amount and timing of future house building, the composition of occupants and whether the boom in lower age groups is likely to be repeated. Indeed, the County Council's modelling clearly recognised the issues facing Chinnor.
139. The consequences of an ongoing shortfall would have a social and economic cost in that some children might not secure a place in a local school; some siblings might be separated; and some children might be split from their peers. There would also be an environmental cost of conveying children to and from school by car or other means of transport. For its part, the Framework encourages the provision of services and facilities communities need with sufficient choice of school places to meet the needs of existing and new communities.
140. Ultimately, the responsibility for providing school places rests with the County Council. Although at a preliminary stage, there appears to be nothing of sufficient substance to suggest that the expansion of Mill Lane Community Primary School could not, or would not, take place.

141. In this regard, the appeal proposal would make a significant contribution to the overall cost through the education element of the draft section 106 agreement. The contribution would meet the needs of the appeal development and accord with the relevant statutory and policy tests.
142. On this basis, although there might be a continuing, ongoing, or periodic shortfall in local school places, I am satisfied that the County Council's catchment-wide assessment, in full knowledge of the issues facing Chinnor itself, provides a robust modelled prediction of future school demand which can be met by the expansion of Mill Lane Community Primary School.
143. Moving on to secondary school places, the additional demand arising from the development is proposed to be addressed by an expansion of Lord Williams' School in Thame. The County Council's consultation response identifies the expansion of Lord Williams' School against the background of it currently operating above capacity and knowing that pupil numbers are forecast to grow; and that in its pre-expansion form it could not have accommodated the anticipated number of secondary pupils generated by the proposed development.
144. The County Council estimates that the development would generate 33 secondary pupils which could be mitigated through proportionate funding secured by a section 106 agreement. The Parish Councils' concern is that this would be insufficient based on the earlier assessment of 52 primary places generated by the proposed development.
145. Whilst there is an inexplicable mismatch between these figures, presumably as different multipliers apply in the matrices, the County Council's appraisals are contained in the same consultation response. To my mind, this diminishes the prospect of inconsistency and under-estimation in its forecast of the secondary school places likely to be required.

**(b) Healthcare**

146. The Parish Councils' evidence contends that the healthcare resources in Chinnor are already severely overstretched. Particular concerns relate to: the GP to patient ratio (nearly double the national average); almost 80% of residents who responded to a local survey have had to seek medical assistance outside Chinnor with some 90% believing that current provision in Chinnor is inadequate; neither of the two GPs has scope to expand their accommodation in Chinnor; recruitment of GPs and related health professionals is an issue; there is no NHS dentist in Chinnor; the closest hospitals are ten miles away with no, or limited, access by public transport; and access to GPs in Princes Risborough will no longer be feasible by public transport.
147. Starting with GP to patient ratio, this is based on taking the two surgeries in Chinnor in isolation, in that both form satellites to larger group practices. Such an arrangement is not an uncommon means in serving several communities and providing a wider range of care than would otherwise be supported by stand-alone village surgeries. Both surgeries in Chinnor are open four-and-a half-days each week. The offer of early appointments for more immediate needs at one of the other surgeries in the group, for those who have transport, is a recognised measure of managing demand.

148. Whilst neither surgery has scope to expand its accommodation physically, the Parish Councils' evidence told of both practices having more than one consulting room each. Although this might facilitate more provision, the real issue was in the recruitment of additional professionals. However, this is not unique to Chinnor. Similarly, NHS dentists are a scarce resource nationally and hospitals tend to be focused on large campuses in major towns.
149. Further, it is telling that both surgeries are accepting additional patients based on their group practices and the Oxfordshire Clinical Commissioning Group<sup>34</sup> does not oppose the appeal proposal.
150. Although I acknowledge that a considerable number of existing and future residents will have to travel by car to reach healthcare facilities, whilst potentially inconvenient and undesirable, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be considered in decision-making. Whilst derided, a proportion of the Community Infrastructure Levy arising from the development would be available to mitigate impacts on healthcare.

