



Appeal Decision

Inquiry opened on 29 January 2019

Site visits made on 7 February 2019

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 3rd May 2019

Appeal Ref: APP/D3125/W/18/3202562

Land south-west of Charlbury Road, Hailey, Oxfordshire

- 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 Sharba Homes Ltd against West Oxfordshire District Council.
 - The application, Ref 17/00992/OUT, is dated 24 March 2017.
 - The development proposed is the construction of up to 50 dwellings (C3 use), of which 40% would be affordable, with the means of vehicular access from Charlbury Road, landscaping, earthworks to facilitate surface water drainage and all other ancillary infrastructure and enabling works.
 - The inquiry sat for seven days: 29-31 January and 1 & 5-7 February.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Sharba Homes Ltd against West Oxfordshire District Council (DC) (the Local Planning Authority – LPA). This application is the subject of a separate Decision.

Procedural matters

3. The proposal was amended whilst the planning application was with the LPA, reducing the number of dwellings from up to 85 to up to 50. Consultation took place in respect of the revised scheme and the LPA's report was prepared on this basis. Accordingly, it is this revised scheme which was considered at appeal stage. The description of development in the appeal details above reflects that suggested in my pre-inquiry note, which was not disputed by the main parties.
4. The appeal was made against a failure to give notice of a decision on the planning application within the prescribed period. Subsequently, in June 2018, the LPA resolved that, had it been in a position to do so, it would have refused planning permission for four reasons concerning the necessity for the proposed housing outside Hailey, the setting of Hailey Conservation Area and Leafield Parish Church, the character and appearance of the area, the sustainability of the location, and the absence of measures to secure affordable housing and contributions to infrastructure and services¹. Following the adoption of the West

¹ These deemed reasons for refusal are set out at paragraph 1.9 of Core Document B4 (CD B4).

Oxfordshire Local Plan 2031 in September 2018, the deemed reasons for refusal were reviewed, and a statement of case clarification document was issued (Core Document B5 (CD B5)). The clarification document set out six revised deemed reasons for refusal: these cover the same matters as were the subject of the original deemed reasons, but references to the superseded policies of the former Local Plan were removed, and paragraph references to the National Planning Policy Framework (NPPF) were amended to reflect the version published in July 2018. The six deemed reasons are²:

- 1. In the absence of convincing evidence to demonstrate that the proposed housing is necessary to meet identified housing needs in this undeveloped, unallocated site adjoining but outside the built-up area of the village of Hailey, the proposal would be contrary to policy H2 of the West Oxfordshire Local Plan 2011-2031 and paragraph 12 of the NPPF.*
- 2. The proposal would adversely affect the setting of Hailey Conservation Area and Leafield Parish Church, contrary to policies OS2, EH7, EH8 and EH9 of the West Oxfordshire Local Plan 2011-2031; and paragraphs 12, 192, 193 and 194 of the NPPF; and this planning harm to these designated heritage assets would outweigh the public planning benefits expected to arise from the proposal, contrary to policy EH7 of the West Oxfordshire Local Plan 2011-2031; and paragraph 196 of the NPPF.*
- 3. The proposed development would represent an intrusion into the countryside surrounding and forming a setting to the village of Hailey that would fail to form a logical complement to the existing pattern of development, contrary to policy OS2 of the West Oxfordshire Local Plan 2011-2031; and paragraphs 12, 124 and 127 of the NPPF.*
- 4. The proposed development would have an adverse impact on the character and appearance of the site and the nearby area in landscape and visual terms in a highly attractive minor valley landscape close to the Cotswolds Area of Outstanding Natural Beauty (AONB) contrary to policies OS2 and EH1 of the West Oxfordshire Local Plan 2011-2031 and paragraphs 12 and 170 of the NPPF.*
- 5. The proposed development would give rise to housing in a location without convenient access to a good range of services and facilities, where opportunities for walking, cycling and the use of public transport cannot be maximised; and where future occupiers of the proposed dwellings are very likely to be highly reliant on private motor vehicles for the majority of their daily trips due to the lack of easily accessible facilities in this relatively unsustainable location, contrary to policies T1 and T3 of the West Oxfordshire Local Plan 2011-2031 and paragraphs 12, 148 and 150 of the NPPF.*
- 6. In the absence of an agreed mitigation package securing the appropriate amount and nature of affordable housing; and contributions necessary to adequately offset the additional burden that the new development would otherwise place on existing infrastructure and services; the proposal conflicts with policies OS2, OS5, EH3a, T3 and H3 of the West Oxfordshire*

² In the final version of the Local Plan certain policies were renumbered: Policies EH1, EH3a, and EH7-EH9 are now Policies EH2, EH4 and EH9-EH11. See CD B6.

Local Plan 2011-2031 and paragraphs 12, 56, 57, 62, 64, 72, 91, 92 and 96 of the NPPF.

5. A unilateral undertaking was submitted by the Appellant (Document A13). It contains planning obligations which make provision for affordable housing and public open space, contributions towards recreation facilities, public art, education and bus services and infrastructure, and arrangements for securing highway works.
6. On February 2019, after the inquiry had closed, the Government published a revised NPPF and the results of the 2018 housing delivery test. The main parties were given the opportunity to comment on the implications of these documents for their respective cases.
7. Documents submitted after the inquiry opened are detailed in the lists appended to this decision.

Main Issues

8. At the inquiry the LPA agreed that the proposed development would not adversely affect the setting of Leafield Parish Church, and the unilateral undertaking includes planning obligations to secure affordable housing and to make financial contributions towards various forms of infrastructure. Accordingly, I consider that the main issues in this appeal are:
 - (i) The effect of the proposed development on the setting of Hailey Conservation Area.
 - (ii) The effect of the proposed development on the character and appearance of the area.
 - (iii) Whether the site is a sustainable location for the development proposed.
 - (iv) Whether the proposal would be consistent with the Development Plan.
 - (v) The effect of other considerations on the overall planning balance.

Reasons

Hailey Conservation Area

9. Hailey Conservation Area includes the three main groupings of built development in the parish, Delly End, Middletown and Poffley End, together with several adjacent fields and other areas of open land³. The appeal site lies adjacent to the conservation area, on the opposite side of Priest Hill Lane which marks the north-western end of Middletown, and to the south-west of Charlbury Road, from where Whitings Lane leads to Delly End.
10. The Conservation Area Character Appraisal (CACA - Document A4) refers to the polyfocal form of Hailey, which it explains is typical of hamlets found in former woodland landscapes. Positioned to the north-west of Middletown and opposite to the approach to Delly End, the settlement form of this part of Hailey is experienced from the appeal site, which lies within the setting of the conservation area. The conservation area is also significant for its position in the gently rolling farmland of the Wychwood uplands, and for the vernacular character of its architecture, with most of the older buildings dating from the

³ A map of the conservation area is at Document O4.

17th and 18th centuries. More recently, 20th century development has taken place in Hailey, and the CACA comments that this has resulted in some dilution of the historic character of the settlement. This is true of the north-western end of Middletown, close to the appeal site, where contemporary housing has been erected along Giernalls Road.

