



## Appeal Decision

Inquiry Held on 14 February 2023

Site visit made on 22 February 2023

**by S R G Baird BA (Hons) MRTPI**

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

**Decision date: 5<sup>th</sup> May 2023**

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### **Appeal Ref: APP/Q3115/W/22/3309622**

#### **Land off the B480, Chalgrove, Oxfordshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Limited against the decision of South Oxfordshire District Council.
  - The application Ref P22/S1381/O, dated 5 April 2022, was refused by notice dated 5 October 2022.
  - The development proposed is the erection of up to 160 dwellings including affordable housing, public open space, landscaping, a sustainable drainage system (SuDS) and vehicular access.
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#### **Decision**

1. The appeal is dismissed.

#### **Preliminary Matters**

2. The application was submitted in outline with all matters other than means of access reserved.
3. The application was refused for 5 reasons (RfR). These are, (1) conflict with the development plan, (2) adverse landscape and visual impacts, (3) inadequate information on below ground archaeology and (4 & 5) the absence of S106 Agreements relating to affordable housing (AH) and infrastructure. Prior to the inquiry opening, the local planning authority (lpa) confirmed that RfR 3, 4 and 5 would not be pursued.
4. The inquiry was adjourned to allow for the completion of a S106 Agreement with the lpa and Oxfordshire County Council (OCC). The inquiry was closed in writing on 24 February 2023. The Agreement provides for: 40% AH; allotments; landscaping/open space; creation of a management company and off-site highway improvement works. In addition, financial contributions would be made for: street naming; waste/recycling bins; primary, secondary and special needs education; public transport services and infrastructure; and administration/monitoring costs. The obligations have been reviewed in light of guidance contained in the National Planning Policy Framework (Framework) and Planning Practice Guidance (PPG). All are reasonable, necessary, and consistent with Regulation 21 of the Community Infrastructure Levy Regulations 2010 and as such have been taken into account.

## Main Issues

5. These are, (1) whether the lpa can demonstrate a 5-year supply of deliverable housing sites and (2) the effect on the character and appearance of the area.

## Development Plan

6. The development plan includes the South Oxfordshire Local Plan 2011-2035 adopted December 2020 (LP) and the made Chalgrove Neighbourhood Development Plan 2018 to 2033 (NP). Of the policies listed in the Planning Matters Statement of Common Ground<sup>1</sup>, the parties agree that the most important policies for determining this appeal are, LP Policies STRAT1, STRAT2, H1, H4 and ENV1 and NP Policy C1.
7. The emerging South Oxfordshire and Vale of White Horse Joint Local Plan 2021 to 2041 is an early stage of preparation. The parties agreed that the draft policies cannot be afforded any weight when determining this appeal.

## Reasons

### Housing Land Supply

8. Framework paragraphs 60 and 74 say that to support the objective of significantly boosting the supply of housing, lpa's are required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5-years' worth of housing against their housing requirement as set out in development plan policy.
9. The Framework Glossary defines Deliverable as sites that, amongst other things, have a realistic prospect of housing being delivered within 5 years. The Glossary identifies 2 types of sites, A and B. Here, consideration of Category A sites is not needed. Category B are sites that (a) have outline permission for major development, (b) are allocated in a development plan, (c) have a grant of permission in principle, or (d) are identified on a brownfield register.
10. The 5-year period for calculating the HLS is 1 April 2022 to 31 March 2027 and the requirement is 5874 dwellings. The lpa claims a deliverable supply of 6105 dwellings (5.2-years) whereas the appellant claims a supply of 4262 dwellings (3.63-years). The dispute relates to 8 Category B sites and the scale of the windfall allowance for small sites.
11. The Framework says that Category B sites should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years. PPG<sup>2</sup> expands on this requirement indicating that, "*...robust, up to date evidence needs to be available to support ...planning decisions*" and provides an open list of the type of evidence required. It is common ground that deliverability does not mean certainty or probability, rather it requires the demonstration of a realistic prospect of delivery, based on the exercise of planning judgment. That said, the use of words "*clear, robust and up-to-date*" demonstrates that the judgement on deliverability must be underpinned by a rigorous assessment based on clear articulated evidence.

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<sup>1</sup> 7 February 2023.

<sup>2</sup> Housing Supply and Delivery Paragraph: 007 Reference ID: 68-007-20190722.

