



Appeal Decision

Inquiry held on 13 and 14 February 2024

Site visit made on 15 February 2024

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02/04/2024

Appeal Ref: APP/C3105/W/23/3329587

OS Parcel 3673 adjoining and west Of 161 Rutten Lane, OX5 1LT, Yarnton, OX5 1LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Merton College, Oxford against Cherwell District Council.
 - The application Ref 21/03522/OUT, is dated 14 October 2021.
 - The development proposed is the erection of up to 540 dwellings (Class C3), up to 9,000sqm GEA of elderly/extra care residential floorspace (Class C2), a Community Home Work Hub (up to 200sqm)(Class E), alongside the creation of two locally equipped areas for play (LEAPs), one neighbourhood equipped area for play (NEAP), up to 1.8 hectares of playing pitches and amenity space for the William Fletcher Primary School, two vehicular access points, green infrastructure, areas of public open space, two community woodland areas, a local nature reserve, footpaths, tree planting, restoration of historic hedgerow, and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 540 dwellings (Class C3), up to 9,000sqm GEA of elderly/extra care residential floorspace (Class C2), a Community Home Work Hub (up to 200sqm)(Class E), alongside the creation of two locally equipped areas for play (LEAPs), one neighbourhood equipped area for play (NEAP), up to 1.8 hectares of playing pitches and amenity space for the William Fletcher Primary School, two vehicular access points, green infrastructure, areas of public open space, two community woodland areas, a local nature reserve, footpaths, tree planting, restoration of historic hedgerow, and associated works at OS Parcel 3673 adjoining and west Of 161 Rutten Lane, Yarnton, OX5 1LT in accordance with the terms of the application, Ref 21/03522/OUT, dated 14 October 2021, and the plans submitted as amended and listed in condition 3 of this planning permission, subject to the conditions set out in the annex to this decision.

Applications for costs

2. The appellant has made applications for awards of costs against Cherwell District Council and against Oxfordshire County Council. These are the subject of separate decisions.

Background

3. The site is allocated for residential development under Policy PR9 of the Cherwell Local Plan 2011-2031 (Part 1) Partial Review Plan 2020. Along with plans of other Oxfordshire districts, Cherwell's Local Plan Partial Review contains housing allocations, including Policy PR9, which are designed to help meet the unmet housing needs of the City of Oxford. The site is allocated for 540 homes. No housing has yet been provided on any of the sites identified in the Local Plan Partial Review 2020, and at the present time the amount of deliverable housing land in the district is just 0.1 years.
4. The planning application is in outline, with all matters reserved except for the principal access points. The site extends to 59.3 hectares and is entirely within the allocated land; a development brief for the site was published in November 2021. The development area of 18 hectares would deliver all 540 dwellings as well as a community home/work hub and elderly/extra care. The remainder of the land would be devoted mostly to green infrastructure of various kinds, including an area for a replacement playing field for William Fletcher Primary School, as set out in the description of development, and as shown on the submitted indicative parameter plans.
5. An environmental statement (ES) was produced in accordance with the 2017 EIA Regulations and an addendum was produced to take into account all new information submitted in connection with the application.
6. Cherwell District Council did not determine the planning application within the appropriate period of time. However, it subsequently indicated that, had it been in a position to decide the application, permission would have been refused for five reasons. These concerned the delivery of informal parkland; ecological mitigation and biodiversity gain; the provision of access to the new playing fields for William Fletcher Primary School; affordable housing; and on-site infrastructure and infrastructure contributions.
7. Revised drawings submitted by the appellant on 13 December 2023 showed some changes to the parameter plans and other material including re-labelling the agricultural land as informal parkland; adjustments to the area of community woodland; a location for the local nature reserve; a revised legacy and stewardship strategy; and intentions regarding a landscape and ecology management plan and a retained agricultural improvements plan. I have accepted these revisions because they do not fundamentally change the nature of the scheme or prejudice the interests of any party, and they were subject to consultation. The full up to date set of drawing numbers on which this decision is based are set out in Condition 3.
8. By the time the Statement of Common Ground was issued on 17 January 2024, a range of matters had been agreed between the appellant and the District Council. These included: the format of the application; the principle of development; housing delivery and quantum; access; arboriculture; overall viability; site parameters including the previously disputed matter of the informal parkland; ecology; education; flood risk and drainage; and highways and transportation. Agreed topic papers were prepared for the inquiry on arboriculture; biodiversity and ecology; education; flood risk; informal parkland; planning policy; transport and viability. Before the inquiry opened, the percentage of affordable housing, and infrastructure contributions, including those relating to strategic highways matters, were also agreed.