11. The appeal site comprises the eastern part of a field which lies between Broken Hatch Lane and Priest Hill Lane. Reference to the Crawley tithe map of 1841 indicates that the present field boundaries are largely as they were at that time⁴, when the older buildings in Delly End and Middletown were established. Although the position of the existing field boundaries would remain, the subdivision would involve an alteration to the existing field pattern to the north of Middletown. There have been other changes, notably in the creation of the large field to the north-west of Broken Hatch Lane, but a comparison of the Hailey⁵ and Crawley tithe maps with the conservation area plan reveals that, overall, the foci of development in the conservation area remain surrounded by a pattern of relatively small-scale fields, a characteristic feature which would not be adversely affected by the appeal proposal. Moreover, the appeal site is in Crawley and not Hailey Parish, and formed part of the pre-enclosure Crawley open fields⁶. As such, I agree with the Appellant's heritage witness that the land would not have been farmed from Hailey, and there is nothing before me to indicate such an historical functional link.
12. The Appellant's capacity plan shows the area intended for housing development on the eastern side of the site, sweeping round from Copstone House at the junction of Broken Hatch Lane and Charlbury Road to the pumping station on Priest Hill Lane. In consequence development would occur in a third sector of the crossroads junction of Charlbury Road/ Priest Hill Lane/ Delly Hill/ Whittings Lane. At present the built form of Middletown extends up to Priest Hill Lane and Whittings Lane. Parcels of open land on each side of Whittings Lane, together with the appeal site, contribute to the separation of Delly End from Middletown. However, this separation, which has considerable historical value in terms of the origins of settlement at Hailey, has been blurred by development at the northern end of Middletown, on both sides of Delly Hill. Moreover, whilst the presence of trees along Whittings Lane restricts intervisibility between Delly End and Middletown it also reduces an appreciation of the sense of space between these two parts of Hailey⁷. In contrast, the appeal site, which forms part of an extensive tract of open land, is not contained by tall boundary features. It is part of the gap between Delly End and Middletown and it makes an important contribution to the distinctive settlement form of Hailey.
13. The Appellant's heritage witness refers to the appeal site providing a sense of leaving the historic focus of Delly End before arriving at the 20th century area of Middletown, and he acknowledges that the proposed development of the site would result in a loss to the contribution that it makes to the significance of the conservation area. He argues that this would result in no more than a slight level of harm, and I note that, in responding to the planning application, the LPA's Conservation Officer reached a similar view, commenting that this part of

⁴ Figure 5 in Appendix 1 to Mr Bourn's proof of evidence. There have been minor changes to the boundary due to the construction of Copstone House on Charlbury Road and the pumping station on Priest Hill Lane.

⁵ Figure 6 in Appendix 1 to Mr Bourn's proof of evidence.

⁶ Figure 3 in Appendix 1 to Mr Bourn's proof of evidence.

⁷ See, for example, existing viewpoint 17 in Appendix 3 to Mr Bourn's proof of evidence.

the conservation area is not of high sensitivity, and that the impact on the architectural or historical interest of this part of the conservation area is likely to be minimal. It is true that the adjacent area of Middletown, where there is contemporary residential development, does not in itself have particular aesthetic or historic values. However, that does not diminish the important contribution which the site makes to the historic settlement pattern which is a key feature of Hailey Conservation Area as a whole.

14. The position of the site in relation to the built form of the conservation area is apparent not only from Whitings Lane. On the approach from the north-west along Charlbury Road and from both Priest Hill Lane and Broken Hatch Lane the clear edge to the built form of Middletown is noticeable. The Appellant's heritage witness suggested that the proposed development, with dwellings constructed in a vernacular style, would produce an entrance more in keeping with the character of the conservation area than that presented by the existing 20th century housing. I do not disagree that a more appropriate design could be produced than that of the bungalows and houses on Priest Hill Lane and Giernalls Road. But that does not justify development in a location where it would damagingly erode the gap between Delly End and Middletown.
15. The Appellant and the LPA both refer to Priest Hill Lane as an historic route which could date back to the 13th century. The proposal would not alter the alignment of Priest Hill Lane, and it is intended that the housing would be set back beyond an easement strip and an internal road. The surroundings of a short length of this rural road would be changed, but it would not be unduly enclosed, and bearing in mind the form of development to the south-east, I do not consider that in this respect the appeal proposal would cause harm to the setting of the conservation area.
16. The appeal site is part of the setting of Hailey Conservation Area, and, as part of the gap between Delly End and Middletown, it plays an important role in maintaining the historic settlement pattern. I thus conclude that the proposed development would adversely affect the setting of the conservation area, and the contribution that the setting makes to its significance, contrary to Policies EH9 and EH10 of the Local Plan. Having regard to the scale of the proposal, I consider that this would represent less than substantial harm to the significance of the heritage asset as a whole.

Character and appearance

17. The appeal site lies within the Wychwood Uplands Landscape Character Area (LCA) identified in the West Oxfordshire Landscape Assessment (WOLA), and more particularly it is part of the semi-enclosed limestone wolds (smaller-scale) landscape character type (LCT)⁸. Part of the Wychwood Uplands falls within the Cotswolds AONB. At its nearest point the AONB is about 0.6km to the north-west of the appeal site⁹: over this distance, with the rolling landform which is characteristic of the LCT, I agree with the main parties that the proposed development of up to 50 dwellings would not adversely affect the setting of the AONB.

⁸ The extent of the Wychwood Uplands LCA and the semi-enclosed limestone wolds (smaller-scale) LCT are shown on the plan in Appendix 17 to Mr Wright's proof of evidence.

⁹ The relationship between the appeal site and the AONB is shown on the location and context analysis plans in Appendix 4 to Mr Wright's proof of evidence.

18. Although the appeal site abuts a minor valley LCT to the west, the adjacent land is in use as a sewage pumping station with surrounding scrub cover, and it is not typical of the wider minor valley landscape. Due to the presence of this intervening facility, the proposed housing would be set back from the pleasant and intimate form of the valley which runs alongside Priest Hill Lane to the south-west, and I do not consider that there would be an appreciable adverse effect on this landscape.
19. The WOLA identifies key characteristics of the semi-enclosed limestone wolds (smaller-scale) LCT: in addition to the rolling farmland these include a patchwork of large and smaller-scale fields, a strong structure of dry-stone walls and hedgerows, blocks of belts of woodland, and moderate intervisibility. That part of the LCT where the appeal site is located generally reflects these characteristic features. This is an extensive LCT at the eastern end of the Wychwood Uplands. Whilst the proposal would represent urban encroachment onto the sloping land which rises from Priest Hill Lane to Broken Hatch Lane, this would only have a negligible adverse effect on the character of the wider LCT.
20. I have also considered the effect of the proposal on the landscape of the site and its immediate surroundings, including its relationship with the adjacent built development in Hailey. There are certain detailed differences between the Appellant's and the LPA's analysis of the appeal proposal on the landscape, although there is broad agreement about the approach set out in the landscape and visual impact assessment (LVIA - CD A22) and that the value of the landscape generally increases with distance from the edge of Middletown¹⁰. The Appellant's LVIA assesses the susceptibility of the site to the development proposed as medium, referring to the presence of housing to the south-east, north-east and north-west, the local road corridors, and a strong degree of containment arising from the topography. Whilst there is a strong edge of built development on rising land to the south-east in Middletown (and I have taken into account that outline planning permission has been granted for a further nine dwellings to the south of Giernalls Road, Documents O12 & O8), to the north-east housing on Whitings Lane is set back behind open land with the exception of the corner property on Delly Hill. To the north-west is Copstone House, which stands alone at the junction of Charlbury Road and Broken Hatch Lane. Although the road sign announcing Hailey is positioned to the north of the junction, this house is clearly set apart from the settlement. Charlbury Road is the B4022 and is a route between the larger settlements of Charlbury and Witney. The other two roads which abut the site are rural lanes and there is no evidence before me that they are anything other than lightly trafficked¹¹. As to containment, due to the increase in the level of land to the north-west, that part of the site alongside Priest Hill Lane is set in a localised depression, but the land to the south of Copstone House, where housing is also proposed, is at a higher level, and beyond this point the field rises at a more gentle gradient towards Broken Hatch Lane. For these reasons, I consider that the LPA's assessment of the susceptibility of the site as medium-high is more appropriate.
21. The appeal site is not statutorily designated or identified in a development plan in respect of landscape quality, and it is not a valued landscape in NPPF terms.