### Sites Without a Planning Permission

12. *Bayswater Brook*. Located close to Oxford, this is a large site allocated in the LP (STRAT13) primarily to meet the housing requirement of Oxford City. Whilst the HLS trajectory shows this site contributing some 375 dwellings starting in Year 3, the appellant submits that it is unrealistic to say that any units would be delivered in the assessment period.
13. STRAT13 identifies significant known constraints including, a sensitive Oxford View Cone, on-site heritage and archaeological assets, proximity to a “fragile” SSSI<sup>3</sup> and an Ancient Woodland, highway capacity and the need for off-site improvements. STRAT13 requires delivery in accordance with a comprehensive Masterplan agreed in consultation with Oxford City Council and OCC.
14. The lpa have entered into a Planning Performance Agreement (PPA) with the site promoters, although, as a confidential document, no details were provided as to its coverage. Applications have been submitted, albeit later than the PPA envisaged. These are, a full application to Oxford City Council for substantial infrastructure works and a hybrid application for up to 1570 dwellings and a range of commercial and community uses, including works to Listed Buildings.
15. Whilst progress is being made on the delivery of the site, these are complex planning applications at an early stage for a site with significant planning and physical constraints. Although a draft Masterplan was consulted on in mid-2022, there is no indication that it has been agreed by the stakeholders. Whilst the lpa is currently consulting on the housing application, there is no indication of the nature of the responses, particularly from technical consultees, or progress on the application to Oxford City Council for the provision and implementation of the significant enabling infrastructure works. For a site of this scale and nature, the permissions will be subject to a comprehensive range of pre-commencement conditions and S106 Agreements.
16. There is no indication of what conditions would be attached to the permissions, the matters they would cover and when applications would be made to discharge them or an indication that draft S106 Agreements are acceptable. Given permission has yet to be granted, the suggestion that the first reserved matters applications would be received in early 2023 is overly optimistic. The lpa’s lead-in times for outline applications for sites of more than 500 units show that, on average, it takes some 76 months between the application being received to the first units appearing on-site. Although the lead developer has experience on delivering problem sites, given the above, the clear, robust evidence is not there to support a conclusion that there is a realistic prospect of delivery, and 375 units are discounted.
17. *Didcot Gateway*. This site is the subject of an outline application by Homes England for 111, mainly flatted units. The 2022 Position Statement identifies no in principle planning objections subject to further information on highways, surface water flooding, air quality, contaminated land and utilities. The lpa advised that outstanding urban design objections had been resolved and technical issues could be resolved through the imposition of pre-commencement conditions. The application is slated to be considered by the Planning Committee in March 2023. The HLS trajectory shows this site

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<sup>3</sup> Site of Special Scientific Interest.

contributing the 111 units in Year 5. The appellant submits that it is unrealistic to say that any units would be delivered in the assessment period.

18. As the development would be largely flats, it is reasonable to assume that completions would appear in a single monitoring year. It is normal for the concerns of technical consultees to be dealt with by pre-commencement conditions. However, there is no indication of the nature or scale of works required for the discharge of the pre-commencement conditions. Homes England is not the developer, rather the site would be marketed with the benefit of an outline permission. In these circumstances, the potential developer would need to assess what works would be required to discharge the pre-commencement conditions, which absent of any detail represents a significant unknown. Given the units are shown to the fall within Year 5, slippage in terms of site disposal and/or discharge of conditions could take delivery outside the assessment period. Based on this, the clear, robust evidence is not there to support a conclusion that there is a realistic prospect of delivery, and 111 units are discounted.