9. Cherwell District Council withdrew all the putative reasons for refusal prior to the opening of the inquiry and did not contest any matter at the inquiry. It is agreed by the District Council that, leaving aside the affordable housing requirement, the appeal proposals meet the requirements of Policy PR9, including among other things the housing provision, design, landscaping, wildlife and biodiversity aspects of the scheme; the provision of facilities for formal sports, play areas and allotments to adopted standards within the developable area; the provision of public open green space as informal parkland on 24.8 hectares of land to the west of the residential area and a new local nature reserve accessible to William Fletcher Primary School; the retention of 39.2 hectares of land in agricultural use; and the creation of an area of a community woodland within 7.8 hectares of land to the north-west of the developable area and to the east of Dolton Lane. The revised scheme splits the community woodland into two parts and following the submission of revised drawings the Council no longer raises objection to this aspect of the scheme.
10. Requirement 2 of Policy PR9 seeks 50% affordable housing. The scheme provides 43% affordable housing but the District Council does not raise objection to this; the matter is addressed below in connection with the planning obligation.
11. On the second day of the inquiry, Oxfordshire County Council withdrew its objection to the scheme in respect of the access to the new playing fields, having come to the conclusion that adequate safeguards could be incorporated in the planning obligation under s106. These safeguards are discussed below in connection with the planning obligation.
12. Having regard to all the above, there is now no main issue in dispute between the appellant, the District Council and the County Council in this appeal.
13. However, Yarnton Parish Council, a Rule 6 party, expressed concerns about flood risk. This was not one of the putative reasons for refusal, but the Parish Council presented evidence and spoke at the inquiry on the subject. Flood risk is therefore addressed below.
14. Following the discussion on flood risk, this decision goes on to consider other scheme impacts, the planning obligation and, finally, planning conditions.

Flood risk

15. The developable part of the scheme would occupy the lower slopes of Spring Hill, to the west of Yarnton. The site itself is in Flood Zone 1 in respect of fluvial flood risk, and neither Oxfordshire County Council as the Lead Local Flood Authority nor the Cherwell District Council Drainage Team have objected to the proposal. However, the flood risk assessment has identified a number of localised areas throughout the site that are at medium to high risk of potential surface water flooding. Yarnton Parish Council and its related group the Yarnton Flood Defence Group have recorded frequent flood events in the village, which have been attributed by the Parish Council to surface water runoff from Spring Hill, groundwater, development and road infrastructure, and limited capacity in existing watercourses. Since the scheme would discharge to on-site watercourses and the flow would then pass through and around Yarnton by means of existing watercourses, the Parish Council is concerned about the implications of the scheme for flooding.