¹⁰ This is shown diagrammatically in the plan at Appendix 8 to Mr Wright's proof of evidence.

¹¹ Existing traffic flows are recorded in table 3.1 of CD A12.

That does not mean that it has no value: indeed the LVIA ascribes low-medium value to the site. The site is part of a pleasant area of rolling farmland which extends to the north and west, with notable urbanising influences confined to the south-east, as noted above (para 20). Although the adjacent part of the conservation area in Middletown is unremarkable, the site is also opposite to open land in the conservation area which forms part of the attractive approach to Delly End along Whitings Lane. Considered in the round, this is a landscape which merits at least medium value. Taking into account both susceptibility and value, I have reached the view that the landscape of the site is of medium-high sensitivity to the development proposed.

22. The appeal site comprises 5.3ha, with a net developable area of 1.66ha¹². Although most of the site would remain as open land, the character of the public open space would be markedly different from the existing farmland on this side of Priest Hill Lane. The Appellant's landscape witness referred to landscaped parkland¹³: belts and blocks of tree cover are a feature of this type of landscape, but parkland is identified in the LCA as a separate LCT. I note that the dry-stone wall along the Priest Hill Lane and Charlbury Road frontages would be repaired, that a native hedgerow is proposed along Broken Hatch Lane, and that the belt of tree cover along the south-west boundary would reflect that on the existing field boundary further to the west. I acknowledge that after 15 years the landscaping would have matured and would provide a softer edge to the development. These positive attributes of the scheme do not alter my view that the loss of part of a field which is characteristic of the semi-enclosed limestone wolds (smaller-scale) and its replacement by up to 50 dwellings and an area of public open space would represent a high and adverse magnitude of change to the local landscape, contrary to Policy EH2 of the Local Plan.
23. The proposal would offer the opportunity to establish a less abrupt edge to the settlement, and a condition could require reserved matters to be prepared in accordance with the form of development indicated in the capacity plan. That, however, would be insufficient to ensure that the development would complement the existing settlement. The capacity plan shows much of the proposed housing set back from Priest Hill Lane behind a 10m easement and an internal road. The housing on Giernalls Road which backs onto the lane is built at a higher level, and there would be a clear vertical and horizontal separation between the existing settlement and the proposed houses on the south-east side of the appeal site¹⁴. The Appellant's landscape witness pointed out that Middletown has grown northwards since the 1950s, and he suggests that the proposal would follow this approach. However, due to the change in levels and the existing and proposed built form, there would be a clear demarcation along Priest Hill Lane. Although the proposal has been reduced in size from up to 85 dwellings in the original application, a development of up to 50 dwellings would still represent a significant addition to Middletown which has about 230 homes¹⁵. Notwithstanding the formation of a pedestrian access to Priest Hill Lane, I consider that the development would relate awkwardly to Middletown, a situation which would be emphasised by the relatively large addition to this part of Hailey.

¹² Document O1, para 2.1.

¹³ Mr Wright's proof of evidence, para 5.25.

¹⁴ This difference is illustrated in the cross-sections in Appendix 10 to Mr Wright's proof of evidence.

¹⁵ The Appellant calculated that there are 233 dwellings in Middletown (Document A8), and Hailey PC counted 225 dwellings (Document O9).

24. I turn now to consider the visual effects of the appeal proposal. I share the view of the main parties that there are no significant distant views of the appeal site. It is also the case that the site cannot be seen in any of the significant views identified in the CACA, although it does appear at the end of the vista along Whitings Lane when leaving Delly End (CD A22, viewpoints 5 & 17 (VPs 5 & 17)). Whilst the topography provides a degree of containment, the site is readily apparent on the approach from the north along Charlbury Road and from both the lanes which adjoin the field in question.
25. I accept that, as tree cover around the site matured, it would restrict views of the buildings proposed. The most substantial planting, in the form of a tree belt is intended along the south-west boundary. Priest Hill Lane undulates to the west of the Appellant's land and the extent of visibility of the site varies. From VP11 the greater part of Copstone House can be seen. Housing would be built adjacent to this dwelling at a similar level and in a more elevated part of the site. The tree belt would slope down towards the pumping station, and I do not consider that, from certain points on Priest Hill Lane, it would satisfactorily mitigate the extent of building proposed on the higher part of the intended developable area.
26. On the approach to the site along Charlbury Road from the north-west housing in Middletown is already apparent, and that is also true of views from Broken Hatch Lane. From Priest Hill Lane, past the site, and at the bottom of Whiting Lane, the observer is also aware of housing nearby. The development would not be introducing an unfamiliar element into local views, and it would result in a less abrupt edge to the settlement, particularly as tree cover became established. Nonetheless, planting around the site would not disguise encroachment onto the open land at the northern end of Middletown. Moreover the arc of built development between Copstone House and the pumping station would restrict views across the open farmland (VPs 2 & 6 for example). I am particularly concerned about the effect on the view from Whitings Lane (VPs 5 & 17). I have already found that the appeal site fulfils an important role in contributing to the separation of Delly End and Middletown (above, paras 12 & 13), and it is evident as the focal point along Delly End. That aspect would be lost as a result of development on the appeal site.
27. There are elevated views over the appeal site from houses on Giernalls Road. The proposed development would clearly encroach into these views impinging on the outlook from rear windows and the raised parts of gardens. As dwellings in an edge of settlement location, other housing already forms part of their setting; moreover these are private viewpoints and accordingly I have given minor weight to this harm.
28. I conclude that the proposed development would adversely affect the character and appearance of the area, and it would thereby conflict with Policies EH2 and OS2 of the Local Plan. The harmful effect on the landscape of the site and its relationship with Middletown merits significant weight, and I also attach significant weight to the harm which the proposal would cause to visual amenity in the vicinity of the appeal site.

