



Appeal Decision

Inquiry held on 12-15 and 19-21 September 2023

Site visit made on 15 September 2023

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2023

Appeal Ref: APP/V3120/W/23/3322187

Land north of Hobbyhorse Lane, Sutton Courtenay OX14 4BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jim Rawlings, Roebuck Land & Planning Ltd against the decision of Vale of White Horse District Council.
 - The application Ref: P21/V2682/O dated 9 September 2021, was refused by notice dated 23 November 2022.
 - The development proposed is residential development up to 175 dwellings (Outline Planning Application with all matters reserved except means of access to the site from Frilsham Street) and associated works.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 175 dwellings and associated works (all matters reserved except means of access to the site from Frilsham Street) at Land north of Hobbyhorse Lane, Sutton Courtenay OX14 4BB in accordance with the application Ref: P21/V2682/O, dated 9 September 2021, and the plans submitted with it, subject to conditions set out in the schedule in attached Annex A.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration, save for the access. I have assessed the proposal on this basis and treated the illustrative drawings as simply helping to inform how the proposal could ultimately be configured.
3. As well as an accompanied site visit on 15 September, I also made an informal unaccompanied visit to the area on 11 September 2023, prior to opening the Inquiry. My observations on these visits help inform my decision.
4. The appellant has submitted an executed Section 106 Agreement (S106). The main parties agree that the S106 makes satisfactory provision for affordable housing, local infrastructure and services, and so addresses the sixth reason for refusal, which I accept. I shall deal further in more detail with the later in this decision.
5. The Council is preparing a Joint Local Plan with South Oxfordshire District Council. Given its early stage of preparation, I attach little weight to this emerging plan. And, given that the Sutton Courtenay Neighbourhood Plan is still some way from finalisation and adoption, I attach little weight to this emerging plan. For the purposes of this decision, I take the Vale of White Horse

Local Plan 2031 Part 1 (LPP1) and Vale of White Horse Local Plan 2031 Part 2 Detailed Policies and Additional Sites (LPP2) to constitute the local development plan.

Main Issues

6. The main issues in this case are:

- The effect of the proposal on highway safety on the local highway network, with particular regard to a) use of Frilsham Street, and b) provision for a new Thames Crossing;
- The effect of the proposal on the health and wellbeing of future residents of the proposed development, with particular regard to odour from nearby composting, landfill and materials recycling facilities;
- The effect of the proposal on the health and wellbeing of future residents of the proposed development with particular regard to contamination from adjacent land east of the appeal site; and
- Whether the proposed development would suitably address surface water and groundwater flood risk.

Reasons

Strategic spatial and housing needs context

7. The appeal site is the majority of an agricultural field that is located towards the eastern edge of the Larger Village of Sutton Courtenay. Under Settlement Hierarchy Core Policy 3 of the LPP1, Larger Villages are defined as settlements with a more limited range of employment, services and facilities, compared for example to Local Service Centres. One of the key strands of LPP1's Spatial Strategy is to promote thriving villages and rural communities while safeguarding the countryside and village character. To help do this and maintain their vibrant communities, the district's 'Building on Our Strengths' Spatial Strategy includes allocating strategic housing growth at six Larger Villages in the South East Vale Sub-Area, including Sutton Courtenay. As set out in Figure 4.1 of the LPP1, this strand includes focusing development in the rural areas to the Larger Villages to help maintain their vitality and the sustainability of their local services.
8. Furthermore, as set out in LPP1, the South East Vale Sub-Area includes much of the Science Vale, which is an internationally significant location for innovation and science-based research and business that includes significant employment sites at Harwell Campus, Milton Park and Didcot A Power Station. Within this context, Core Policy 15 of the LPP1 sets out, among other things, that the 'over-arching priority' for the South East Vale Sub-Area, is to secure the aligned delivery of housing and employment growth together with the infrastructure required to achieve sustainable development.
9. Within this context, the appeal site covers most of the 'East of Sutton Courtenay' strategic housing site for the Larger Village of Sutton Courtenay, which is allocated under Core Policy 4 of the LPP1, within the Science Vale. LPP1 Core Policy 4 identifies various strategic housing sites to, among other

things, together deliver 9,055 dwellings, to meet the majority of identified housing needs in the South East Vale Sub-Area, subject to meeting the requirements in the Site Development Templates in LPP1's Appendix A, and in accordance with the policies of the development plan taken as a whole. As such, the appeal site makes up the majority of Sutton Courtenay's sole strategic housing growth site identified in LPP1 Core Policy 4, with a potential capacity for 220 dwellings.

