



Appeal Decision

Inquiry held on 18-19 June 2024

Site visit made on 18 June 2024

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16/07/2024

Appeal Ref: APP/D3125/W/23/3333790

Land South East Of Oxford Hill, East Witney, Oxfordshire, OX28 3SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by The Mawle Trustees and Trustees of Northfield Life Interest against the decision of West Oxfordshire District Council.
 - The application Ref is 20/02654/OUT.
 - The development proposed is Outline planning application (with all matters reserved except access) for the erection of up to 450 dwellings together with associated open space and green infrastructure (Amended).
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Decision

1. The appeal is allowed and planning permission is granted for an outline planning application (with all matters reserved except access) for the erection of up to 450 dwellings together with associated open space and green infrastructure (Amended) at Land South East Of Oxford Hill, East Witney, OX28 3SU in accordance with the terms of the application, Ref 20/02654/OUT, subject to the conditions in the attached schedule at Annex 1.

Preliminary Matters

2. The appeal has been made in outline form with all matters reserved except access. An indicative layout has been provided and I have had regard to this in reaching my decision.
3. The description of development on the decision notice differs from that of application form in that that the proposed development has altered from 'up to 495 dwellings and land for a community hub' to 'up to 450 dwellings'. The change in description has been agreed between the parties during the original determination process. Accordingly, I have utilised the decision from the decision notice as it reflects the proposal that is before me.
4. Given the size of the proposed development the appeal was accompanied by an Environmental Statement as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
5. A Case Management Conference (CMC) was held on 18 April 2024 to discuss the arrangements for the smooth running of the Inquiry.
6. Following the CMC, the Council and the appellant submitted a Statement of Common Ground (SoCG) on 13 May 2024 which indicated that the parties were no longer in dispute on any of the reasons for refusal set out in the decision notice. As a consequence, the Council indicated that it would not be presenting

any evidence, calling formal witnesses, submitting proofs of evidence to the Inquiry or undertaking any cross-examination. The Council also confirmed that its statement of case for the appeal was withdrawn.

7. As a result, a second CMC was held on 7 June 2024 which discussed amendments to the arrangements for the Inquiry. As a result, the Inquiry proceeded on the basis of Round Table Sessions focussing on the main issues and other planning matters.
8. Since the original determination of the appeal in May 2023, the Government has published a revised National Planning Policy Framework (the Framework) in December 2023 and I have had regard to the latest version in reaching my decision.
9. A draft legal agreement was submitted to the Inquiry on 19 June. This secures a number of planning obligations and I discuss these later in my decision and I have taken this into account.
10. On the final sitting day of the Inquiry the parties agreed that following the close of the Inquiry, further time was required to allow for the final completion and signing of the legal agreement. A final signed version of the legal agreement was submitted on 8 July 2024.

Main Issues

11. The Council's Reasons for Refusal on the Decision Notice indicated the development would fail to secure sufficient biodiversity Net Gain (BNG) and failure to secure sufficient contributions to local infrastructure including transport and affordable housing. However, these matters are addressed through the submission of the Section 106 agreement, and consequently, I deal with them elsewhere in my decision.
12. Therefore, in light of the above position between the main parties, I consider main issues in this appeal are:
 - Whether the proposal would provide a comprehensive development of the site; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Comprehensive development

13. The appeal site comprises two areas of land, firstly an extensive area of agricultural land to the south of Oxford Hill referred to as 'Site A', and a second smaller area of land off Stanton Harcourt Road referred to as 'Site B'. Both areas of land are allocated as a Strategic Development Area for residential development of about 450 dwellings by Policy WIT1 of the West Oxfordshire District Local Plan (2018) (the WODLP).
14. Policy WIT1 of the WODLP sets out the context and requirements for the site to come forward for development. Criterion (b) of Policy WIT1 includes the requirement for a comprehensive development to be led by an agreed masterplan. The Council indicated that it originally intended to prepare a masterplan for the allocation and that this would be adopted as a

Supplementary Planning Document (SPD). However, the Council confirmed during the Inquiry that an SPD was no longer being progressed.