**(c) Retail and Leisure**

151. The heralded and much valued retail and leisure facilities in Chinnor are said to be unable to cope with existing demand. It is understandable that the Parish Councils would wish to see these improved and expanded. Despite the growth of the village, three pubs, the hardware store, a butcher, and the garden centre have been lost since 2011. Lack of business and changing retail trends are likely to be relevant factors. Further, a parish survey records that the majority of respondents leave Chinnor for their main shop.
152. Neighbourhood Plan Policies CH R1 and CH CF1 seek to protect existing retail and community facilities. Additionally, paragraph 8.6 records: '*This current situation reflects the lack of planning of retail facilities during the history of the expansion of the village and then the closure of many retail businesses over the years without replacement and the continuous loss of retail space to housing in the village that continues at present*'.
153. The apparent conundrum is, on the one hand, the loss of facilities and, on the other, a significant growth in population and the claim that those facilities which remain are '*running hot*'. Although the Appellant was criticised for not having analysed the elasticity of supply, it appears counter-intuitive to suggest that additional residents would counteract established business interests and the ambitions of the Neighbourhood Plan reflected in paragraph 8.14.
154. Whilst the every-day experiences of local residents, as relayed in the Neighbourhood Plan and recounted at the Inquiry, cannot be denied, there is further contradiction in the Parish Councils' position: '*In reality, it is likely that the residents of the proposed development will follow the existing trend in Chinnor towards online shopping or drive out to large towns because there is simply not the retail capacity in Chinnor to accommodate the additional demand*<sup>35</sup>'.
155. It appears to me that there are mixed messages here. Firstly, there was no tangible evidence to show that the existing retail facilities are '*running hot*'. Moreover, on the expectation that the trend to online shopping and visiting

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<sup>34</sup> Now Integrated Care Boards

<sup>35</sup> ID38 paragraph 45(b) ref McKenzie Appendix 1

higher order centres for major purchases, including the weekly shop, will continue, it has not been demonstrated that the capacity of the existing retail outlets would be insufficient to serve demand arising from the proposed development.

156. Turning to leisure and related amenities, the Parish Councils' evidence is that these are over-subscribed, several have long waiting-lists and some facilities require up-grading. Neighbourhood Plan Action Points 6 and 9 reflect some of the priorities. However, none of the contentions were supported in any meaningful way. The argument made is, that whilst the Community Infrastructure Levy/draft section 106 contributions would address the strain on local resources caused by the proposed development itself, they would not be sufficient to address the pressures caused by existing overdevelopment.
157. To my mind, that lacks conviction in that financial contributions can only be legitimately sought to mitigate the impacts of the development itself. Nonetheless, those elements which the development might fund, would not be for the exclusive use of residents of the appeal site: the facilities in general would be enhanced or extended and others in the community would benefit.

**(d) Transport**

158. The Parish Councils' case is that the proposed development will not be sustainable from a transport perspective, taking account of the distances to local facilities and the paucity of public transport.
159. Local Plan Policy TRANS2 emphasises the importance of promoting sustainable transport and accessibility; TRANS4 seeks a Transport Assessment and Travel Plan; and TRANS5 requires safe and convenient access for all users, routes for pedestrians and cyclists and high-quality walking routes to bus stops.
160. At the County level, the Local Transport and Connectivity Plan 4, Policy 1 sets out a transport user hierarchy and Policy 2 has much in common with TRANS5. In turn Objective 2 of the Neighbourhood Plan seeks to promote sustainable residential developments.
161. Manual for Streets indicates that *'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800 m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and PPS13<sup>36</sup> states that walking offers the greatest potential to replace short car trips, particularly those under 2 km'.*
162. Taking the centre of the site, and assuming the shortest route, either by the public footpath to the south-west of the site or the link to Windmill Close, local facilities within 800 m would be the exception rather than the rule. However, over 50% of 36 identified education, health, retail, leisure and transport facilities would be within 1 km. Using the link to Windmill Close, all facilities, other than the Wheatsheaf Public House, would be within 1.5 km. With this exception, a full range of local facilities would be within the longest distance that a majority of people are willing to walk to meet their daily needs as identified in the SUSTRANS Walking Neighbourhoods Report 2022.