Sustainability of the site's location

29. The appeal site is located immediately adjacent to the settlement of Hailey. There is no boundary on the Policies Map (CD C2), but it is clear that built development extends up to Priest Hill Lane, to the north of which is open

countryside. The LPA's witness expressed the view that in the Local Plan settlement hierarchy¹⁶ Hailey refers to the area of built development known as Middletown, whilst the Appellant groups Middletown, Poffley End and Delly End together as comprising Hailey village (Document A8). The Settlement Sustainability Report (CD C6) identifies Hailey as a settlement with over 1,000 people (2011), which would point to Hailey comprising the 360 dwellings of the three groups of development: however as there were only 1,210 people in the parish as a whole at that date¹⁷ this would give an unusually low occupancy rate for dwellings outside the settlement. Given the relatively close proximity of the three foci of development, I consider that they are most appropriately considered as parts of the same settlement. From the appeal site to the northern edge of Witney where there is a petrol filling station with a convenience store is a distance of about 2.05km, and it is about 3.8km to the centre of Witney¹⁸. The settlement hierarchy includes Witney as one of the three main service centres in West Oxfordshire. There are four levels in the hierarchy, and Hailey is identified as a village – a third tier settlement.

30. Policy OS2 states that a significant proportion of new homes, jobs and supporting services will be focused within and on the edge of the main service centres of Witney, Carterton and Chipping Norton. The villages are considered suitable for limited development which respects their character and which would also help to maintain the vitality of the communities. Focusing new development at the main service centres is consistent with the economic, social and environmental dimensions of sustainable development, as referred to in paragraph 8 of the NPPF. Housing proposals are to be considered in accordance with Policy H2, but it is clear from the scope of the section of Policy OS2 concerned with main service centres, rural service centres and villages that its provisions also apply to residential development.
31. The Local Plan does not indicate the amount of residential development expected at each level of the settlement hierarchy, but it does distribute housing between the five sub-areas of the District. Of the 15,950 homes to be provided over the period 2011-2031, a figure of 4,702 is given in policy H1 for the Witney sub-area which includes Hailey. Table 9.2b provides a breakdown of the expected delivery of housing within this sub-area, and it is clear that, in line with the objective stated in Policy OS2, the majority of additional housing is intended to come forward at Witney, including 1,850 dwellings in two strategic development areas. No allocations are included for Hailey, and the proposal for up to 50 dwellings could equate to about 18% of the level of 276 windfall units specified for the whole of the sub-area over a period of 14 years. It would also represent an increase of about 14% in the number of dwellings in the settlement. The Local Plan does not, however, specify any ceilings to development in individual settlements or levels of the hierarchy, and I am satisfied that the proposal would represent a limited development at Hailey.
32. The facilities and services available in Hailey are limited. They include a primary school, a public house, and a village hall, but there is no convenience store or post office¹⁹. The primary school is a 0.5 form entry school with a

¹⁶ The settlement hierarchy is set out in table 4b of the Local Plan.

¹⁷ CD D1, para 4.9.

¹⁸ Document O1, para 4.13.

¹⁹ Facilities and services are identified in para 12.2 of Mr Wood's proof of evidence and on the plan at Appendix B to Mr Hurlstone's proof of evidence.

- capacity of 105 primary places and 15 nursery places²⁰. In May 2017 there were 97 primary age children on the roll. The County Council comments that the school is operating close to capacity and that it does not have sufficient spare places to accommodate the 15 primary age children expected to be generated by the proposed housing. The school would need to be expanded to enable it to have an admission number of 20 children, and a contribution of £256,890 is sought towards this work. A planning obligation in the unilateral undertaking would provide this level of funding, and enable primary age children to attend school in Hailey. There is a hairdresser's business and a car sales outlet/ repair garage in the village, but trips for most services and for shopping would need to be made outside the settlement. Similarly, residents would need to travel out of the village for a wider range of leisure activities than is offered by the few facilities in Hailey, for most journeys to work, for medical services, and for secondary education.
33. A wide range of facilities and services, together with employment opportunities, is available at Witney. The nearest convenience store is at the edge of the town, just over 2km from the appeal site. Although there is a pedestrian route along the B4022 this is unlit and for the most part it is not overlooked. I consider that the distance and the nature of the route would be likely to discourage trips on foot for convenience shopping, particularly outside the hours of daylight and during inclement weather.
34. Witney itself is within cycling distance of the appeal site. The town can also be reached by bus. The X9 runs between Chipping Norton and Witney, and bus stops in each direction are close to the site, on Delly Hill immediately to the south-east of the junction with Whitings Lane/ Priest Hill Lane. This service operates on weekdays with a frequency of approximately 90 minutes and at two hourly intervals on Saturdays: the last buses are timed at Hailey between 1800 and 1830 hours, except on Saturdays from Witney when the last arrival is at 1609 hours²¹. In addition to providing a direct and relatively quick means of travelling into Witney, the X9 also provides a link with the rail network at Finstock. There are few trains at this station, however, and although it would be possible to make a journey to work in Oxford by public transport via Finstock, as the Appellant's transport witness suggested, I anticipate that the absence of alternative train services and the indirect nature of the route would greatly reduce the attractiveness of this travel option.
35. Planning obligations provide for contributions of £50,000 towards improving the bus service and £9,750 towards bus infrastructure in Hailey. Due to the limited range of facilities and services in Hailey, the County Council seeks the contribution of £50,000 towards the cost of increasing the frequency or hours of operation of buses to make access easier to Witney²². I heard that, together with existing contributions, there would not yet be sufficient funding to achieve the enhanced level of service sought, although the County Council intended to seek certain improvements to the service. Whilst I consider that an enhanced level of service is important in order to provide more convenient access to and from Witney, it is uncertain at present when improvements would be in place in

²⁰ Details about the primary school are given in Oxfordshire County Council's Statement of Justification for Planning Obligation Requirements.

²¹ Timetables for the X9 service are at Appendix G to Mr Hurlstone's proof of evidence.

²² See the County Council's Statement of Justification for Planning Obligation Requirements.

relation to the development of the site, and precisely what they would deliver. This limits the weight which can be placed on this obligation.