#### Sites Subject to a Resolution to Grant Permission

19. *Ladygrove East*. This site has been a development plan allocation since 1997, and an outline planning application was submitted in March 2019 for up to 750 units and approved in March 2022 subject to a S106 Agreement. The HLS trajectory shows this site contributing 237 dwellings starting in Year 3 - 2024/25 (18 units) with 87 in Year 4 and 132 units in Year 5. The appellant submits that it is unrealistic to say that any units would be delivered in the assessment period.
20. The 2022 Position Statement, whilst noting the developer's agreement to the S106 Heads of Terms, acknowledges that, "*...the site promoters have significant work ahead in order to sign the S106 Agreement and agree reserved matters applications, and discharge pre-commencement conditions.*" Although the S106 Agreement has not been signed and matters relating to open space, allotments, play area and a community centre are being discussed with Didcot Town Council, who would take on these facilities, the lpa anticipates granting permission in April 2023.
21. Notwithstanding the anticipation of a planning permission, there is no indication of the extent or nature of any pre-commencement conditions, or of the works needed to discharge them. Absent of this detail, I fall back to the lpa's July 2022 comment that the site promoters have significant work ahead. Nothing before me suggests that that position has changed. Similarly, I fall back on the lpa's lead-in times for outline applications, which, based on the likelihood of permission being granted in April 2023, would suggest that the first houses could appear on-site in Year 4. On this basis, it appears reasonable that the trajectory should be rolled forward a year and 132 units discounted.
22. *Land South of Newnham Manor*. The HLS trajectory shows this site contributing 100 units starting in Year 3. A hybrid application for 100 units and a school was submitted in late 2016, a resolution to grant permission was made in 2018 and again in December 2021. Although matters relating to open space provision via a S106 Agreement are not yet resolved, the lpa expect a permission to be granted in May 2023. The appellant submits that it is unrealistic to say that any units would be delivered in the assessment period.

23. Notwithstanding the submission that permission is imminent, the lpa submitted evidence to an inquiry<sup>4</sup> in August 2022 that a permission was expected to be issued in October 2022 and almost 6 months later the Agreement has not been signed. Whilst a single issue may be delaying the S106 Agreement, no further detail was provided by the lpa nor was there any indication of the extent and nature of the pre-commencement conditions and the requirements necessary to discharge them. Moreover, whilst the lpa indicated that it had agreement with the developer over the development trajectory, no detail confirming this was provided nor was the appellant's submission that "coming soon" details of the site did not appear on the developer's website challenged. Based on this, the clear, robust evidence is not there to support a conclusion that there is a realistic prospect of delivery, and 100 units are discounted.

Sites with Outline Planning Permission.

24. *North-East Didcot*. This is a substantial site being built-out by several house builders. The dispute here centres on build-out rates. The trajectory shows the lpa's assessment of build-out rates at 216 units per annum. The appellant indicates that this rate far exceeds average build-out rates for sites of this size (132 units) or suggested comparable sites that have been built-out.
25. The 132-unit build-out rate contained in the 2022 Position Statement is an average and some sites do deliver more units per annum. However, here absent of evidence from the developers and landowners promoting sites, the lpa has not provided the clear evidence necessary to support what appears to be an extremely optimistic build-out rate. On this basis, the average build-out rate of 132 units per annum should be used and the 5-year total should be discounted by 421 units.
26. *Wallingford Site E*. This is Phase 2 of an existing development where the dispute relates to build-out rates. The trajectory shows a total of 272 units in the assessment. As part of a larger site, the lpa would normally apply a build-out rate of 132 units per annum. However, the lpa's evidence indicates that the developers advised that this was optimistic and suggested a build-out rate of 86 units per annum. Whilst I would have liked to have seen documentary evidence of discussions with the developer over build-out rates, I have no reason to dispute the lpa's submissions. Moreover, given the developer is a volume house builder and is currently on-site with Phase 1, I have no reason to conclude that development will not continue. Accordingly, I have not discounted the projected contribution of this site.
27. *Land at Wheatley Campus*. The trajectory shows a total of 174 units in the assessment period starting in Year 4. This differs from the 2022 Position Statement that referred to 198 units delivered within the assessment period. The site is a substantial, operational university campus and although it is to be relocated, this will not happen until September 2024, at the earliest. In this context, the appellant submits that it is unrealistic to say that any units would be delivered in the assessment period.
28. Although outline planning permission was granted in April 2020, reserved matters applications have not been made and that permission is due to expire. An outline application for 500 units made in November 2022 remains undetermined. The lpa advise that the applicant has submitted a pre-

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<sup>4</sup> APP/Q3115//22/3296251. Land off Papist Way, Cholsey.

application enquiry for an reserved matters application to be submitted before April 2023 and is seeking to agree a PPA. No further information was provided. Whilst the trajectory has been informed by the applicant, the University, there is no known developer, who given the site will not be available until after September 2024 and extensive demolition is required, may have other ideas.