15. The appeal proposal has been made in outline and is accompanied by an illustrative masterplan. The proposal also includes a number of parameter plans which identify the land use of particular parts of the sites, landscaping, the proposed density of different parcels, building heights and key access and movement linkages within and beyond the sites. I am satisfied that the plans, taken collectively, would provide sufficient clarity as to how the sites can come forward for development in a comprehensive manner.
16. There is no disagreement between the parties that the parameter plans, when taken together, provide a framework to manage how the appeal proposal can come forward in a comprehensive manner. The parameter plans could be subject to a planning condition to ensure that future reserved matters accord with them. This would provide sufficient control over the development on the basis that the details would be addressed through the submission of future reserved matters. The illustrative masterplan demonstrates how, based on the submitted parameter plans, a comprehensive scheme could be developed on the appeal sites.
17. In light of the above, I conclude that the proposal would provide a comprehensive development of the site. It would therefore accord with Policy WIT1(b) of the WODLP which requires land to the east of Witney to accommodate a sustainable integrated community with a comprehensive development to be led by an agreed masterplan.

Character and appearance

18. The largest part of the site referred to on the plans as 'Site A' is a large area of agricultural land which slopes downwards towards the south west where it abuts existing residential development at Eton Close and Blakes Avenue. The second part of the site, referred to as 'Site B' is a smaller and largely flat area of agricultural land off Stanford Harcourt Road.
19. Site A is bordered by highly verdant hedge boundaries interspersed with mature trees. Although there is some visibility into the site for those travelling along the adjacent A40 to the south east of the site, there is very limited visibility into the site from along Cogges Hill Road and Oxford Hill. Within Site A, there are few internal field boundaries and as a result, the site feels distinctly open in terms of its character, albeit there is a sense of containment due to the extensive boundary vegetation.
20. Site A is bisected by a number of Public Rights of Way (PROW) with PROW no. 410/8/10 running broadly along the northern boundary of the site, from which transient views are possible across the site and north towards Oxford Hill. Views from this PROW would change with residential development coming in closer proximity. However, views of some of the retained agricultural land within the higher ground within site would remain which would serve to provide a sense of walking through countryside. The change in gradient of the site would limit views of the proposed residential development broadly towards the south-west as these would be sited significantly lower down on the site. As such, the visual effect of the proposed residential development from PROW 410/8/10 would be limited.

21. PROW 410/41/20 would no longer be wholly within agricultural land post-development and its character would change with a further section becoming a pathway through a residential development. Therefore, whilst there would be a change character of this part of the PROW, it would only affect a relatively short length of the PROW and would be consistent with the remainder of the right of way which passes through built development as it heads west through adjacent residential areas. Furthermore, as the proposed landscape mitigation becomes established, the character of this PROW outside of the residential element of the proposal would recover. There would also be consequential enhancements to the network beyond the site as part of the wider green infrastructure proposals. Therefore, whilst there would be a change to the character of the area during development, in the longer term the effects of this change would be limited.
22. The submitted land use parameter plans show that the majority of residential development on Site A would be located towards the southern and western parts of the site. The Council had previously raised concerns that the extent of proposed residential development above the 95 metre topographic contour would adversely affect the character of the area. Although the appeal proposal would result in some residential development above this contour level, the density parameter plans indicate that a proportion of this would be developed at up to 37 dwellings per hectare. This reduced density compared to the majority of Site A, combined with the reduction in building heights would serve to limit the visual effect of the dwellings proposed above the 95 metre contour. If no development were to take place above the 95 metre contour, it is likely that a denser form of development would be required across the remainder of Site A to achieve the amount of development envisaged by the site allocation. There are no requirements within Policy WIT1 to restricting built development below this contour level, and I find that the proposal would not conflict with the policy in this regard.
23. The submitted building heights parameter plan indicates that the proposed residential development on Site A above the 95 metre contour would be limited to 2 storeys in height. The graduation in the height of the proposed dwellings with taller properties directed to the lower parts of the site would also contribute to minimising the visual impact of dwellings in the topographically higher parts of the site by reducing their prominence. Control over building heights could be addressed by securing the parameter plan via a planning condition, and subject to such a condition, the proposal would avoid harm to the landscape due to building height.
24. The appeal proposal would include significant areas of structural landscaping and the submitted landscape parameter plan indicates that within Site A significant tree and hedge borders would be retained along with additional planting. This planting, combined with the proposed siting of areas of public open space would also ensure that hedges which are important landscape features within Site A are retained. Furthermore, the retention and enhancement of existing hedgerows within Site A would also provide some visual separation to the different parcels of land identified for residential use, as well as enabling the connectivity of Green Infrastructure within the site to the retained farmland beyond.
25. The extent of residential development proposed will undoubtedly result in a change to the landscape character of the area. A change in landscape character

from agricultural land to residential would be expected through the identification of the site as an allocation in the WODLP. However, I find it is necessary to ensure that future reserved matters accord with the submitted parameter plans in order to avoid harm to landscape character.