36. The provision of bus flagpoles and timetable information cases at the bus stops close to the site, together with a shelter at the south-bound stop, should make journeys by bus more attractive, and the County Council seeks £9,570 for this purpose. However, the obligation specifies a sum of £9,750. There is no justification before me for this higher amount (which may be the result of a typographical error), and whilst I agree that the upgrading of the two bus stops is important, the excess amount is not necessary to make the development acceptable in planning terms, and I give no weight to the provision of the additional sum of money.
37. Whilst there are opportunities to travel by bus and to cycle from Hailey to Witney, it is likely that in this rural location a significant proportion of trips would be made by car. The update to the Appellant's transport statement (CD A23) envisages that a development of 50 dwellings would generate 27 vehicle movements during the morning peak and 24 movements during the afternoon peak. Existing journey to work details are given in the LPA's Settlement Sustainability Report (CD C6). This records 76% of people in employment using private transport, compared with 4% using public transport and 10% travelling by cycle or on foot. That said, private transport is the predominant means of travel to work and the proportion of journeys made this way from Hailey is not materially greater than in Witney (71%). The average distance travelled, of 16.4km, is the fourth shortest amongst West Oxfordshire's villages. Many journeys made by car for other purposes are likely to be to the main service centre of Witney, and these would be of short duration. Provision of a travel information pack for occupiers of the new dwellings to encourage the use of alternative modes of transport to the car could be the subject of a condition.
38. The strategy of focussing development at the main service centres promotes a sustainable pattern of development in West Oxfordshire. Limited development in villages such as Hailey is consistent with this strategy. Consistent with paragraph 103 of the NPPF, the Local Plan points out that West Oxfordshire is a predominantly rural district and that it will not be possible to locate all development where convenient access to public transport, walking and cycling can be achieved²³. Hailey has only a limited range of facilities and services, and the proposed development would generate a variety of trips out of the settlement, a significant proportion of which are likely to be made by car. Although Witney is within cycling distance of the appeal site, cycling is not a mode of transport which can be easily used by all sectors of the population. The bus link to Witney represents the alternative form of transport which is likely to be most convenient for future residents as a whole. I have found that an enhanced level of service is important in order to facilitate journeys by public transport, but crucially details of proposed service improvements are not yet available. Accordingly, although a planning obligation provides the funding sought by the County Council towards the bus service, it is not clear that the proposal would maximise opportunities for the use of public transport, as required by Policies T1 and T3 of the Local Plan. Notwithstanding this concern, given that the size of the development is appropriate for the limited scale envisaged in third tier settlements and the proximity of the site to Witney, I

²³ Local Plan, para 7.12.

conclude that, on balance the appeal site would be a sustainable location for the housing development proposed.

The Development Plan

39. The Local Plan (CD C1), which was adopted recently in September 2018, is the only component of the Development Plan referred to by the main parties²⁴. Policies OS2, H1 and H2 are central to the development strategy of the Local Plan, and it is against these which I shall assess the appeal proposal first of all.

Policy OS2

40. Policy OS2 sets out the framework for the location of development in West Oxfordshire. As a village in the third tier of the settlement hierarchy, Hailey is considered suitable for limited development which respects its character and would help to maintain the vitality of the community. Although I accept that a scheme of up to 50 dwellings would represent a limited development at Hailey, I have found that the development would relate awkwardly to Middletown, and in consequence it would not respect the character of the settlement. Insofar as the vitality of the community is concerned, I note that it is an aspiration of the governors to increase the size of Hailey School to one form entry²⁵: the planning obligation linked to the appeal proposal would help to achieve this aim, thereby playing a part in maintaining vitality. The emerging Hailey Neighbourhood Plan comments that there is a risk that the school could close if insufficient new housing comes forward and Government policy on viability changes²⁶. There is no detailed evidence to substantiate this suggestion, and it does not appear consistent with the limited number of spare places (above, para 32). Although there is only a limited range of facilities and services in Hailey, their use by residents of the proposed housing, and associated expenditure, would undoubtedly support the community's vitality.
41. All development proposals should also comply with a series of general principles, which are set out in the final part of the policy. The proposal for housing on the land south-west of Charlbury Road would avoid the coalescence of separate settlements, it would be compatible with the adjoining residential uses and there would be no harmful impact on the amenity of existing residents. In addition, safe access can be provided, no undue flood risk would arise, and there would be no adverse impact on mineral resources. On the other hand, the proposal would fail to comply with several of the general principles set out in the policy in that the development would not represent a proportionate and appropriate scale nor form a logical complement to Middletown, it would not protect the local landscape, and it would involve harm to the historic environment due to its impact on the setting of Hailey Conservation Area through the loss of open land which makes an important contribution to character. I find that the proposal involves several conflicts with Policy OS2.

Policy H1

42. Provision is to be made for 15,950 homes during the period 2011-2031. This policy also sets out an indicative distribution of housing between five sub-areas, and it makes clear that the numbers given are not ceilings to limit

²⁴ Document O1, para 3.2.

²⁵ The County Council's Statement of justification for Planning Obligation Requirements, page 3.

²⁶ CD D1, para 7.7.

development. The appeal site is in the Witney sub-area where 4,702 homes are intended to be provided. Table 9.2b of the Local Plan explains how this number of dwellings is expected to be delivered. In addition to completions, commitments, and allocations, 276 units are expected to come forward on windfall sites. The development of 50 dwellings on a windfall site at Hailey is consistent with the intended distribution of housing under Policy H1.

Policy H2

43. Policy H2 sets out a stepped annual requirement to meet the total of 15,950 new dwellings over the plan period. It also deals with proposals for housing. Only one of the circumstances where residential development should be permitted applies to undeveloped land adjoining the built-up area, as is the case with the appeal site. In such situations convincing evidence should be presented to demonstrate that the proposal is necessary to meet identified housing needs. In addition, it should accord with the distribution of housing in Policy H1, and with other policies, in particular the general principles of Policy OS2. Whilst the proposal does comply with Policy H1, it fails to satisfy several of the general principles in Policy OS2.
44. The Appellant argues that the development is necessary to meet both general and affordable housing needs. The NPPF, at paragraph 59, refers to the Government's objective of significantly boosting the supply of homes and states that it is important that a sufficient amount and variety of land can come forward where it is needed. That does not mean that the national requirement for additional housing can represent an identified housing need in West Oxfordshire: the NPPF (at paras 60 & 65) expects LPAs to undertake a local housing need assessment and to establish a housing requirement which shows the extent to which their identified housing need, together with any needs which cannot be met in neighbouring areas, can be met within the plan period. To this end, paragraph 5.8 of the Local Plan commits to meeting the objectively assessed need for West Oxfordshire in full. The total of 15,950 dwellings specified in Policy H1 comprises the requirement for the District, and a contribution of 2,750 homes towards Oxford City's unmet need between 2021 and 2031. However, the distribution of housing between the five sub-areas only aggregates to 15,799 units, approximately 99% of the number required over the plan period. This is a matter which was addressed in the Local Plan Inspector's Report (CD C5, para 226). He makes the point that the NPPF does not require that specific sites are allocated to meet the housing requirement for the whole of the plan period, and as there is a statutory requirement for the Local Plan to be reviewed at least twice before 2031, there will be the opportunity then for more provision for housing to be included if necessary. The provision of 15,950 dwellings is to meet the needs of West Oxfordshire during the period 2011-2031 and to contribute towards meeting those of Oxford City during the period 2021-2031. The gap amounts to 151 dwellings, which is considerably less than the annual requirement of 1,125 homes for the last year of the plan period. It is not necessary for all of the land to provide this number of houses to be identified now, particularly when the gap in provision is so modest.
45. Windfall dwellings are an important component of provision, and 276 are anticipated to come forward in the Witney sub-area during the period 2017-2031 (CD C1, table 9.2b). Whilst the appeal proposal, if developed, would provide up to 50 such dwellings, the inclusion of windfall as housing provision

does not rely on sites of more than nine dwellings. Moreover, in establishing the windfall allowance in the Local Plan the recorded figure of 175 dwellings delivered annually from small sites was reduced to 125 dwellings per year (dpy) to allow for uncertainty in future years, and then to 96dpy to exclude the Burford-Charlbury sub-areas as much of this falls within the AONB²⁷. For the period 2017-2021 only 26 windfall dpy are relied on to avoid double-counting with small site commitments. There is no evidence that the supply of windfalls will fall below the level shown in the Local Plan housing trajectory²⁸. Indeed, the Appellant's planning witness explained that she had counted a total of 231 dwellings coming forward by this route since April 2017. I find that there is no need to grant planning permission for the appeal proposal to augment the supply of windfall dwellings.