16. The surface water drainage system within the development area of the site would be managed to a standard that would limit discharge to the existing QBar rate, the mean annual maximum flow rate, which is a return rate of 1:2.3 years. This would be achieved by cutoff ditches and water storage and flow attenuation measures. These measures are set out in the inquiry documents. Discharge from the system would not exceed this flow rate even in significantly wetter events, up to a maximum of a 1:100 plus climate change event. Also, though not at the QBar rate, measures would be taken to limit runoff from the undeveloped part of the hill to protect the new development from flood risk.
17. The result would be that, leaving aside relatively commonplace runoff events, the surface water drainage proposals would provide protection for the proposed development against all but the most extreme events and, in doing so, would provide more effective attenuation of the flows from the site into the village. The scheme would not make matters worse elsewhere, thus complying with national policy as set out in NPPF paragraph 173, and it would represent an improvement over the existing situation.
18. It would be inappropriate to expect this development on its own, or in conjunction with other developments, to provide a comprehensive solution to surface water management in Yarnton itself. The scheme itself would improve matters, so such an approach would go beyond what is necessary for the development to go ahead. For the same reasons, the Grampian condition suggested by the Parish Council, under which development could not occur until a flood risk strategy for the village had been carried out, would not be fairly and reasonably related to the development. Flood surveying and remediation proposals are matters for the County Council as Lead Local Flood Authority, and such a condition would delay to an unknown date the much-needed provision of new homes on this allocated site pending a strategy to which there is no official commitment.
19. The flood risk assessment was based on modelling as well as on-site investigation; the Parish Council argues that the modelling may not have taken sufficient account of actual on-site conditions such as the potential for groundwater to interfere with surface water storage facilities. To ensure that surface water management in practice meets the design requirements described above, a condition is attached to this permission requiring the implementation (and subsequent management) of detailed phase by phase surface water management schemes. A separate condition requires the recording of the implementation of the drainage and SUDS works for each phase.
20. Discussions between the appellant and Thames Water have led to the development of a foul water drainage strategy which would direct all foul water flows to the Begbroke Pumping Station via two onsite pumping stations. This would avoid discharging into the existing foul sewer network in Yarnton and Begbroke. A condition is attached which links the occupation of the development to the completion of the relevant infrastructure.
21. In conclusion, subject to the attached conditions, the scheme would be acceptable as regards flood risk to prospective occupiers, and it would ameliorate rather than worsen conditions elsewhere. It would also be acceptable in terms of foul water drainage. It would accord with NPPF policy on

planning and flood risk and would comply with requirements 14 and 15 of Local Plan Policy PR9.

Other scheme impacts

22. The Environmental Statement (ES) and addendum, including further information supplied under Regulation 25, have been taken into account in arriving at this appeal decision, and account has been taken of comments from statutory consultation bodies and other representations about the ES and the likely environmental effects of the proposed development. The scheme is supported by a substantial volume of sound evidence on the full range of environmental topics.

Highway network

23. The planning obligation contains a requirement that the development shall not be first occupied until certain highway works have been provided and constructed in accordance with approved plans. These works include access junctions, segregated pedestrian and cycle infrastructure along the A44 at Begbroke Hill, a traffic calming feature on Rutten Lane, a crossing over the Rutten Lane arm of the A44/Rutten Lane roundabout junction, bus stops and crossing facilities, a speed restriction to 40mph on the A44 from Spring Hill to Cassington Road, and a pedestrian and cycle crossing of Godstow Road near the Wolvercote roundabout.

24. Subject the measures set out in the planning obligation, together with those in the construction traffic management plan (CTMP) which is a condition of this permission, the development would not have a severe impact on the adjacent transport network or introduce a significant road safety issue either during the construction phase or the operational phase.

Ecology

25. Ecological survey work has established very limited faunal interest on the site. No European protected species were present except for foraging bats, which would benefit from the substantial enhanced foraging opportunities presented by the scheme. The updated survey work of 2021/22 found that there had been little change.

26. The potential effects of the construction phase would be limited to the disturbance of protected faunal species which would be fully mitigated for through the attached conditions and planning obligation resulting in negligible/non-significant residual effects. The potential effects of the completed development are limited to possible disturbance of roosting bats, but these effects can be fully mitigated for, such that adverse cumulative/in combination operational effects would not occur.

27. A biodiversity net gain (BNG) assessment is included within the signed planning obligation. The metric demonstrates that a 14.46% biodiversity net gain is achieved in habitat units and 14.56% in hedgerow units. The planning obligation requires a habitat management and monitoring plan to be carried out for the whole site and for the reserved matters areas. This would set out the works to be taken on site and within the arable field margin, to demonstrate how BNG will be secured.

28. The planning obligation also requires details of the location of bat, bird, owl and invertebrate boxes and other ecological improvements including hedgehog highways, and the future management of these items. As these are included in the planning obligation there is no need to include them in a condition as suggested by the Council.
29. A requirement for a mitigation strategy for badgers is included as a condition. Further conditions require a scheme for various ecological improvements and a final check for protected species by a suitably qualified ecologist before each development phase.
30. Subject to the obligation and conditions, the construction or operational phases of the development would not contribute to any cumulative or in combination adverse effects on protected species or biodiversity.