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<sup>36</sup> No longer extant

163. As to cycling, it is acknowledged that cycling beyond the village would not be an attractive proposition for most people, and that cyclists within the village would have no meaningful dedicated provision.
164. Turning to public transport, the proposed development, through Rev D and the draft section 106 agreement, would provide bus stop provision, north and southbound on Thame Road, within about 300 m of the centre of the site. However, bus services serving the village are limited and, based on the new timetable, Princes Risborough and its railway station will only have restricted peak services.
165. Overall, it is suggested that residents would be heavily dependent on the private car for a variety of needs. However, the draft section 106 agreement would provide funds to support bus service provision, in the sum of some £170,000, and the Travel Plan would be a further component of encouraging and promoting more sustainable modes of transport.
166. My overall conclusion is that the proposed development would not be inherently unsustainable in terms of overall accessibility; and that appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development and its location. There would be no conflict with the relevant policies in the development plan or with corresponding guidance in the Framework.

**(iii) Conclusion on the Development Plan**

167. The most important policies for the determination of this appeal are the locational policies for development to be found in Local Plan Policies STRAT1, STRAT2, H1 and H4 and Neighbourhood Plan Policy CH H7; reinforced by Local Plan Landscape and Countryside Policy ENV1 and Efficient Use of Resources Policy DES7. It is common ground that the proposal conflicts with the development plan when read as a whole.

**The sixth main issue: The Planning Balance**

**(i) The Tilted Balance: Paragraph 11(d) of the Framework**

168. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing land. Therefore, the policies which are most important for determining the appeal are deemed to be out of date and the presumption in favour of sustainable development is engaged by paragraph 11(d) of the Framework.
169. This means that permission should be granted unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*
170. Areas of Outstanding Natural Beauty (AONBs) are included in those areas of particular importance referred to in paragraph 11(d)(i). However, from my consideration of the first main issue, I have not found that the appeal proposal would cause harm to the AONB itself. It follows that the determination of this appeal therefore rests on the balance required by paragraph 11(d)(ii).

**(ii) The benefits of the appeal proposal**

**(a) Market and affordable housing**

171. In my analysis of the fourth main issue, I have calculated that, for the purposes of this appeal, the Council falls markedly short of the five-year housing land requirement with no more than approximately 3.5 years deliverable supply. The proposal would yield up to 90 market dwellings.
172. In terms of affordable housing, the draft section 106 agreement makes provision to secure 40% affordable housing (up to 60 affordable homes) in accordance with Local Plan Policy H9 and Neighbourhood Plan Policy CH H2. There is a clearly identifiable need having particular regard to waiting lists and affordability ratios<sup>37</sup>.
173. The Appellant's anticipation that the site is likely to secure approximately 100 completions in the current five-year period was not supported by a delivery trajectory. It may, or may not, be realistic, but I apply some caution insofar as, assuming a single outlet, 50 completions would be required in each of 2026 – 2027 and 2027 – 2028.
174. In the interim, from the date of any outline permission, the site would need to be marketed; a subsequent developer might not fulfil the Appellant's estimated timeframe; reserved matters approval would have to be obtained; pre-commencement conditions discharged; work on site would have to progress; and new infrastructure relating to foul water drainage and water supply<sup>38</sup> would have to be resolved. Indeed, the Thames Water Statement on foul water capacity indicates an indicative programme of 2.5 years to deliver the network reinforcement.
175. No conditions, for example reduced timescales for the submission of reserved matters and commencement thereafter, were offered to assure a material contribution to housing supply within the relevant period.
176. Be that as it may, securing the delivery of both market and affordable housing is an imperative. Although the Appellant ascribes substantial weight (more than significant) to each, my combined assessment rests at significant positive weight.