26. Site B would include a smaller area of residential development adjacent to the existing residential development at Stanton Harcourt Road. This part of the proposal is open agricultural land with a dense tree and hedge boundary along Stanton Harcourt Road, albeit some longer views are possible across towards the A40. The proposal would extend residential development closer to the A40 than currently present but would not extent significantly beyond the development on the opposite side of the road at Eton Close. The landscape parameter plan indicates that there would be significant additional woodland planting to the south and west of this parcel of land, and over time, as this becomes more established, the residential development would become screened from views from either Stanton Harcourt Road or the A40. As a result, it would therefore not have an adverse effect on the character or setting of this part of Witney.
27. Collectively, I find that the parameter plans would provide sufficient control over the proposed development which would avoid harm to landscape character. The site characteristics would provide a significant amount of visual containment to the proposed residential development and I find that the scheme would be able to be accommodated within the landscape without harmful effects.
28. In conclusion, the proposal would not result in harm to the character and appearance of the area. It would therefore accord with Policies OS2, OS4, EH2 and EH5 of the WODLP which collectively seek to conserve and where possible enhance the character of the local landscape, contribute to improvements to open space, conserve and/ or enhance the special character and distinctiveness of West Oxfordshire's historic environment.
29. The proposal would also accord with the West Oxfordshire Design Guide Supplementary Planning Document (2016) which seeks, amongst other things, at section 11.3 to ensure that local character is respected or strengthened.
30. The proposal would also accord with paragraph 135 of the Framework which seeks to ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Other Matters

31. The Council's Reasons for Refusal identified the potential for harm to views of the Grade 1 Listed St. Mary's Church, Witney, a designated heritage Asset. The spire of the Church can be seen in the distance from the eastern extent of Site A, although due to the sloping of the land down towards the existing residential development at Eton Close, the gradient would not result in any significant interruption of views from the proposed residential development.
32. A key view of St. Mary's Church can be found from the bridge over the A40 looking over Site B. However, the recent installation of suicide prevention measures on the bridge filter the views of the Church. The indicative masterplan shows a limited amount of the proposed residential development at Site B would be visible in the foreground from this view and the proposed

woodland planting between the A40 and the residential element of Site B would result in the scheme effecting a very limited change to this key view, and not at a level that would be harmful. However, as the masterplan is indicative, in order to ensure no harm would arise when future detailed reserved matters are submitted, a condition could be imposed directing that built development on Site B is restricted to the area shown on the masterplan.

33. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the building or its setting, to which I attached considerable importance and weight.
34. In light of the above, and subject to the aforementioned condition, I find that the proposal would have a neutral effect on St. Mary's Church and thereby preserve its setting. The proposal would therefore comply with Policies EH9, EH11 and EH13 of the WODLP which seek to conserve the settings of designated heritage assets and pay particular attention to the degree to which the form and layout of development will respect pre-existing historic character.
35. Concerns have been raised regarding the impact of the proposal on wastewater treatment capacity at the Witney Wastewater Treatment Works (WWTW). Thames Water has indicated in correspondence in 2020 that the foul water network infrastructure required improvements and conditions were required to address this. As such, conditions are necessary to ensure that occupation of the proposed dwellings is limited until upgrades to the wastewater network take place. Whilst concerns have been raised regarding the inclusion of the Witney WWTW in an assessment of its operation in relation to the release of untreated sewage, this is a matter outside the control of this appeal. I deal with the points relating to a proposal for a Grampian-style condition to address wastewater below along with the remainder of the proposed conditions.

Planning Obligation

36. As set out above, the Council identified that the appeal proposal would not, at the time it made its decision, secure the necessary infrastructure to support the development or the securing of sufficient biodiversity net gain. However, this was as a result of a legal agreement not being completed by the time the scheme was determined.
37. The submitted legal agreement made under section 106 of the Town and Country Planning Act (1990) would secure 40% of the proposed dwellings as affordable housing, along with 23 plots for custom and self-build dwellings, a contribution of £56,700 community and culture contribution, £388,800 health and social care contribution, £33,711 Lower Windrush Valley Project contribution, £805,500 Outdoor Pitch provision contribution, £20,000 contribution for upgrades to the Eton Close play park, £195,494 Sports Hall Provision contribution, £215,806 Swimming Pool Contribution.
38. Further contributions of £11,876 would be made towards cycle parking stands, £1,501,650 towards Highway Works 1 (A40 corridor infrastructure programme) contribution, £6,638,000 Highway Works 2 (A40 corridor infrastructure programme) contribution and £659,919 towards Highway Works 3 (B4022 Oxford Hill / Jubilee Way / Cogges Hill Road Junction upgrade). Contributions of £42,282 would be made Household Waste and Recycling Centres, £257,421 library contribution, £55,000 Public Rights of Way contribution, £607,500 Public

Transport Contribution, £269,223 Special Educational Needs and Disabilities (SEND) contribution, £3,652 Traffic Regulation Order Contribution, £3,110 Travel Plan Monitoring Fee Contribution. Further obligations are also required in order to safeguard land for the A40 Off-slip improvements.