29. The lpa's confidence regarding implementation is based on the applicant, who is not a developer, continuing to progress the site. However, the lpa's position and delivery is contradicted by the Environmental Statement accompanying the November 2022 application, which refers to the first units being occupied post April 2027, outside the current assessment period. Based on this, the clear, robust evidence is not there to support a conclusion that there is a realistic prospect of delivery, and 100 units are discounted.
30. *Wallingford Site B*. This site is being developed over several phases. Phases 1 to 3 are either under construction or the subject of full planning permissions. Phases 4 to 6 have been the subject of pre-application discussions and the indication is that a single reserved matters application is to be submitted. Based on the manner the site has been developed, the lpa's assumptions for future development are reasonable and no units are discounted.

#### Windfall Sites Allowance

31. The dispute is over the scale of the allowance for minor sites. Framework paragraph 71 indicates that, "*Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends*". Regarding minor windfalls, the lpa's calculation is based on a review of completions from 2011 to 2021, which produces an adjusted figure of 154 units per annum. The lpa identifies a supply of 590 units with planning permission and assumes these will be developed by Year 3; the time period for implementing a permission. For Years 4 and 5, the lpa uses the adjusted annual average rate of 154 units to reach a total of 308 units. The appellant's approach takes the unadjusted average rate of 158 units per annum multiplying it by 5 and deducts the 590 units with permission. This would provide for 200 units to be added for Years 4 and 5.
32. Both approaches are plausible and have been used elsewhere to determine the contribution of windfalls to the HLS. On-balance, the lpa's approach is preferred in that it reflects the more permissive approach in the development plan, which widens the scope allowable infill developments and trends identified in the HLS Position Statement. Accordingly, no units have been discounted. That said, even if I am wrong, the impact this would make on the calculation of the 5-year HLS would not be significant.

#### Conclusion on the 5-year Housing Land Supply

33. The supply figure should be reduced by 1313 units to 4792 units. Based on an agreed annual requirement of 1175, the supply would be some 4.1-years<sup>5</sup>. Accordingly, the lpa cannot show a 5-year supply of deliverable housing sites.

#### Landscape and Visual Impact

34. One element of the LP overarching spatial strategy (STRAT1) is the protection and enhancement of the countryside. LP Policy ENV1 indicates that

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<sup>5</sup> This figure has been rounded-up to follow the approach adopted by the lpa and the appellant.

development will only be permitted where it protects and where possible enhances features that contribute to the nature and quality of the landscape.

35. Of the various published character assessments referred to, the most relevant is the South Oxfordshire Landscape Character Assessment November 2017. Here, the site is located within Landscape Character Area 3 – The Clay Vale (LCA). This LCA is subdivided into Landscape Character Types (LCT), where the site spans 2 LCTs, Undulating Semi-Enclosed Vale and Flat Floodplain Pasture. It is common ground that the site, comprising 2 parcels of arable land separated by a mature central tree belt with established tree belts of varying scale and maturity on most of the site boundaries is typical of the LCA 3 landscape and broadly representative of the localised LCTs. It is agreed that the site, for the purposes of Framework paragraph 174 is not a valued landscape or that development would adversely affect the setting of the AONB.
36. The appellant's Landscape and Visual Impact Assessment (LVIA) is robust and consistent with current good practice. The differences between the lpa and the appellant, particularly in relation to impacts, are narrow. Based on a range of descriptors, the LVIA<sup>6</sup> ascribes a Medium value to the quality, value and sensitivity of the site and its surroundings, albeit the appellant acknowledged<sup>7</sup> that those values could be at the upper end of Medium. The lpa, submits that the sensitivity of the site and its surroundings is Medium to High.
37. The LVIA Tables set out broad definitions relating to quality, value and sensitivity, which the lpa broadly agrees with. For each element, the bands of Medium and High overlap to allow for variations across a wider landscape designation. In terms of value, the LVIA does note that the southern part of the site is, "*of higher landscape value*" but concludes overall the site is of Medium landscape value. Given the central woodland block, the public footpath with views out over the Chalgrove Brook, the southern part of the site has more interest. Taking the above factors into consideration, which include the presence of the well trafficked B480 and housing to the north-west, the finding of a Medium to High landscape quality/value. The same approach applies to sensitivity, based on the above, landscape sensitivity falls within the Medium to High value.