**(b) Economic, environmental and social benefits**

177. In terms of economic benefits, it is well recognised that temporary employment and related local expenditure during the construction phase, and increased retail spending in the district by future residents are important considerations. Although the Appellant attributes significant weight to each, I consider, even with the likelihood of supporting businesses in Chinnor, that, in an overall hierarchy of benefits, moderate advantage would be a more equitable evaluation.
178. Moving on to environmental benefits, the parameters of the appeal scheme would secure the provision of 4.82ha of public open space, including the potential for allotments and community orchards. This would amount to some 45% of the total site area and would be more than the minimum required by the South Oxfordshire Infrastructure Delivery Plan.

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<sup>37</sup> ID4

<sup>38</sup> Draft planning condition would limit occupation to no more than 50 dwellings until network upgrades have been completed or a development and infrastructure plan has been agreed



179. Nonetheless, Local Plan Policy DES7 (xiv) requires a high-quality public realm designed to support an active life for everyone. Moreover, whilst it was suggested that there would be a wider benefit for the village, White's Field and other areas of public open space, including allotment gardens<sup>39</sup>, provide more immediate access to most parts of Chinnor.
180. The Appellant's claim to significant weight for the amount of public open space, and moderate weight to components of it, seeks to accumulate the overall benefit which I judge to be no more than moderate positive weight.
181. For biodiversity net gain, a minimum of 10% enhancement has become a generally accepted minimum aspiration. The ability to deliver in excess in this case is not known as it will be dependent on a reserved matters landscaping scheme. It is relevant to note that a length of well-established hedgerow on the Thame Road frontage would be lost to accommodate access into the site and, in any event, Local Plan Policy ENV3 requires '*all development should provide a net gain in biodiversity where possible*'. Accordingly, I reduce the Appellant's measurement to limited positive weight.
182. In terms of design quality and commitment to a climate resilient development, consideration of Local Plan Policies DES1, expecting good design and climate resilient development, in tandem with Neighbourhood Plan Policies CH H8 and CH C1, dictates a conclusion of neutral weight.
183. Finally, in the consideration of the main benefits, the proposal would offer a means of securing a much needed and overdue network reinforcement to the foul water system in Chinnor. Whilst it is needed to facilitate the development, it would provide a known outline solution, a willing landowner, and remedy for the wider public benefit and an indicative programme for implementation.
184. Despite Chinnor Parish Council's '*opportunistic*' offer to engage in dialogue with Thames Water, and the proposition of a potential alternative on land owned by the Parish Council, I do not undermine the significant positive weight sought by the Appellant.
185. Similarly, even though the Thames Water Statement on foul water capacity confirms that '*if planning is not granted, Thames Water will continue with delivery of a network reinforcement scheme to provide additional capacity in the village for recent development*', no alternative solution or equivalent timescale is mooted.

**(iii) The adverse impacts of the appeal proposal**

186. The starting point is that the appeal proposal would conflict with the development plan by reference to its overarching strategy for the location of new development; the protection of the countryside; and to secure the prudent use of best and most versatile agricultural land. In my earlier conclusions I have identified drafting tensions between Local Plan Policies ENV1 and DES7 with the Framework, and the weight attached to the conflict with these policies is reduced to a limited degree.
187. The Local Plan, despite its lengthy gestation, was adopted relatively recently; the Neighbourhood Plan is under three years old and its review, with no changes of substance, is well advanced<sup>40</sup>. Both the Chalgrove and Cholsey Inspectors highlighted the role of the development plan and the importance of maintaining public confidence in the plan-led system.