39. Concerns have been raised by interested parties regarding the Planning Obligation in relation to the Shores Green Slip Road (Inquiry document No.3) who consider contributions should be sought from the appeal development towards the on-slip as well as the off slip to the A40. However, Oxfordshire County Council confirmed that they had assessed this request and concluded it was not necessary to make the appeal proposal acceptable and a contribution was not sought. There is no evidence before me that contributions towards the on-slip are therefore required.
40. During the Inquiry, the parties identified two areas of disagreement in relation to provisions within the submitted draft legal agreement which I deal with below.
41. The submitted legal agreement includes an obligation for a highway works bond sum of either £6,649,948 or £8,432,273 which is subject to a Blue Pencil clause to secure payment for the abovementioned Highway Works 2 (A40 Shores Green Improvement Scheme) Contribution. Oxfordshire County Council (OCC) confirmed it has chosen to forward fund a number of highway improvements ahead of the agreed trigger in the S106 in order to meet the spending requirements of government funding to support infrastructure projects in the County. However, the trigger within the legal agreement is agreed as the point at which the obligation is necessary to make the development acceptable in planning terms. The higher bond amount reflects OCCs calculated interest payments over a longer period than would otherwise be required due to the commitment to forward fund the works to the A40 Shores Green Slip. I do not find this approach to be sufficiently justified as necessary to make the development acceptable as it is borne of other factors outside the control of the developer. As such, the higher figure within the definition of the bond sum in the legal agreement is not accepted and the lower bond sum amount of £6,649,948 shall be adopted by the parties.
42. The submitted legal agreement includes a requirement for land for Biodiversity Net Gain (BNG) mitigation and enhancement also within the appellant's ownership show edged in blue to the west of Site B bound into the S106 agreement. This land is necessary to make the development acceptable and is expressly referenced at paragraph 6.6 of the appellant's Baseline Ecology Report which references two specific off-site areas which the report states 'will be used for significant biodiversity enhancements as part of the proposal'. Whilst I note that the appellant considers that this land should not be bound into the agreement at this time to provide flexibility on the precise area to be secured as part of future Reserved Matters applications, the areas in question has been clearly highlighted by the appellant for that purpose. There is clear evidence before me of the benefits arising in these specific locations as set out in the Baseline Ecology Report. Therefore, it is necessary for these benefits to be secured by the legal agreement.
43. Whilst the appellant's have indicated that adopting this approach would not provide sufficient flexibility for future consideration and was not necessary in the context of the imposition of a negatively worded condition 16, there is

insufficient justification for the need for flexibility in light of the clear evidence in the Baseline Ecology Report. Should justification for alterations to the off-site mitigation land be required in future, there are other mechanisms open to the parties to address this matter.

44. Having regard to the evidence before me including the Council's Community Infrastructure Levy (CIL) compliance statement, notwithstanding the points above in relation to the bond amount and the binding of the off-site BNG mitigation land, I am satisfied that the rest of the submitted legal undertakings are necessary to make the development acceptable, are directly related to the proposal and fairly and reasonably related in scale and kind to the development. As such, they would accord with the requirements of paragraph 57 of the Framework and Regulation 122 of the CIL Regulations (2010).
45. As the legal agreement would secure the necessary infrastructure to support the development, affordable housing, sport and leisure, public transport, highways improvements schemes, education, waste and secure BNG, I am satisfied that the Council's third and fourth reasons for refusal are addressed and the proposal would accord with Policies H3, EH2, EH3, EH4, EH5, T1, T2, T3, OS5, WIT1 and WIT6 of the WODLP.