Ancient woodland and veteran trees

31. Direct and indirect effects would be negligible with no adverse effects. A condition is attached which seeks the protection of trees, including veteran trees, during the course of construction. The change in land use from intensive agriculture to unimproved grassland within the veteran trees' biologically active space would have a substantial beneficial effect. The proposed creation of an additional area of broadleaved woodland contiguous to the woodland block would have long term benefits for the ancient woodland.

Geology, hydrology and contamination

32. The development would contain built in mitigation measures. A condition is attached requiring the submission of a construction environmental management plan (CEMP) to provide appropriate protection during the course of construction. A further condition is attached setting out precautionary measures in the event of land contamination being encountered.

Air quality

33. The CEMP and construction traffic management plan (CTMP) would ensure negligible effects upon air quality during construction and the development in its operational phase would cause no significant effect on local air quality.

Acoustic conditions

34. The design of the development together with the attached acoustic condition would provide good acoustic conditions for existing residents and residents of the new development.

Lighting

35. Construction lighting and permanent lighting would have minimal environmental impacts.

Built heritage, archaeology and the historic landscape

36. The closest listed building to the site is the Grade II listed Spring Hill, which is located approximately 125m west of the site. The building dates to the early 17th Century; it was originally constructed as a farmhouse and has an association with the surrounding agricultural landscape. However, despite its proximity, Spring Hill has limited views of the site due to topography and

intervening vegetation. The proposed retention of historic hedgerow boundaries would maintain limited views toward the building development, and the proposed extension of the existing woodland slightly further to the south would also provide additional screening once established. Thus although the development would encroach on the wider agrarian setting of Spring Hill, the setting of the listed building would be preserved and the development would not harm its significance.

37. Three Grade II listed buildings, Hall Farmhouse and an associated cart shed and barn within its curtilage, lie between 230 metres and 280 metres north of the site. Their architectural and historic interest is derived from the age, rarity and survival of the historic fabric and they also have group value, representing a post-medieval farmstead within the village of Begbroke. The rural character of the setting has been retained despite some recent settlement infill. Hall Farmhouse has some partial inter-visibility with the site but there is no inter-visibility with the cart shed and barn. There would be a view of the construction site and the completed development, and of block planting from Hall Farmhouse. But although the development would encroach on the wider agrarian setting of Hall Farmhouse and its associated buildings, the setting of the listed buildings would be preserved and the development would not harm their significance.
38. As regards archaeology, a programme of desk-based works and a geophysical survey were followed by a programme of archaeological field evaluation, which was carried out in November and December 2021. The latter found two main phases of archaeological activity on the site, consisting of a likely prehistoric phase characterised by dispersed charcoal filled pits, thought to be of Iron Age date, and by a later phase of medieval to post-medieval agricultural activity characterised by ridge and furrow cultivation along with a number of field boundaries. A single possible Roman gully was found. Few finds were recovered from the topsoil or subsoil across the site, indicative of a lack of any concentrated activity. The report, published in January 2022, concluded that the site does not contain significant archaeological deposits. The public benefits of the scheme in terms of the provision of new homes would outweigh the harm to the significance of these heritage assets.
39. As a programme of archaeological investigation has been carried out there is no need to attach the Council's suggested condition, but archaeology is made the subject of a watching brief condition.

Landscape and visual impact

40. The scheme would have some significant short term landscape effects and a longer term effect on the Dolton Lane bridleway which would have development nearby. However, extensive planting and landscaping is inherent in the design of the scheme and after a 15 year period of establishment the impact of the scheme would be much reduced, except within the development site itself.

Health impacts

41. The scheme would offer a considerable number of positive health benefits for both occupiers and local residents including good accessibility to facilities, LEAPs and NEAP, the creation of community woodland, and the promotion of sustainable modes of travel. The planning obligation provides for the re-

organisation of Yarnton Health Centre to accommodate the additional demand anticipated from the scheme. The scheme would not have an adverse impact on existing health services or related services and amenities in Yarnton or the surrounding area.