46. Paragraph 67 of the NPPF requires that planning policies identify a supply of specific deliverable sites for the first five years of the plan period, and of specific developable sites or broad locations for growth for years 6-10. Paragraph 74 makes it clear that a five years' supply of deliverable housing sites can be demonstrated where it has been established in a recently adopted plan. There can be no doubt that the West Oxfordshire Local Plan 2031, adopted in September 2018, is a recently adopted plan. The Local Plan Inspector concluded that there would be a housing land supply position of between 5.3 and 6.6 years at the point of adoption²⁹. A review by the Appellant of the housing land position for the period 2018-2023, with a later base date of April 2018, concludes that the level of supply is only sufficient for 4.18 years³⁰. The housing land position is subject to continuous change, and I note that, using the same higher annual requirement for 901 dwellings, the LPA's 2018 position statement calculates a land supply sufficient for 6.7 years. For the purpose of this appeal, the recently adopted Local Plan is the appropriate point of reference. The Appellant's planning witness acknowledged that the five years' housing land position is protected by the recent adoption of the Local Plan, and made clear that it was not part of the Appellant's case that the proposal was justified by contributing to a five years' housing land supply.
47. The LPA acknowledged the potential for slippage in delivery of housing at the proposed Cotswolds Garden Village involving 440 units. It was also suggested by the Appellant that there could be slippage of three years on land east of Chipping Norton. These potential reductions were included in the Appellant's review of the housing land position to which I have already referred (above, para 46). Insofar as the developable supply for the five years of 2022-2027³¹ is concerned, even with the suggested reduction in numbers at these two sites, the housing trajectory indicates that anticipated delivery would remain above the requirement for 5,150 dwellings for this period set out in Policy H2.
48. I turn now to consider the position in respect of affordable housing. It is common ground between the main parties that there is clear evidence of a national shortage of affordable housing³². As with the general need for

²⁷ The reduction to 125 windfall dpy is explained in paragraph 2.7 of the first Local Plan Inspector's Preliminary Findings – Part 2 (Appendix 4b to Mr Wood's proof of evidence), and the lack of reliance on the Burford-Charlbury sub-area in paragraph 5.36 of CD C1.

²⁸ Appendix 2 to CD C1.

²⁹ CD C4, paras 227-241.

³⁰ Appendix 6 to Mrs Ventham's proof of evidence.

³¹ 2022-2027 is the five years period following the five years period relating to deliverable sites referred to in CD C4.

³² Document O1, para 4.25.

housing, that national need does not constitute an identified need in the terms of a policy applying to housing provision in West Oxfordshire.

49. The appeal proposal would provide up to 20 affordable homes, in line with the requirement for 40% in this medium value zone set out in Policy H3, and which would be secured by a planning obligation. Policy H3 does not specify an overall amount or annual target of affordable housing to be provided. However, at paragraph 5.51 the Local Plan refers to a need for 274 affordable homes each year, identified in the Oxfordshire Strategic Housing Market Assessment 2014³³. The Local Plan Inspector's Report explains that the rates of provision as part of market schemes reflect the need for 274 affordable homes³⁴. Accordingly, it is appropriate to use this figure to assess the position concerning affordable housing in the District.
50. The Appellant's affordable housing witness has calculated that, since the beginning of the plan period, affordable housing completions, at a total of 709, have fallen short of an expected provision of 1,918 dwellings by 1,209 units³⁵. There is no contrary evidence before me concerning the development of affordable housing. I note that the Local Plan refers to the high level of need within the District, and the LPA's witness acknowledged the need for a step change in provision. On the information before me, I am in no doubt that there is a significant need for affordable housing in West Oxfordshire at the present time. Information from the housing register concerning Hailey does not add any further weight. In January this year there were 86 applicants on the register who had expressed a preference for Hailey³⁶. However, that does not equate to a need to be accommodated in the parish, particularly since applicants may express a preference for more than one part of the District.
51. I find that there is an identified need for affordable housing in West Oxfordshire. The question then arises as to whether the proposal is necessary to meet that need. It is intended that much affordable housing will come forward in conjunction with market housing. There are several large schemes in the Local Plan which will provide significant amounts of affordable housing, including the North Witney Strategic Development Area. This allocation, which is in Hailey parish, could provide 560 affordable homes. Delivery from this major site, where supporting infrastructure, including a distributor road is required, is not expected to commence for over two years. The housing trajectory indicates that other large sites are not expected to come forward with significant amounts of housing in the immediate future. In this circumstance, I have reached the view that the appeal proposal is necessary to contribute to meeting the present need for affordable housing. The proposal would, therefore, satisfy the key test of Policy H2.

Policies concerning environmental and heritage assets, and transport and movement

52. I have already found that the proposal would conflict with Policies EH9 & EH10 due to its adverse effect on the setting of Hailey Conservation Area (above, para 16), and that it would harm the character and appearance of the area and thereby conflict with Policy EH2 (above, para 22). Although the land south-

³³ CD E1, table 54.

³⁴ CD C4, para 55.

³⁵ Figure 7.8 in Mr Stacey's proof of evidence.

³⁶ Appendix to Document O6.

west of Charlbury Road would be a sustainable location for this development, it is not clear that the proposal would maximise opportunities for the use of public transport, as required by Policies T1 and T3 (above, para 38).

Other policies

53. Policy OS3 is concerned with the prudent use of natural resources. Several of the requirements concern matters which would be addressed at reserved matters stage. The proposal would include the use of a sustainable drainage system, a matter which could be the subject of a condition, and as the site is in flood zone 1 the risk of flooding would be minimised. There is no site plan, and although the extent of development shown on the capacity plan indicates that the density could reflect the adjacent part of Middletown I do not consider that the proposal has regard to the character of the locality. The site is not far from Witney, and there would be no conflict with the objective to seek to minimise travel when all modes are taken into account. As the site comprises grade 3b agricultural land, development would not involve the loss of the best and most versatile land.
54. Through planning obligations in the unilateral undertaking, the proposal would contribute towards the provision of supporting infrastructure as required by Policy OS5. The provision of open space, and contributions towards off-site recreation facilities in Hailey, increasing the accommodation at Hailey primary school, bus services and bus infrastructure are relevant in this respect. However the sum included in the obligation for bus infrastructure exceeds what is justified, and the full amount cannot be taken into account in connection with this proposal (above, para 36).
55. The scheme would include a generous area of open space, and additional planting is proposed to provide biodiversity enhancements in line with a landscape and ecology management plan. It is suggested that this plan and a construction environmental management plan would be the subject of conditions. Accordingly the proposal would comply with Policies EH4 and EH3.
56. As the site is in flood zone 1 where there is the lowest risk of flooding and a sustainable drainage system is proposed, the proposal would comply with Policy EH7.
57. I agree with the main parties that the proposal would not affect the setting of Leafield Church or any other listed building, and there is no conflict with Policy EH11.
58. Policy WIT6 sets out the strategy for the Witney sub-area. It makes clear that the focus of new housing, supporting facilities and employment opportunities is to be Witney itself. New development in the rest of the sub-area is to be limited to meeting local community and business needs. Although 86 applicants on the housing register have expressed a preference for affordable housing in Hailey, applicants may express a preference for more than one part of the District. The development would provide support for local businesses and help to increase the size of the school. There is a suggestion in the emerging Neighbourhood Plan that more housing is needed to prevent closure of the school, but there is no detailed information before me to substantiate that position, nor that other facilities and services in Hailey are at risk without the additional support of a development of the size proposed. Whilst there are

benefits arising from the scheme, this does not necessarily mean that the proposal is meeting local needs.