#### Landscape Effects

38. Landscape effects are assessed at Year 1 and Year 15 based on the effect on trees/hedgerows, watercourses, public footpaths, land use within the site, landscape character of the site and surroundings and the wider landscape character. There is a large measure of agreement on the effect at Year 1 and Year 15. The differences largely relate to whether the effect would be negligible (appellant) or slight (lpa). The key differences come in relation to land use within the site, the landscape character of the site and the immediate surroundings. The appellant considers the whole site, whereas in assessing effect the lpa differentiate between the northern and southern parcels of the site. In terms of land use within the site and landscape character, there is agreement of a Moderate adverse effect at Year 15 for the southern parcel whilst the lpa submit that 15 effects would remain Substantial adverse for the northern parcel.

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<sup>6</sup> CD 1.5, Tables LE 1 – LE 3, Tables VE 1 & 2.

<sup>7</sup> X-Examination of Mr Self.

39. Both the lpa and the appellant agree that at Year 1 for land use within the site and the landscape character of the site the development would have a Substantial adverse effect. The difference is that the appellant indicates that by Year 15 the overall effects would reduce to Moderate adverse. The lpa, however splits the Year 15 effects between the northern and southern parcels indicating that the effects would remain Substantial adverse for the northern parcel. The lpa's assessment is based on the differences between the 2 parcels and the degree of urbanisation that would persist despite the establishment of the landscaping.
40. The northern part parcel is where the bulk of built development would be concentrated, and the development would be a significant extension of the village. Whilst there would be a fundamental change in land use and character from arable agricultural land to residential, that is not inconsistent in how Chalgrove as a linear village has developed in relation to its countryside setting. There is no reason why, the lpa cannot achieve through the approval of reserved matters applications a high-quality landscape scheme that builds on the scale and nature of existing planting, particularly on the B480 frontage and on the south-eastern boundary. Year 1 effects are in any scheme likely to result in Substantial adverse effects. Whilst the urbanising influence of the development along the B480 would persist, with careful execution and maintenance of the new planting, both of which the lpa can control through the suggested conditions, the landscape setting of the site like a good wine would improve over time resulting in the land use and landscape character effects at Year 15 being no higher than Moderate adverse.
41. The lpa also considers the landscape effects on openness, tranquillity, wildness and rurality concluding that at Year 15 for most the effect would be Slight adverse. Whilst I have no reason to disagree with those conclusions, in landscape effect terms they are not significant. In terms openness, the lpa submits that, as a result of the landscaping maturing, the effect would be Substantial adverse by Year 15. However, this approach is contradictory, both in terms of what a landowner can do without the need to seek permission, as has happened on the south-eastern boundary of the northern parcel plant where a new hedge has been planted and the stated objectives of the LP and the 2017 LCA. LP Policy ENV1 seeks the enhancement of trees/hedgerows and the guidelines for the enhancement/restoration of LCA 3 include strengthening the hedgerow network and the judicious planting of trees and shrubs. In this context, the effect on openness would not be significant.

#### Visual Effects

42. The parties agree that the visual influence of the site is largely confined to close range and occasional medium range views. These include the approaches on the B480, the public footpath where it enters the site from the Chalgrove Meadows (CM) development the west and runs through the site and adjoining field to where it meets the B480, public footpaths to the south of the site<sup>8</sup>, and Rushy Furrows Lane/Monument Lane to the north and north-west. It is acknowledged that in long distance views from the AONB the site/Chalgrove are indistinguishable.
43. In terms of visual effects, the differences between the parties are narrow and relate to the degree of effect. The key areas where the greatest visual effects

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<sup>8</sup> PROWs 155/13/20 Shakespeare Way and 155/12/10.



would be experienced are from the B480 approaches and the public footpath where it runs through the site and the adjoining field (155/15/10). From all other locations the visual effects of the development would not be significant. Within the site at its western end where it would pass close to housing in the southern parcel, the enduring effect would be substantial. Elsewhere on the path, including where it crosses the field to the south-east, the enduring visual effect would be Moderate adverse.

44. The recently completed development at CM provides a useful benchmark to assess the effect on views from the approaches on the B480, albeit the access to CM is from a roundabout whereas the appeal site would be accessed from a simple T-junction and there appears to be limited hedgerow planting along the B480 boundary. Whilst the development would require most of the existing planting on the B480 it is largely of poor quality and the Illustrative Masterplan shows its replacement by a substantial hedge. The nature, extent and height of the replacement hedgerow would be the subject of a condition. I agree with the lpa that the Year 15 the Moderate adverse effects would be limited to close range views of the access and into the site.
45. The development would not have any material impact on the open space area and dwellings within the adjoining CM development. The substantial separating hedge/tree line even at its thinnest would limit intervisibility to glimpses.