Conclusion

42. Taking into account the ES and all other evidence, the proposed development, during construction and operational phases, with the mitigation measures set out in the planning obligation and conditions, would have acceptable environmental effects.

Planning obligation

Contributions

43. The completed planning obligation, signed by Cherwell District Council, Oxfordshire County Council and Merton College, dated 8 March 2024, contains a range of obligations. It requires contributions towards highways infrastructure, indoor and outdoor sports provision, police infrastructure, the provision of more consulting rooms in Yarnton Health Centre, primary and secondary education, household waste recycling, library facilities, a mobility hub, public transport infrastructure and services, a traffic regulation order, travel plan monitoring and rights of way. The District Council and the County Council have provided sufficient evidence to demonstrate that these provisions are all necessary to meet the needs of the development. They all meet the requirements of the CIL Regulations.

Affordable housing

44. The planning obligation commits the developer to provide no less than 43% affordable housing in accordance with an agreed mix, of which no less than 25% would be First Homes. Policy PR9 requires 50% affordable housing on this site, but the proposed development cannot provide more than 43% because on current calculations it would become unviable, owing among other things to the many other infrastructure requirements. However, the planning obligation includes provisions for a review of viability at two different dates, which would potentially allow for an uplift in the provision of affordable housing should the economics of development change. Taking the plan as a whole, and the circumstances of this case, the provision for affordable housing is acceptable.

Community and green space

45. Matters included in the obligation include the nature reserve land to be provided as part of the development; restrictions over the use of the retained agricultural land; the maintenance of the permissive footpath; play areas; the design and management of the community hub; retained agricultural land improvements; long term stewardship and biodiversity net gain, which is discussed above under the heading "Other scheme impacts". These are all necessary and relevant to the development.

Primary school expansion and access to replacement playing fields

46. Included within the planning obligation is a requirement to contribute towards education. This includes the expansion of the William Fletcher Primary School, which is required to enable the development to go ahead.

47. The expansion necessitates the provision of replacement playing fields, and these would be provided on the appeal site as part of the proposed development in accordance with Policy PR9. The access to the playing field from the school would cross a private drive owned by a third party. Should voluntary negotiations fail to achieve a right of way for the school to cross the drive, the planning obligation provides for developer funding towards compulsory purchase proceedings to the same end.
48. In the event that a suitable access across the drive cannot be achieved, the obligation requires the developer to take certain actions which would facilitate the provision of a pathway from the school to the replacement playing field around the outside of third party land. This would be longer and less convenient for the school than the simple access across the drive, and would involve passing through the Green Belt, but nonetheless it would provide a fallback measure.
49. I have considered all the representations on this issue. There is a clear public interest in facilitating access from the school across the drive to the playing fields, both in terms of educational needs and in terms of enabling the site to deliver much-needed housing and there is a reasonable likelihood that a suitable access will be obtained. If that approach fails, the obligation allows for a suitable fallback. In consequence it is not necessary to attach a Grampian condition to the planning permission which would prevent development from taking place until the pathway has been provided. These aspects of the planning obligation are necessary and meet the tests in the CIL regulations.

Unnecessary provisions

50. Previous draft versions of the planning obligation were discussed at the inquiry. These included requirements for apprenticeships, the funding of a 0.8 FTE community liaison officer, and a contribution towards public art. These are not necessary to mitigate the impact of the development and are not required for the development to take place. They do not meet the requirements of the CIL Regulations and have been excluded from the final planning obligation.

Conditions

51. Conditions are required in respect of the submission of a phasing plan and the submission of related reserved matters.
52. The Council's suggested innovation strategy is not necessary, but travel plans and details of the location, layout, appearance and management of parking and the electric vehicle charging points are required in the interests of good site management and sustainable transport.
53. A condition is required for tree protection, and I have amended the Council's suggested condition to include veteran trees.
54. Conditions requiring strategic and phased drainage measures are required for the reasons discussed in this decision, together with measures to record the implementation of the measures, including sustainable drainage systems.
55. A noise protection condition is required given the proximity of part of the development to the A44 and the proposed pumping stations. Construction noise impacts are covered in the condition requiring a construction environmental management plan.