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<sup>39</sup> CD6.3 paragraph 6.3 and Neighbourhood Plan Policy CH GP1

<sup>40</sup> ID45, ID46 and ID47

188. Referring to the Framework, *'the purpose of the planning system is to contribute to the achievement of sustainable development'*. As we know, there are three overarching, interdependent and mutually supporting, objectives to achieving sustainable development namely: an economic objective; a social objective; and an environmental objective. These are to be delivered through the preparation and implementation of plans and the application of the policies in the Framework.
189. The social objective includes: *'..... ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations .....*'. So, to my mind, one aspect of public confidence, in its widest sense, is that the plan will deliver much needed homes.
190. Whilst it is evident that local Councils, in planning for delivery, cannot control the pace of new house building, it is self-evident that where there is, for example, a marked shortfall in housing supply, that some decisions that depart from an up-to-date development plan might be taken. In my view, in such circumstances, that would not be seen as tantamount to undermining public confidence in the primacy of a plan-led system. Indeed, paragraph 12 of the Framework states *'..... may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed'*.
191. To conclude on this case, I have found significant harm to the character of the landscape and a very marked adverse visual impact which both merit significant negative weight. Moderate negative weight is to be attached to the loss of best and most versatile agricultural land. When these are combined with the conflict with the development plan, I find that the adverse impacts of these considerations would significantly and demonstrably outweigh the benefits of the appeal proposal, when assessed against the Framework as a whole. Accordingly, the appeal is to be dismissed.
192. At this point it is necessary for me to return to the matter of the section 106 Agreement with reference to paragraphs 19 – 22 above. I have assumed throughout this decision that there would be no impediment to the conclusion of the agreement and its anticipated benefits and mitigation measures have been taken fully into account in my overall assessment.
193. However, further time has been sought to complete negotiations and to secure engrossment. I have also been advised that the Examiner's Report into the Neighbourhood Plan Review, and the recommendation to make the plan with the modifications specified in the report, is to be considered by the Council on 17 November.
194. Since the appeal is to be dismissed on the grounds discussed above, and to save the parties wasted time and expense in the engrossment of the section 106 Agreement, and the likelihood of having to revert to them on the implications of the Neighbourhood Plan Review, I have decided that it would be expedient to issue my decision. I am satisfied that no party would suffer prejudice as a result.
195. For these reasons, and having considered all other matters raised, the appeal is dismissed.

*David MH Rose*

Inspector

## **ANNEX A: APPEARANCES**

### **For Gleeson Land**

John Litton KC  
and Barney McCay, Barrister  
Landmark Chambers

Instructed by Turleys on behalf of Gleeson  
Land

### **They called**

James Morton  
BA (Hons) MA LA CMLI

Associate  
Aspect Landscape Planning Ltd

Stuart Morton  
BSc MSc BSc MCIHT

Associate Partner  
i-Transport LLP

Alistair Aitkin  
C Eng MICE MCIWEM C.WEM

Director  
Fortridge Consulting Limited

Jeff Richards  
BA(Hons) MTP MRTPI

Senior Director  
Turley Associates

Timothy Burden  
BSc (Hons) MSc MRTPI

Director  
Turley Associates

### **For South Oxfordshire District Council**

Emma Dring, Barrister  
Cornerstone Barristers

Instructed by Vivien Williams  
South Oxfordshire District Council

### **She called**

Michelle Bolger  
FLI Dip.LA BA(Hons) PGCE BA(Hons) Eng

Director  
Michelle Bolger Expert Landscape  
Consultancy

Judith Goodwin  
BA(Hons) Dip.TP MRTPI

Senior Transport Planner  
Oxfordshire County Council

Ben Duffy  
BA(Hons) MA

Senior Planning Officer (Policy Team)  
South Oxfordshire and Vale of White Horse  
District Councils