Conditions

46. I have considered the conditions included in the schedule which were discussed and updated following a round table session during the Inquiry against the tests set out at paragraph 56 of the Framework, only including those which meet those tests subject to any minor amendments for clarity, consistency and enforceability. The schedule has also been renumbered to reflect the draft schedule included an erroneous condition reference. There are also a number of pre-commencement conditions necessary which the appellant has agreed as required by the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
47. In addition to the standard time limit for the commencement of the development and the submission of the remaining reserved matters, a condition is required to require that the development be carried out in accordance with the submitted parameter plans. Condition 6 is required in order to ensure that Site B is suitably controlled to ensure the existing views of St. Mary's Church are maintained.
48. Condition 8 is necessary in order to ensure that the scheme secures appropriate provision of pedestrian and cycle routes.
49. Condition 9 is required to secure the provision of a landscape delivery strategy to support the comprehensive development of the Site A.
50. Condition 10 is required to secure a Construction Environmental Management Plan for biodiversity (CEMP-B) in order to ensure that protected and priority species and habitats are safeguarded.
51. In order to ensure that the proposal would not result in any risk of flooding elsewhere, conditions 11 and 19 required in order to secure a detailed surface water drainage scheme for each phase and records of the Sustainable Drainage Systems (SuDS) put in place.

52. In the interests of archaeology, conditions 12 and 13 are necessary which require a written scheme of investigation, and subject to the outcomes of such an investigation, to secure a programme of evaluation and mitigation.
53. In the interests of human health, conditions 13 and 14 are required to ensure any contamination on site is identified and appropriately remediated and condition 20 is necessary to limit occupation until any remediation has been carried out.
54. In the interests of highway safety, condition 15 requires the submission and approval of a Construction Traffic Environmental Management Plan (CTMP) to mitigate the effects of construction vehicles on the local highway network.
55. Condition 16 is required in the interests of biodiversity to secure the details of appropriate BNG.
56. In the interests of the living conditions of nearby residents, conditions 17 and 29 are necessary for the submission and approval of a Construction Environmental Management Plan (CEMP) and limiting the hours of work.
57. In order to protect local wildlife, condition 18 is required to prepare and adhere to a Landscape and Ecology Management Plan (LEMP).
58. Condition 21 is required to ensure that the necessary upgrades to the waste water network have been completed or an appropriate phasing plan for their upgrade has been secured. Interested parties raised concerns that there is currently insufficient capacity in the waste water network to accommodate the appeal proposal and suggested a 'Grampian style' condition to restrict development until such time as capacity was available. However, there was no clear evidence presented to the Inquiry that the development should be restricted in this way. Nonetheless, condition 21 is still necessary in order to ensure development is suitably controlled to coincide with future upgrades to the waste water network.
59. Condition 22 is necessary to reflect the need for enhancements to the water supply network.
60. Condition 23 is necessary to ensure that safe and suitable access to the site is secured and to support walking and cycling and opportunities for sustainable travel. For the same reasons, conditions 24 and 25 are necessary to provide a residential travel plan for the scheme and a travel information pack for future occupants of the proposed dwellings.
61. In order to protect nocturnal wildlife, condition 26 is necessary to secure a lighting design strategy to identify sensitive wildlife and provide details of the lighting to be installed.
62. In the interests of minimising the effect of the development on climate change, condition 27 is necessary to secure a climate change and energy statement.
63. In order to ensure the proposal would not result in harm to the living conditions of future occupiers, condition 28 is necessary to provide details of mitigation measures to ensure acceptable internal and external noise levels.
64. Condition 29 is also required to restrict hours of work to prevent unacceptable harm to the living conditions of neighbouring occupiers of the development.

65. Condition 30 requires a landscape delivery strategy for the site and is necessary in order to ensure the comprehensive development of Site A, support wildlife and biodiversity and minimise impacts on climate change.
66. A number of other conditions were suggested by the parties in Inquiry Document Number 4 relating to pedestrian and cycle routes, a 3 metre wide shared use pedestrian/ cycle path, and conditions relating to re-routing and maintenance of Public Rights of Way and proximity of development in relation to new woodland planting. However, in light of the revisions made to the legal agreement during the Inquiry which secure the delivery or contributions towards their completion, these are not necessary and are therefore not imposed.