56. The submission of construction traffic and construction environmental management plans are required to control the impact of construction on highways, local residents and the environment; the Council's suggested condition on footpath protection has been subsumed within the latter.
57. The Council's suggested archaeological condition is not required given the findings of both the desktop and on-site studies included in the environmental statement, but a watching brief condition is attached.
58. As regards ecology, the planning obligation requires the achievement of biodiversity net gain and includes the location of bat, bird, owl and invertebrate boxes and any other ecological improvements, including hedgehog highways, and future management and maintenance on any phase of the development. A condition seeking these requirements is therefore unnecessary. However, conditions are attached requiring a mitigation strategy for badgers and a final check for protected species prior to development by a qualified ecologist.
59. A condition is required to address the approach to be taken to unforeseen site contamination.
60. A necessary condition is attached which would prevent the occupation of the development before the completion of the relevant infrastructure for water supply and the disposal of foul water.
61. It is not necessary to attach conditions relating to off-site highway works and the provision of a residents' parking zone prior to highway adoption because they would duplicate the contents of the s106 obligation on these subjects.

Conclusion

62. The scheme would provide much needed homes to meet the identified housing needs of the City of Oxford. It is significant that no housing has yet been provided on the sites identified in the Local Plan Partial Review 2020, and that at the present time the amount of deliverable housing land in the district is just 0.1 years, and this adds to the strong weight in favour of this scheme.
63. Subject to the attached conditions and the planning obligation, the scheme would satisfy the requirements of Policy PR9 other than the slightly lower affordable housing provision which is discussed above. It would include appropriate measures to mitigate flood risk, including flood risk beyond the site. The proposal would be in accordance with the development plan as a whole.
64. I have considered all the other matters raised, but they do not alter the balance of my conclusions. For all the reasons given in this decision, I allow the appeal.

Jonathan Bore

INSPECTOR

Annex

Conditions

1. Details of the layout, scale, appearance, access (other than the approved accesses to A44 Woodstock Road and Rutten Lane shown on drawings Parameter Plan - Indicative Movement - DE234_16 - H) and landscaping (including new and/or enhanced footpaths, bridleways and cycle tracks), including the informal parkland, nature reserve and community woodland and including details relating to the layout and landscaping associated with the relevant surface water management scheme (hereafter referred to as the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of all the reserved matters for each phase of the development shall be made to the local planning authority before the expiration of five years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. Except where otherwise stipulated, the development hereby permitted shall be carried out in general accordance with the following approved plans and documents:
 - Block Plan - DE234 01 - A
 - Location Plan - DE234 02 - A
 - Parameter Plan - Land Use - DE234_14 - J
 - Parameter Plan - Building Heights - DE234_15 - G
 - Parameter Plan - Indicative Movement - DE234_16 - H
 - Parameter Plan - Green Infrastructure - DE234_17 - J
 - Parameter Plan - Density - DE234_18 - A
4. Prior to the commencement of any development, a phasing plan, covering the entire application site (that indicates amongst other things the development parcels for which reserved matters applications will be submitted, in whole or in part) shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall take place in accordance with the approved phasing plan and reserved matters applications shall be submitted in accordance with the approved phasing plan and refer to the phase(s) they relate to, unless agreed in writing by the local planning authority.
5. No development shall commence on a phase identified within an approved phasing plan until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as the reserved matters) of the development proposed to take place within that approved phase have been submitted to and approved in writing by the local planning authority.