Conclusions on the Development Plan

59. The proposal would satisfy the key test of Policy H2 as I have found that the development is necessary to meet an identified affordable housing need. It would also comply with the distribution of housing development set out in Policy H1, and would represent a limited scale of development as required by Policy OS2. However, Policy OS2 also requires that development should respect village character. That would not be the case here, and the proposal would conflict with Policy EH2 because of its effect on the character and appearance of the area, and with Policies EH9 & EH10 because of harm to the setting of Hailey Conservation Area. For these reasons it would also conflict with several of the general principles in Policy OS2, and fail to comply with the requirement in Policy H2 that proposals for new dwellings in villages should accord with other policies in the Local Plan. Although the proposal would support improvements to public transport, it is not clear that it would maximise opportunities for the use of this mode of travel, as sought by Policies T1 and T3. The proposal would comply with a range of other policies in the Local Plan, but these are not as important for determining the appeal proposal. I conclude that the proposal would conflict with the Development Plan considered as a whole.

Other considerations

Market housing

60. The proposal would add to the provision of market housing in West Oxfordshire, in line with the Government's objective to significantly boost the supply of homes (paragraph 59 of the NPPF refers). There is no ceiling on the level of provision in the Local Plan, and the Appellant points to an increasing backlog of provision, with the LPA'S 2018 Housing Land Supply Position Statement indicating an annual requirement for 901 dwellings³⁷, whereas Policy H2 has a figure of 550 for each of the next two years. Nevertheless, the development is not needed to achieve a five years' supply of housing land, or to meet the gap in overall provision for the period up to 2031 prior to the Local Plan's review (above, paras 46 & 44). In these circumstances I attach moderate weight to the benefit of providing additional market housing on the appeal site.

Affordable housing

61. There is a recognised need for affordable housing in the District, and to date provision during the plan period has not attained the level referred to in the Local Plan (above, paras 49 & 50). The provision of up to 20 affordable homes on the site would be consistent with paragraph 62 of the NPPF. It would, though, be a relatively modest contribution towards the level of need identified by the Appellant, which includes a shortfall in supply of 1,209 dwellings. Accordingly, this benefit merits moderate weight.

³⁷ Table 1 in Appendix 3c to Mr Wood's proof of evidence.

Open space and biodiversity

62. Assessment of the proposal against the West Oxfordshire open Space Study (2013) indicates that the scheme should provide 0.24ha of natural/ semi-natural/ amenity greenspace. As a consequence of the reduction in the number of dwellings from up to 85 in the original proposal to up to 50, the area of this form of open space would amount to 3.6ha (Document A18). As public open space, this facility would also be available to existing residents, although it would be separated from adjacent housing by the area intended for development. Consistent with paragraph 170(d) of the NPPF, the treatment of the open space and landscaping around the perimeter of the site provides the opportunity for net gains for biodiversity. Some of the measures suggested in the Appellant's Ecological Appraisal (CD A10), such as fence cut-outs to allow hedgehog movement and the provision of hibernacula for reptiles are more properly considered as mitigation, and detailed proposals would be included in a landscape and ecology management plan. I give moderate weight to the provision of additional open space and biodiversity enhancements as part of the appeal proposal.

Hailey Primary School

63. The position concerning Hailey primary school is not clear cut. The emerging Neighbourhood Plan contains a suggestion that the school could close if insufficient new housing comes forward and Government policy on viability changes. On the other hand there are few spare places, and the governors aspire to increasing the school from 0.5 to 1 form entry. Expansion of the school, supported by a contribution through the planning obligation, would be a benefit, and I note that the County Council comments that expansion would support its long-term sustainability. With this in mind, I give significant weight to this consideration.

Public transport

64. Improvements to bus services and the upgrading of the two stops close to the site would provide a benefit to existing residents. However details of the service improvements and when they would be introduced are not yet available (above, para 38), and this benefit carries only limited weight.

Economic considerations

65. The Appellant calculates a range of economic benefits. During the 12 months construction period, the development could support 86 full-time equivalent jobs, with a further 77 being indirectly supported. Once completed it is estimated that residents in employment could generate about £3.6 million of economic output annually, and spend about £1.2 million per year, although only a proportion of this would be in the local area. Paragraph 80 of the NPPF says that significant weight should be placed on the need to support economic growth and productivity, but these are generic benefits which would apply equally to any housing scheme of a similar size. Insofar as council tax receipts and the new homes bonus is concerned, I am mindful that paragraph 21b-011 of Planning Practice Guidance advises that it would not be appropriate to make a decision based on the potential for the development to make money for a local authority. Overall, I consider that the economic benefits of the proposal carry moderate weight.

Flood risk

66. The Appellant's flood risk assessment (CD A24) concludes that the proposal would be safe and resilient to flooding, and that it would not increase flood risk elsewhere, findings which are not disputed by the LPA. A condition could be imposed to require the development to incorporate a surface water scheme based on sustainable drainage principles. A subsequent flood risk and surface water drainage statement goes further than the flood risk assessment, and says that there would be an opportunity to better manage flood risk for the wider area³⁸. No details are provided, and this is a matter to which I give little weight.

Planning obligations

67. I have already referred to obligations concerning affordable housing, open space provision, and contributions towards off-site recreation facilities, Hailey primary school, and bus services and infrastructure. A contribution of £10,500 would be provided for public art. This is to be used for creative and artistic events in the parish of Hailey to help develop opportunities for new and existing residents to come together. As such, I consider that this contribution would be consistent with paragraph 127(a) of the NPPF, which explains that planning decisions should ensure that developments will function well and add to the overall quality of the area. It merits some additional weight in support of the appeal proposal.

68. The unilateral undertaking also refers to certain highway works, namely the formation of the site access, provision of a footway between the site access and the junction of Priest Hill Lane with the B4022, and an uncontrolled pedestrian crossing on the B4022 to facilitate children crossing the road to the school. The planning obligation commits the owner to entering into a Section 278 agreement, with no development to be undertaken before that stage is reached. These works, which are necessary in the interest of highway safety, are all the subject of suggested conditions, and I do not consider that an additional level of control is necessary to make the development acceptable in planning terms. I have reached a similar view in respect of the excess amount for the upgrading of the bus stops. Otherwise, I find that the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met, and the provisions of the unilateral undertaking are material considerations in this appeal.