Conclusion on Landscape and Visual Effects.

46. The landscape and visual effects of the development on the site and its surroundings would have a limited and enduring Moderate adverse effect. As such and as the appellant acknowledges the proposal would conflict with LP Policy ENV1 – Landscape and Countryside. As such *Moderate* weight attaches to the landscape and visual harm resulting from the development.

Other Considerations

47. The Chalgrove Brook, a priority habitat runs along the south-western boundary of the site. The brook is a tributary of the River Thames and part of a globally rare chalk stream. LP Policy ENV2 seeks to protect important ecological receptors. Development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of the district. Policy ENV4 seeks to protect watercourses and requires new development to be set back from watercourses.
48. Built development would be located to the north of footpath 155/15/10 some 80m from the brook and well beyond the buffer required by LP Policy ENV4. Most of the area to the south of the footpath would be used for public open space and unlikely to require minimal disturbance. To the south-west corner of the site, an area would be laid out as an attenuation basin with a buffer of some 20m to the brook. Following a revised Flood Risk Assessment, the lpa has confirmed that it would be technically possible to drain the site without offending LP Policy ENV4. Moreover, the development could be made the subject of conditions relating to detailed drainage designs and a Construction Environmental Management Plan that would put in place a comprehensive set of avoidance measures to mitigate the risk of pollution.
49. The development would result in the loss of some 11ha of Grade 3 agricultural land, which is regarded as good to moderate in terms of its quality. Grade 3

- agricultural land has 3 subdivisions (a to c) of which Grade 3a is classed as the best and most versatile (B&MV). LP Policy DES7 – Efficient Use of Resources seeks to avoid the development of B&MV land. The Ipa refer to the classification of land having not been clarified and loss of potential B&MV agricultural land had not been justified. That said, as far as I am aware the appellant was never asked to provide a site-based land quality assessment and loss of agricultural land does not feature in the RfR. In the Planning Officer's assessment of the application, this matter is prefaced by the comment that residents raised the issue. Moreover, it is unclear what weight the Planning Officer attached to this issue as no reference appears to it in the conclusions.
50. Now the Ipa suggests that a precautionary approach should be adopted with Moderate weight being attributed to the loss. Whilst the concerns raised by residents regarding food security and loss of production capacity is noted, there is nothing in the Framework to suggest that in this situation a precautionary approach should or must be applied. Thus, whilst there is the potential for conflict with the aims of the development plan and the Framework, there is nothing to suggest that the loss of this field would have a detrimental impact on the viability of the wider agricultural holding. Accordingly, *limited* weight is attached to the loss of agricultural land.
51. The site is in an area of archaeological interest relating primarily to the prehistoric and Romano-British period. The application was accompanied by a largely desk-based archaeological assessment that acknowledges the potential for remains from these periods, and possibly the medieval/post-medieval periods. That said, a programme of archaeological investigation secured by an appropriate condition would satisfy the requirements of LP Policy ENV9.
52. Further development has raised concern about the impact on local services, particularly education and primary health care, and on the character and form of the village.
53. At the time of the application OCC indicated that development at CM and development to the west of the village, now under construction, would fill and exceed spare places at Chalgrove Primary School (CPS) and that expansion would be required to meet the needs of the development. Expansion to a 1.5-form entry school would provide sufficient capacity to meet the needs generated by the development and a financial contribution has been agreed with the appellant. That said, OCC has highlighted that any expansion of CPS would require the agreement of the school's governors and the Acer Academy Trust, who are responsible for the school. CPS says that the contribution identified by OCC would be insufficient in the longer terms indicating that a move to a 1.5-form entry school would not be financially viable, detrimental to the quality of education and it would resist any attempt to impose a 1.5-form entry regime. There is an unquantifiable risk that expansion is not feasible in the short term. Secondary education is provided by the Ickneld Community College at Watlington. The college has expanded through the introduction of temporary accommodation and the S106 contribution would be used to replace this with permanent accommodation.
54. Primary health care is provided for by the Brook Surgery located within the village. The practice comprises 2 surgeries one in Watlington and one in Chalgrove. The Practice Manager advises that it would be "*challenging*" to cope with potential demand from new developments in Chalgrove and the