6. Details of the location, layout, appearance and management of parking and servicing areas and electric vehicle charging points for each phase of the development shall be submitted to and approved by the local planning authority before the development of that phase is commenced and the approved facilities shall be implemented before the first occupation of the phase and shall be retained in their intended use thereafter.
7. Details of travel plans for the residential part of the development and for the care home shall be submitted to and approved by the local planning authority before, respectively, the occupation of any residential dwelling and the first occupation of the care home. The travel plans shall be implemented in accordance with the approved details.
8. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedgerows (the tree and hedgerow protection plan) and the appropriate working methods (the arboricultural method statement) has been submitted to and approved in writing by the local planning authority. Trees identified as veteran trees as defined in BS 3998 Section 3 - Terms and Definitions shall be the subject of a specific management plan devised by a qualified and competent arboriculturalist. The scheme for the protection of the retained trees and hedgerows shall be carried out as approved. In this condition "retained tree and hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars.
9. Prior to the commencement of any development on the site, and prior to the approval of any related reserved matters, a detailed Surface Water Management Scheme for each phase or sub-phase of the development, which shall have taken into account detailed site investigations, shall be submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the details approved as part of the strategic scheme (Strategic Surface Water Management Scheme) and shall include supporting information as follows.
 - The sustainable urban drainage system (SuDS) hierarchy for discharging surface water drainage should be followed and demonstrated with design plans, details and calculations, all to be cross-referenced.
 - Design calculations for the proposed SuDS features, for all relevant return periods (1 in 1 year, 1 in 30 year and 1 in 100 year + 40% climate change) demonstrating the critical duration used for design.
 - The undertaking of permeability tests to BRE 365 to determine the soakage potential for SuDS of the proposed development.
 - Should infiltration be found unfeasible for SuDS purposes, surface water from the site should be attenuated and discharged to greenfield run-off rates (QBar).
 - For open SuDS features a freeboard or 300mm should be provided above the maximum water level for the critical storm event of 1 in 100 year + 40% climate change.

- A 10% allowance for urban creep for all residential developments should be provided.
- Details of the future maintenance and management of all SuDS features.
- Information on overland flood flow paths and their maintenance should be demonstrated. An exceedance flow route plan for the entire site should be provided with levels to indicate that all surface water falls away from buildings and that exceedance flows are contained within the site boundary.
- Measures to mitigate the risk of surface water run-off polluting waters.

The scheme shall be implemented in accordance with the approved details and timetable.

10. Prior to the first occupation of each phase, a record of the installed SuDS and drainage scheme for that phase shall be submitted to and approved in writing by the local planning authority to include as-built plans, photographs to document each key stage of installation and the completed installation, and the name and contact details of any appointed management company information.
11. Each reserved matters application for each phase of residential development shall include a scheme for protecting the proposed dwellings from traffic noise and from noise from the proposed pumping stations. The submitted scheme shall achieve internal levels of 30dB LAeq (8 hour) and 45dB L_{max}F in all sleeping areas between 2300 hours and 0700 hours with windows shut and other means of ventilation provided. An internal level of 40dB LAeq 1 hour shall be achieved in all other areas of the building and an external level of 50dB LAeq (16 hours) shall be achieved in garden areas and balconies. Any works which form part of the scheme shall be completed in accordance with the approved details before any of the residential units are first occupied.
12. No development shall take place on any phase, including works of site clearance or preparation, until that phase of the site has been checked by a suitably qualified ecologist to ensure that no statutory protected species which would be harmed by the development have moved on to the site since the date previous surveys supporting the application were carried out. Should any protected species be found during this check, details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved mitigation scheme unless otherwise agreed in writing by the local planning authority.
13. Prior to the commencement of the development hereby approved, including any works of site clearance, a mitigation strategy for badgers, which shall include details of a recent survey (no older than six months), whether a development licence is required, and the location and timing of the provision of any mitigation or protective fencing around setts/commuting routes, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

14. The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority and shall allow that person to observe the excavations and record items of interest and finds.
15. Prior to the commencement of any development on the site, a construction traffic management plan (CTMP) shall be submitted to and approved in writing by the local planning authority. The CTMP shall include the following:
- The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman.
 - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
 - Access arrangements and times of movement of construction vehicles to minimise the impact on the surrounding highway network.
 - Details of wheel cleaning / wash facilities to prevent mud and debris from migrating on to the adjacent highway.
 - Contact details for the site supervisor responsible for on-site works.
 - Parking and travel initiatives for site related worker vehicles.
 - Engagement with local residents and neighbours.

Thereafter the development shall be carried out in accordance with the approved CTMP.