Conclusions

69. I have found that the proposed development would be contrary to the Development Plan considered as a whole. The appeal should, therefore, be dismissed, unless material considerations indicate otherwise.

70. Due to its adverse effect on the setting of Hailey Conservation Area, the proposal would cause less than substantial harm to the significance of this designated heritage asset. In such situations, paragraph 196 of the NPPF requires that the harm should be weighed against the public benefits. There are a number of public benefits in this case. The support which the proposal would provide for the expansion of Hailey School carries significant weight. I attach moderate weight to the provision of market housing, affordable housing,

³⁸ Page 3 in Appendix 7 to Mrs Ventham's proof of evidence.

additional open space, biodiversity enhancements and to the economic benefits of the proposal. The contribution towards public art merits some additional weight, but I attach only limited weight to the benefits of public transport improvements to the local community and little weight to the claimed wider benefits relating to flood risk. The harm to the significance of Hailey Conservation Area, due to the adverse effect on its setting, carries great weight, and it is not outweighed by the combination of public benefits which would arise from the proposed development.

71. This is not a case where the tilted balance of paragraph 11(d)(ii) of the NPPF applies. In West Oxfordshire, the Written Ministerial Statement (WMS) of 12 September 2018 is relevant. It provides that the policies which are most important for determining the appeal are not out-of-date due to a shortage of housing land where there is a three years' supply. The Local Plan has been recently adopted and has identified a housing land supply in excess of five years. The Appellant has acknowledged this situation, but in any event, the 4.18 years' supply derived from its review of the housing land position, with a later base date, exceeds the three years specified in the WMS.
72. The proposal would harm the setting of Hailey Conservation Area, a matter which carries great weight. It would also damage the character and appearance of the area, harm to which I have given significant weight. In this respect paragraph 170(b) of the NPPF makes it clear that planning decisions should recognise the intrinsic character and beauty of the countryside. On balance the site is in a sustainable location for the development proposed, but this circumstance and the benefits which I have identified, do not outweigh the harm which would be caused. Material considerations do not indicate that the decision on this appeal should be taken other than in accordance with the Development Plan.
73. For the reasons given above, and having regard to all matters raised including the suggested conditions, I conclude that the appeal should be dismissed.

Richard Clegg

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Mackenzie of Counsel	Instructed by the Head of Legal Services, West Oxfordshire DC
He called Mr C Wood BA DipTP	Senior Planning Appeals Officer, West Oxfordshire DC
Mr R Oliver	Infrastructure Funding Negotiator, Oxfordshire CC
Mrs J White	Principal Transport Planner, Oxfordshire CC

FOR THE APPELLANT:

Miss T Osmund-Smith of Counsel	Instructed by Mrs Ventham
She called Mr B Wright BA(Hons) DipLA CMLI	Director, ASPECT Landscape Planning Ltd
Mr J P Hurlstone BSc(Hons) CMILT MCIHT	Managing Director, The Hurlstone Partnership Ltd
Mr J Stacey BA(Hons) DipTP MRTPI	Director, Tetlow King Planning Ltd
Mr R Bourn BA(Hons) MA CifA	Managing Director, Orion Heritage Ltd
Mrs K Ventham BSc(Hons) MSc MRTPI	Planning Partner, Barton Willmore LLP
Mrs G James	Director, Sharba Homes Ltd

INTERESTED PERSONS:

Councillor C Dingwall	Chairman, Crawley Parish Council (PC)
Councillor G Knaggs	Chairman, Hailey PC
Mr K Madden	Chairman, Hailey Action Group
Mr L Harrison	Local resident
Mrs S Moss	Local resident

THE LPA'S DOCUMENTS

- L1 Mr Mackenzie's opening statement.
- L2 Email dated 30 January 2019 from Mr Oliver to Mr Wood concerning Hailey School and the X9 bus service.
- L3 Comments on compliance of the planning obligations with the CIL Regulations.
- L4 Extract from Procedural Guide – Planning Appeals – England, The Planning Inspectorate.
- L5 Judgement in Canterbury CC v SSCLG and Gladman Developments Ltd [2018] EWHC 1611(Admin).
- L6 Judgement in Ivan Crane v SSCLG and Harborough DC [2015] EWHC 425(Admin).

- L7 Mr Mackenzie's closing submissions.
- L8 Email dated 5 March from Mr Wood to The Planning Inspectorate concerning the revised NPPF and the housing delivery test results.

THE APPELLANT'S DOCUMENTS

- A1 Consultation response on the proposed development from the LPA's Planning Policy Manager.
- A2 Miss Osmund-Smith's opening statement.
- A3 Historical aerial photographs of the appeal site and surrounding area.
- A4 Hailey Conservation Area Character Appraisal.
- A5 Hailey Conservation Area Proposals for Preservation and Enhancement.
- A6 Email dated 29 January 2019 from Pulhams Coaches to Mr Hurlstone concerning the X9 bus service.
- A7 Extract from The Wychwood Project website.
- A8 Note of the number of dwellings in Hailey.
- A9 Email dated 29 January 2019 from the LPA concerning the Housing Register and preferences for Witney.
- A10 Consultation response from the LPA's Senior Policy Planner on the submission draft Hailey NP.
- A11 Revised list of possible suggested conditions³⁹.
- A12 Costs application.
- A13 Unilateral undertaking relating to the appeal proposal.
- A14 Email dated 17 July 2017 from the District Council's Biodiversity Officer concerning the Appellant's Addendum Ecological Appraisal.
- A15 Judgement in Cherkley Campaign Ltd v Mole Valley DC and Longshot Cherkley Court Ltd [2013] EWHC 2582 (Admin).
- A16 Miss Osmund-Smith's closing submissions.
- A17 Email dated 11 February 2019 from Mrs Ventham to The Planning Inspectorate concerning Document O11.
- A18 Note on the provision of open space and consultation response from the District Council's Leisure Services Manager.
- A19 Note concerning the revised NPPF and the housing delivery test results.

OTHER DOCUMENTS

- O1 Statement of common ground.
- O2 CD showing views of the appeal site. Submitted by Mr Harrison.
- O3 Note concerning the X9 bus service. Submitted by Councillor Knaggs.
- O4 Plan of Hailey Conservation Area.
- O5 Councillor Knaggs's statement for Hailey PC.
- O6 Councillor Dingwall's statement and appendices for Crawley PC.
- O7 Mrs Moss's statement.
- O8 Site plan relating to permitted housing scheme south of Giernalls Road, Hailey.
- O9 Note of the number of dwellings in Hailey. Submitted by

³⁹ The main parties agreed that Document A11 supersedes the list of possible conditions attached to the statement of common ground (Document O1).

- Councillor Knaggs.
- O10 Plan of ward and parish boundaries in West Oxfordshire.
 - O11 Consultation response from the LPA's Landscape & Forestry Officer on the Appellant's planning application.
 - O12 Outline planning permission for nine dwellings south of Giernalls Road, Hailey.
 - O13 Location plan relating to refusal of planning permission for housing south of Giernalls Road, Hailey.