Christopher Whitehouse  
BSc(Hons) MRICS NEWA RICS Accredited  
Expert Witness

Managing Director  
Next Phase

**For Chinnor and Sydenham Parish Councils (Rule 6(6) Party)**

Dr Sam Fowles, Barrister  
Cornerstone Barristers

Instructed by Chinnor and Sydenham  
Parish Councils

**He called**

Tara Glenn

Sydenham Parish Council

Councillor Alan Dixon

Chinnor Parish Council

Councillor Jackie Webb

Chinnor Parish Council

Councillor David Cooke

Chinnor Parish Council

Councillor Maggie Mackenzie

Chinnor Parish Council

Councillor Julie Boyle

Chinnor Parish Council

**Interested Persons**

Michael Stubbs  
Dip.TP MSc PhD MRTPI

Planning Advisor  
Chilterns Conservation Board

Maureen Dyroff

Local resident and representative from  
Chinnor and Thame Friends of the Earth

James Baker obo Mrs Ali Anning

Local resident

Sue Locke obo Mr and Mrs Watkinson

Local resident

Lee King

Local resident

Maxine Pickard

Local resident

Chris Maguire

Local resident

Ali Gordon Creen

Local resident and District Councillor

Simran Sarai

Local resident

David Wales

Local resident

Brian Fagan

Local resident

**ADDITIONAL CONTRIBUTORS TO THE ROUND TABLE SESSION ON  
CONDITIONS AND/OR OBLIGATIONS**

James Smith

Solicitor - Gleasons Land

Cathie Scotting

Major Applications Team Leader – South  
Oxfordshire District Council

Sarah Commins

Solicitor – South Oxfordshire District Council

Geoffrey Arnold

Transport Lead Officer – Oxfordshire County Council

Judith Goodwin

Senior Transport Planner - Oxfordshire County Council

Judith Coats

Infrastructure Funding Team Lead - Oxfordshire County Council

## **ANNEX B: DOCUMENTS SUBMITTED AT THE INQUIRY**

ID1 - Appellant's Opening  
ID2 - Hallam Land Judgment  
ID3 - Hallam Land Note  
ID4 - Affordable Housing Review Errata  
ID5 - Affordable Housing Review Errata Tracked Changes  
ID6 - LPA Opening  
ID7 - Rule 6 Opening  
ID8 - Thames Water Statement for SODC in relation to Land west of Thame Road Chinnor  
ID9 - Statement of Mrs Ali Anning  
ID10 - Statement of Mrs LM King  
ID11 - Statement of Ms Maxine Pickard  
ID12 - Petition  
ID13 - Statement of David Wales  
ID14 - Design Guidelines for Development Near Overhead Lines (extract)  
ID15 - Historic OS Map  
ID16 - APP/Q3115/W/22/3296251 Land off Papist Way, Cholsey Decision  
ID17 - OCC Update regarding service 320  
ID18 - Statement of Maureen Dyroff on behalf of Chinnor and Thames Friends of the Earth  
ID19 - Approx CIL calculation SODC (12 Oct 2023) v2  
ID20 - Approved-Reviewed-South-CIL-spending-strategy-April-2021  
ID21 - Photographs  
ID22 - Train timetable  
ID23 - Statement of Mr Brian Fagan  
ID24 - Further Statement of Mr Brian Fagan  
ID25 - Email from Unity Health  
ID26 - CQC Cross Keys 2018  
ID27 - CQC Unity 2020  
ID28 - Section 106 List Chinnor SODC  
ID29 - Section 106 List Chinnor OCC  
ID30 - Email from Mr Brian Fagan to Chinnor Parish Council  
ID31 - Letter from Chinnor Parish Council to Thames Water  
ID32 - Correspondence from Sally Baldwin  
ID33 - APP/P1425/W/23/3314192 Appeal Decision  
ID34 - APP/P1425/W/23/3314192 Site Location Plan  
ID35 - APP/P1425/W/23/3314192 Zoned Development Plan  
ID36 - Agreed Housing Supply vs Requirement Note  
ID37 - Statement of Consultation  
ID38 - Closing Submissions on behalf of the Rule 6 party  
ID39 - SODC's Closing Submissions  
ID40 - Appellant's Draft Closing Submissions  
ID41 - Appellant's Closing Submissions as amended  
ID42 - s106 Update Note for the Inspector  
ID43 - Note for Councils on proposed s106 mechanism  
ID44 - Link Park Heathrow LLP v Secretary of State for Levelling Up Housing and Communities  
ID45 - Chinnor Neighbourhood Plan Review II Update (a)  
ID46 - Chinnor Neighbourhood Plan Review Final Report  
ID47 - Chinnor Neighbourhood Plan Review II Update (b)  
ID48 - email (dated 8 November 2023) from SODC indicating engrossment of s106 by 24 November