16. No development shall take place (including demolition, ground works and vegetation clearance) until a site wide construction and environmental management plan (CEMP) has been submitted to and agreed in writing by the local planning authority. The CEMP shall include details as follows:
- Practical measures including physical measures and working practices to avoid and reduce impacts during construction including soil and earthworks, dust management and the protection of water resources.
 - Emergency Planning and Incidents response systems, responsible persons and lines of communication.
 - Construction Waste Management.
 - Details of site compounds, offices, temporary protective fencing, exclusion barriers, lighting and warning signs.
 - Mitigation of construction noise, including cumulative impacts with construction work at site PR8 (Begbroke), for existing residents, including new occupants of under-construction and completed phases.
 - A consideration of the interactions when assessing and managing the effects of construction noise
 - The protection of public rights of way during construction.
 - Delivery and construction working hours.
 - Details of site management practices for contractors and visitors.

- Risk assessment of potentially damaging construction activities.

The approved construction environment management plan shall be adhered to throughout the construction period for the development.

17. The development shall not be occupied until:

- all water supply and foul water network upgrades required to accommodate the additional flows from the development have been completed; or
- a development and infrastructure phasing plan has been agreed with the local planning authority to allow 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.

18. If during development contamination not previously identified is found to be present at the site, no further development shall be carried out until further details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Charles Banner KC Instructed by Pinsent Masons

He called:

Alison Caldwell CEng MICE PJA Flood Risk and Drainage Team

(Other witnesses introduced by Mr Banner at the opening of the inquiry were not called.)

FOR THE LOCAL PLANNING AUTHORITY:

Alan Evans of Counsel, instructed by Cherwell DC

He called:

Linda Griffiths Principal Planning Officer, Cherwell DC

Caroline Ford Team Leader, South Area, Cherwell DC

Tony Brummell Drainage Officer, Cherwell DC

Kabier Salam Lead Local Flood Authority, Oxfordshire CC

FOR YARNTON PARISH COUNCIL:

Stephen Smith

David Thornhill

Ian Middleton

FOR OXFORDSHIRE COUNTY COUNCIL

Barbara Chillman Pupil Place Planning Manager, Oxfordshire CC

DOCUMENTS

1. Core Documents CD1 to CD11.1
2. Appellant's proofs of evidence from Alistair Baxter (Ecology), James Bancroft (Transport), Andy Williams (Design) Robert Davies (Planning), Alison Caldwell (Flood Risk) and Jan Kinsman (Education)
3. Rebuttal proof of evidence from Jan Kinsman dated February 2024
4. Rule 6 Party Statement / proof from Yarnton Parish Council
5. Proof of evidence from Barbara Chillman, Oxfordshire CC
6. Agreed topic papers on arboriculture, biodiversity/ecology, education, flood risk, informal parkland, planning policy, transport and viability
7. Statement of common ground dated 17 January 2024
8. Cherwell DC Compliance Statement in respect of the Planning Obligation, January 2024
9. Cherwell DC Compliance Statement addendum, February 2024, and accompanying information on health and outdoor and indoor sport requirements
10. Oxfordshire County Council Compliance Statement ...
11. Scheme amendment re-consultation responses
12. Letter from Gerald Eve to R Saunders, Rutten Lane, January 2024
13. Post consultation letter from Gerald Eve to Cherwell DC dated 2 February 2024
14. Letter from Gerald Eve to Cherwell DC dated 2 February 2024, regarding putative reasons for refusal 1, 2 and 4
15. Updated viability topic paper 8 February 2024
16. Letter from Gowling WLG on behalf of Sanctuary dated 8 February 2024
17. Email from Cherwell District Council dated 9 February 2024 confirming that they will not be contesting reasons 1, 2 and 4 at the Inquiry
18. Updated suggested conditions from the Council dated 15 February 2024
19. Cherwell District Council position on reasons for refusal, 9 February 2024
20. Completed planning obligation dated 8 March 2024

PLANS

- A. Block Plan - DE234 01 - A
- B. Location Plan - DE234 02 - A
- C. Parameter Plan - Land Use - DE234_14 - J
- D. Parameter Plan - Building Heights - DE234_15 - G
- E. Parameter Plan - Indicative Movement - DE234_16 - H
- F. Parameter Plan - Green Infrastructure - DE234_17 - J
- G. Parameter Plan - Density - DE234_18 - A