- Oxfordshire Clinical Commissioning Group (OCCG) objected on the basis that local capacity issues are significant. OCCG requests primary care infrastructure funding to support local plans for surgery alterations or projects to support patient services. The development would be liable to make a CIL payment, which would contribute towards mitigating this concern. Whilst the Parish Council asserts that the surgery does not have room to expand, this has not been confirmed and it appeared that there may be scope for some limited expansion.
55. Drawing this together, whilst the school and the OCCG have expressed reservations, ultimately these are matters for OCC and OCCG to address. The evidence does not show that the obligations to fund expansion through the S106 and CIL would not meet the policy tests, nor has not been shown that expansion would be incapable of being implemented.
56. Concern is also expressed regarding the wider effects of the development on biodiversity. The ecology of site is dominated by its agricultural use and has limited ecological value. A substantial part of which would be retained as open space and the reinforcement and replanting of hedgerows provides the potential for biodiversity enhancement and a net gain. These, matters could be the subject of suitable conditions. In this context, the development would not cause harm to the ecology of the area.
57. In terms of access to sustainable transport options and employment opportunities, it is suggested that future residents would need to rely on the private car for most of their needs, contrary to the objectives of the Framework, the LP and OCC's Local Transport Plan, Although Chalgrove is classified as a larger village where the LP envisages proportionate growth, local employment opportunities are limited to the small industrial estate next to the former airfield. Local services are of a scale that essentially address the day-to-day needs of residents, and the existing bus service is restricted. In this context, there would be continued reliance on the private car. That said, whilst the Framework seeks development in locations that offer the opportunity to limit the need to travel and offers genuine choice of transport modes it recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be considered.
58. Pedestrian access to the village would be facilitated by the existing footpath and improvements on High Street and Monument Road, which although restricted by the nature and alignment of the road, particularly High Street, would improve access to day-to-day services and encourage active travel. A financial contribution (£1,133 per dwelling) would be made, towards public transport services and £11,531 for public transport infrastructure which would maintain the existing service in terms of service frequency and infrastructure.
59. The appellant and lpa address the benefits of the development under the 3 headings of economic, social and environmental, albeit there is some crossover between social and environmental matters Both the appellant and the lpa attach *Moderate* weight to the economic benefits of the development. I have no reason to disagree with these conclusions.
60. Social benefits relate to the provision of AH and market housing, biodiversity net gain (BNG) and access to public open space. My earlier conclusions on the extent of the HLS shows that the lpa cannot demonstrate a 5-year supply of deliverable sites. I can understand the lpa's reservations regarding an early

contribution to meeting housing needs given the appellant is a site promoter and not a developer. However, the appellant's willingness to accept materially reduced times for the submission of reserved matters, 18 months, and implementation, one year from approval of the last of the reserved matters indicates a high level of confidence that this development would provide a material contribution to the market housing needs of the district.

61. There is an acknowledged need for AH, which the Strategic Housing Market Assessment concluded was a significant quantitative shortfall. In terms of attaching weight to the benefit of AH, the Ipa attaches *Significant* weight and *Moderate* weight to the provision of market housing. The appellant attaches *Very Significant* weight to the combined contribution of the AH and MH. Overall, I consider that *Significant* weight attaches to the provision of AH and market housing in the planning balance. Whilst the obligations contained in the Agreement are generated because of the development, improvements to local services and facilities could result in some wider public benefit. I attach *limited* weight to those benefits.
62. Environmental benefits include material biodiversity net gains and the creation of a substantial area of public open space. The combination of these environmental benefits attracts *Moderate* weight.