Conclusion

67. As set out above, I find that the proposal would not result in harm in relation to securing a comprehensive development. Whilst the proposal would undoubtedly alter the landscape through the change to residential development, the submitted parameter plans which would be secured via condition would provide sufficient controls over the use of land, buildings heights, the location of development and access and movement in order to avoid harm to landscape character. Subject to a condition in respect of Site B, it would also preserve the setting of a designated heritage asset.
68. The proposal would offer a number of benefits including the provision of housing, and notably due to the scale of the proposed development, a significant amount of affordable housing. Environmental benefits would arise through the proposed biodiversity net gain. Economic benefits would arise through the construction jobs created by the proposed development and in the accompanying materials supply chain. Social benefits would also arise through future occupiers utilising local services and facilities and contributing to community activities.
69. The appeal proposal would comply with the policies requiring comprehensive development and which seek to protect the character and appearance of the area. Having regard to the obligations that would be secured by the legal agreement, the proposal would also accord with policies that seek to secure infrastructure to support the development, affordable housing, sport and leisure, public transport, highways improvements schemes, education, waste and biodiversity. The proposal would thereby accord with the Development Plan when read as a whole.
70. There is no disagreement between the parties that the Council cannot currently demonstrate a 5 year supply of housing land as required by the Framework. However, paragraph 11(c) of the Framework indicates that proposals that accord with an up-to-date development plan should be approved without delay. I conclude that the proposal would accord with the Development Plan and that there are other considerations set out above which also significantly weigh in its favour.
71. For the reasons given above I conclude that the appeal should be allowed.

Philip Mileham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Reed KC – Counsel for the appellant
Mr Matthew Tucker – Senior Associate, Burges Salmon
Mr Tom Gray – Solicitor, Burges Salmon
Mr James Mawle – Director, The Mawle Trustees and Trustees of Northfield Life Interest
Mr Steven Sensecall – Partner, Carter Jonas
Ms Clare Brockhurst – Director, Leyton Place Limited
Dr Peter Shepherd – Director, BSG Ecology
Mr Steven Roberts – Associate Partner, Carter Jonas
Mr Mike Brian – Associate (Transport and Highways), Glanville Group

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alexander Greaves - Counsel for the Local Planning Authority
Mr Chris Wood – Senior Planning Officer (Appeals), West Oxfordshire District Council

INTERESTED PARTIES:

Mr Geoff Tombs – Windrush Against Sewage Pollution (WASP)

THE FOLLOWING ADDITIONAL PARTICIPANTS IN ROUND TABLE SESSIONS FOR PROPOSED PLANNING CONDITIONS AND LEGAL AGREEMENT

Mr Rashid Bbosa – Oxfordshire County Council - Senior Transport Planner
Ms Judith Coats – Oxfordshire County Council – Infrastructure Funding Team Leader

DOCUMENTS

1. Opening Submissions on behalf of the Local Planning Authority
2. Opening Submissions on behalf of the appellants
3. Response to Oxfordshire County Council's Regulation 122 Compliance statement submitted onto the Planning Portal and dated 4 April 2024 regarding s106 transport infrastructure - Landowners to the south of the A40 whose land is required to construct the Shores Green Slip Road ON-slip – Landowners Kearns, Walker and Morrish
4. List of additional or replacement conditions
5. Updated schedule of draft Planning Conditions
6. Updated draft tripartite S106 agreement
7. Note to Inspector prepared by Oxfordshire County Council relating to the bond amount
8. Closing submissions on behalf of the Local Planning Authority
9. Closing submissions on behalf of the appellants
10. Signed S106 agreement

Annex 1 - Schedule of Planning Conditions

- 1 Development shall not commence on any phase of the development hereby approved until details of the appearance, landscaping, layout and scale (herein called "the reserved matters") for that phase of the development have been submitted to and approved in writing by the Local Planning Authority and thereafter that phase of the development shall be carried out as so approved.
 - 2 The first application for the approval of the reserved matters for the first phase of the development shall be made before the expiration of three years from the date of this permission.
 - 3 Applications for the approval of all remaining reserved matters shall be made no later than five years from the date of commencement of the first phase of development.
 - 4 The development hereby permitted shall be begun not later than whichever is the later of the following dates:
 - i) 5 years from the date of this permission: or
 - ii) 2 years from the date of approval of the last reserved matters application to be approved.
 - 5 The development hereby permitted, including any phase of that development, shall be carried out in accordance with the following plans, including provision of the multi use games area, as hereby approved:
 - Site Location Plan ref. J0024597_V2_008
 - Land Use Parameter Plan ref. J0024597_012_V8
 - Building Heights Parameter Plan ref. J0024597_010
 - Density Parameter Plan ref. J0024597_011
 - Access and Movement Parameter Plan ref. J0024597_09
 - Landscape Parameter Plan ref. J0024597_013_V8
 - Proposed Site Access Cogges Triangle ref. 8181094/6100 Rev G
 - Proposed Site Access Land Adjacent to Stanton Harcourt Road ref. 8181094/6101 D
- except as controlled or modified by conditions of this permission.
- 6 Development on 'Site B' shall be carried out broadly in accordance with the Illustrative Masterplan ref. J0024597_006_V8 and in particular no part of any dwelling, garage, access drive or residential curtilage shall extend beyond the built area shown on the Illustrative Masterplan.
 - 7 The development hereby approved, including any phase of that development, shall be carried out in accordance with the mitigation measures as set out in the BSG East Witney Strategic Development Area Ecological Baseline Report (incorporating proposals to achieve Biodiversity Net Gain and deliver enhancements to the Windrush Valley), issue date 18 January 2023.