#### Planning Balance and Conclusions

63. The most important policies for determining this appeal are, LP Policies STRAT1, STRAT2, H1, H4 and ENV1 and NP Policy C1. LP Policy STRAT1 sets the overall strategy, which seeks to focus development in the Science Vale, at strategic allocations of which Chalgrove Airfield (STRAT7) is one and a series of Larger Villages, which includes Chalgrove. LP Policy STRAT2 contains a housing requirement of 23550 units for the period 2011 to 2035. The requirement is to be met in accordance with the overall strategy and Part 5 of the policy and the locations identified in LP Policy H1.
64. LP Policy H1 says that residential development will be permitted on sites allocated by the LP, Neighbourhood Plans or on sites carried over into the LP. Other sites will only be permitted if they meet the exceptions listed in Part 3 of the policy. Policy H4 refers to Larger Villages accommodating a 15% growth in dwellings, compared to 2011. The LP identifies that Chalgrove had completions and commitments totalling 334 units against a 15% growth figure of 228. Although 15% is not a ceiling to further development, with the development of land to the west of Chalgrove and CM, there is no outstanding LP requirement for Chalgrove. NP Policy C1 indicates that development will be supported within the built-up area or on allocated sites. LP ENV1 relates to the protection of the countryside from harmful development
65. As the appeal site is not: allocated, lies outside the settlement, not an LP Policy H1 exception site and development would result in landscape and visual harm, the appellant accepts that this proposal would conflict with the development plan when read as a whole. Framework paragraph 2 indicates that a planning proposal is to be determined in accordance with the development plan, unless material considerations indicate otherwise.
66. Here, one of the key material considerations is the absence of a 5-year HLS. When there is a shortfall, Framework Footnote 8 says that the policies most important for deciding the proposal are out-of-date. Framework paragraph 11d

- (ii) says that where the most important policies for determining a proposal are out-of-date, permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework read as a whole, i.e., the tilted balance. In that scenario, whilst acknowledging that the weight to be afforded to the relevant policies is reduced, the parties agree that they are not aside.
67. Harm arising from conflict with the development plan, in particular the overarching strategy on the location of development is fundamentally entwined with public confidence in the planning system. Framework paragraph 15 refers to the “...*planning system being genuinely plan-led.*” The LP is recently adopted. Moreover, as the representations make clear, the NP is highly valued as the vehicle for residents of Chalgrove to shape their surroundings (Framework paragraph 29) and that it consumed considerable community investment in terms of time and emotion. Thus, decisions, particularly appeal decisions, have the significant potential to reduce and fatally harm public confidence in the development plan process.
68. The assessment of the scale of the 5-year HLS is essentially a snapshot in time. Thus, in a situation where the development plan is only recently adopted, it is too early to say that the LP strategy is exacerbating the issue of a lack of an adequate HLS. The application of the tilted balance reduces the weight to relevant policies. However, here the relative youth of the development plan and maintaining public confidence in the planning process, are such that *Very Significant* weight is attached to the conflict with the development plan and the harm that flows.
69. Having regard to all the above and recognizing there is a national imperative to boost the supply of housing particularly AH, in this case the adverse impacts of allowing this development (conflict with the development plan, landscape and visual impact and loss of agricultural land) would, when taken together, significantly and demonstrably outweigh the economic, social and environmental benefits of the proposal, when assessed against the Framework read as a whole. For these reasons and having regard to all other matters raised, the appeal is dismissed.

*George Baird*

Inspector

## **APPEARANCES**

### **FOR THE APPELLANT**

Martin Carter of Counsel, instructed by Kathryn Fitzgerald, Planning Manager, Gladman Developments Limited

He called:

Ben Pycroft BA (Hons) DipTP MRTPI.  
Director, Emery Planning.

Clive Self MA (Urb Des) Dip LA CMLI.  
Managing Director, CSA Environmental.

Kathryn Fitzgerald BA (Hons) MPlan MRTPI.  
Planning Manager, Gladman Developments Limited.

### **FOR THE LOCAL PLANNING AUTHORITY**

Emmaline Lambert of Counsel, instructed by Vivien Williams South Oxfordshire District Council.

She called:

Tom Rice BA MSc MRTPI.  
Principal Policy Officer, South Oxfordshire District Council.

Peter Radmall MA BPhil CMLI.  
Independent Landscape Practitioner

Tracy Smith BA Hons, BTP, MRTPI.  
Principal Appeals Officer, South Oxfordshire District Council.

### **FOR CHALGROVE PARISH COUNCIL & CHALGROVE AIRFIELD ACTION GROUP**

Councillor Jan Russell.  
Chalgrove Parish Council.

Mr Paul Boone  
Chair, Chalgrove Airfield Action Group (Residents' Association).

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

- Doc 1 - List of suggested conditions.
- Doc 2 - Certified copy of a signed S106 Agreement.
- Doc 3 - Joint note by the appellant and the lpa on the need for an Appropriate Assessment.
- Doc 4 - Representation by Ms H Mottau.
- Doc 5 - Corrected Statement of Common Ground on Housing Land Supply.