- 8 Development shall not commence until a site wide standard specification for the pedestrian and cycle routes on the application site as identified on the Access and Movement Parameter Plan, drawing no. J0024597_09 has been submitted to and approved in writing by the Local Planning Authority. The standard specification shall set out the phasing and overarching design principles of the works to provide or improve the pedestrian and cycle routes and shall include details of the width of routes, surfacing, lighting, and any margin between the route and any means of enclosure.

Each reserved matters application shall demonstrate compliance with the approved standard specification and the pedestrian and cycle routes in the relevant phase shall be provided / improved in accordance with the details so approved.

- 9 No development shall commence until a landscape delivery strategy ("the Landscape Delivery Strategy") for the landscape works identified on the Landscape Parameter Plan, drawing no. J0024597_013_V8 (including the locally equipped area for play and the multi-use games area) has been submitted to and approved in writing by the Local Planning Authority.

The submission of all reserved matters and the implementation of the development of the northern site shall be carried out in accordance with the approved Landscape Delivery Strategy.

- 10 Development shall not commence in any phase (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP-B) for the relevant phase has been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:

- i. Risk assessment of potentially damaging construction activities;
- ii. Identification of 'biodiversity protection zones';
- iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
- v. Precautionary working method statement for the following species: dormice;
- vi. The times during construction when specialists ecologists need to be present on site to oversee works;
- vii. Details of the storage of equipment, waste and materials;
- viii. Responsible persons and lines of communication;
- ix. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
- x. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period; and
- xi. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP-B shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 11 Development shall not commence in each phase until a detailed surface water drainage scheme for the relevant phase has been submitted to and approved in writing by the Local Planning Authority.
The scheme shall be subsequently implemented in accordance with the approved details.

The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
 - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - A Flood Exceedance Conveyance Plan;
 - Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
 - Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
 - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
 - Details of how water quality will be managed during construction and post development in perpetuity;
 - Confirmation of any outfall details.
 - Consent for any connections into third party drainage systems
- 12 Development shall not commence in each phase, until a professional archaeological organisation acceptable to the Local Planning Authority has prepared an Archaeological Written Scheme of Investigation for the relevant phase which has been submitted to and approved in writing by the Local Planning Authority.
- 13 Development shall not commence in each phase (other than in accordance with the Written Scheme of Investigation approved under Condition 11), until a staged programme of archaeological evaluation and mitigation for the relevant phase has been carried out by the commissioned archaeological organisation in accordance with the Written Scheme of Investigation approved under Condition 11. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.
- 14 Development shall not commence in each phase until a site investigation of the nature and extent of contamination, as identified in the Phase 1 Environmental Assessment, reference 26578-RP-IF003, has been carried out for the relevant phase in accordance with a methodology which has first been submitted to and approved in writing by the local planning authority.

The results of the site investigation shall be made available to the local planning authority before development commences.

If any significant contamination is found during the site investigation, a Remediation Scheme shall be submitted to and approved in writing by the local planning authority prior to commencement of development.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 15 Development shall not commence in each phase until a Construction Traffic Management Plan (CTMP) for the relevant phase has been submitted to and approved in writing by the Local Planning Authority.

The approved CTMP shall be implemented prior to any works being carried out on site and shall be maintained throughout the course of the development.

- 16 Development shall not commence until details of a scheme to ensure the provision of Biodiversity Net Gain in accordance with the measures described in the BSG East Witney Strategic Development Area Ecological Baseline Report (incorporating proposals to achieve Biodiversity Net Gain and deliver enhancements to the Windrush Valley), issue date 18 January 2023 have been submitted to and agreed in writing by the Local Planning Authority.

The scheme will include a timetable for provision of the BNG within the Lower Windrush Valley and measures to ensure that the LPA has legal or other remedies to enforce against any shortfall in provision or future maintenance of any aspects of the agreed scheme, irrespective of any future change in ownership of any of the land relied on to provide the agreed BNG.

- 17 Development shall not commence in each phase until a Construction Environmental Management Plan (CEMP) for the relevant phase in respect to the protection of residential amenity and the local environment has been submitted to and approved in writing by the Local Planning Authority.

The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once submitted and approved the details contained in the plan shall be adhered to.

- 18 Prior to first occupation within each phase a Landscape and Ecology Management Plan (LEMP) for the relevant phase shall be submitted to and approved in writing by the local planning authority.

Thereafter, the LEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 19 Prior to occupation of the final dwelling in each phase, a record of the installed SuDS relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- (a) As built plans in both .pdf and .shp file format;
- (b) Photographs to document each key stage of the drainage system when installed on site;

- (c) Photographs to document the completed installation of the drainage structures on site;
- (d) The name and contact details of any appointed management company information.

- 20 Prior to occupation of development in each phase, the Remediation Scheme, as approved under Condition 14, shall be fully implemented in accordance with the approved timetable of works and before the relevant phase of development is first occupied.

Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. Prior to first occupation in the relevant phase developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.

- 21 The development, including any phase of the development shall not be occupied until confirmation has been provided that either:
1. All wastewater network upgrades required to accommodate the additional flows from the development or that phase of the development have been completed; or-
 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow the development or that phase of the development to be occupied.

Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

- 22 No development, including any phase of the development shall be occupied until confirmation has been provided that either:
- all water network upgrades required to accommodate the additional flows to serve the development or that phase of the development have been completed; or –
 - a development and infrastructure phasing plan has been agreed with Thames Water to allow the development or that phase of the development to be occupied.

Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

- 23 The vehicular and pedestrian means of access between the land and the highway shall be constructed, laid out, surfaced, lit and drained in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority and all ancillary works therein specified shall be undertaken in accordance with the said specification before first occupation of the dwellings served by that access hereby approved.
- 24 Prior to occupation of the first dwelling in each phase a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter the Residential Travel Plan shall be delivered according to the approved details.

- 25 Prior to occupation of development in each phase, a travel information pack shall be submitted to and approved by the Local Planning Authority. All residents must be supplied with the approved travel information pack on occupation.
- 26 Prior to the installation of external lighting in any phases adjacent to, or including, the existing hedgerow corridor adjacent to Blakes Avenue, a lighting design strategy for biodiversity shall be submitted to and approved by the Local Planning Authority. The strategy will:
- (a) Identify the areas/features on site that are particularly sensitive for nocturnal wildlife;
 - (b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their commuter route.

All external lighting shall be installed only in accordance with the specifications and locations set out in the strategy.

- 27 Concurrent with submission of Reserved Matters for each phase, a Climate Change and Energy Statement shall be submitted to and approved in writing by the Local Planning Authority.

The statement shall be in accordance with the Sustainable Construction, Innovation and Renewable Technologies Assessment (XX-HML-XX-XX-RP-V-790001) and demonstrate how the development will make the fullest contribution to minimising carbon dioxide emissions and enhancing the sustainability credentials of the development, through a range of design, technological, landscape and ecological measures, in accordance with the following energy hierarchy:

- i) Be lean: use less existing energy;
- ii) Be clean: supply and use energy efficiently;
- iii) Be green: use renewable energy;

The development shall be implemented in accordance with the measures set out within the statement..

- 28 Concurrent with submission of Reserved Matters for any phase of the development, details of mitigation measures to ensure acceptable internal and external noise levels for all dwellings in that phase shall be submitted for approval in writing by the Local Planning Authority.

The mitigation measures shall be implemented in accordance with the details so approved prior to occupation of any dwelling in that phase.

- 29 Hours of work shall be restricted to 08:00 to 18:00 Monday to Friday and 08:00-13:00 on Saturday with no working on Sunday or Bank Holidays

- 30 No development of any part of the northern site shall commence until details of a landscape delivery strategy ('the landscape delivery strategy') for the whole of the northern site has been submitted to and approved in writing by the Local Planning Authority.

The approved landscape delivery strategy shall include but shall not necessarily be limited to:

- Hard and soft landscaping
- New tree planting
- Areas of public open space
- Other areas of amenity landscaping associated with the site
- Improvements to the public rights of way
- New publicly available routes through the site
- Details of when each part of the scheme will be delivered with reference to the delivery of different phases of development within the northern part of the site; and
- Future maintenance arrangements.

The submission of all reserved matters and the implementation of the development of the northern site shall be carried out in accordance with the approved landscape delivery strategy.

End of Schedule