10. Based on the Oxfordshire County Council average multiplier of 2.436 people per household, the proposed development would gradually add around 426 additional residents to Sutton Courtenay's existing population of around 3,000 people, in phases over an estimated construction period of around six years.

Highway safety

11. The appeal site is bounded to the west by development including Sutton Courtenay Village Hall, to the north by Sutton Courtenay Recreation Ground, to the east by the rest of the field and beyond that a restored former landfill site, and to the south by Hobbyhorse Lane.
12. The western part of Frilsham Street curves round modestly from Sutton Courtenay High Street to its merger with the western end of Hobbyhorse Lane, which is relatively straight on its approach to the appeal site. These parts of Frilsham Street and Hobbyhorse Lane together form a stretch of suburban style residential road with housing on each side that leads from the High Street to the proposed development access. Together, this route provides access from High Street to 35 existing dwellings and Sutton Courtenay Village Hall. The Frilsham Street part of the route from the High Street junction to the appeal site has two lanes and much of it is around 5m wide, with a brief pinch point around 4.4m wide near the junction with Frilsham Street north.
13. The Hobbyhorse Lane part of this route begins more narrowly as a stretch of single lane surfaced trackway that expands into a wider roadway as it progresses to the west to merge with Frilsham Street. Hobbyhorse Lane is classed as a Byway Open to All Traffic (BOAT), which is defined as highway over which the public right of way is for vehicles and all other kinds of traffic, but which is used mainly for the purposes for which footpaths and bridleways are used. Also, Frilsham Street, Hobbyhorse Lane and High Street are part of National Cycle Route 5 (NCR5), which runs from Reading to Anglesey. Along the route, including the stretch between Didcot and Oxford, and within Sutton Courtenay, NCR5 comprises a mix of on-road and traffic-free sections.
14. The above contributes to the likelihood of cyclists using NCR5 being familiar with moving between off-road sections and sections with some vehicle traffic. Also, on my site visits, albeit snapshots in time, I saw a fairly regular flow of cyclists safely using roads in and around Sutton Courtenay, including riding between off-road and on-road sections of NCR5 on Hobbyhorse Lane, in the vicinity of the proposed development access. The above points to an established cycling culture in the area, with cyclists apparently comfortably using the area's relatively flat terrain and mix of on-road and traffic-free sections of route. As well as convenient access to a network of cycle routes, there is also good connectivity from the appeal site and its environs to the network of public footpaths which permeate the village, and to High Street with its vehicular accessibility including for bus services.

15. Together, the setback of front garden boundaries beyond pavements and/or verges, and relatively flat terrain from the High Street junction to the proposed development site access contributes to reasonably clear sight lines along this stretch of road. Also, the modest curve of Frilsham Street together with the effectively cul-de-sac, residential nature of Hobbyhorse Lane combine to help limit opportunity for high vehicle speeds along this route.
16. The majority of homes along the route from the High Street junction to the appeal site have off-street parking spaces, in some cases with generous parking space in relatively deep front gardens. Also, the Village Hall has a private off-road car park. The parking surveys submitted by the appellant and Council indicate typically three to four vehicles parked on Frilsham Street. This tallies with what I saw on my first, informal site visit both before and during the evening peak hour, albeit a snapshot in time, when also several vehicles were parked on the western stretch of Hobbyhorse Lane. In the above parking level conditions, the majority of the Frilsham Street/Hobbyhorse Lane cul-de-sac route from High Street to the appeal development is free from on-street parking, with cars and vans able to safely navigate past them on the road.
17. The level of on-street parking during my second site visit were markedly higher than the above body of evidence indicates, and appears to be an anomaly having regard to the survey evidence and my earlier visit. I therefore give more weight to the evidence relating to the lower levels of parking. Regarding accident data, the latest five years' road safety data shows no recorded Personal Injury Collisions (PICs) on Frilsham Street or Hobbyhorse Lane. And, as the appellant's highways consultant observes, on-street parking can further act as a traffic calming measure that helps to reduce vehicle speeds.
18. The above together indicates that even without parking restrictions in place, the majority of this stretch of road from the High Street junction to the proposed development typically has a relatively modest level of on-street parking demand, with much of both vehicle lanes available for use much of the time. Also, existing on-street parking does not present a notable highway safety risk, and resultant temporary narrowing of usable road width can have a traffic-calming effect.
19. In summary, the existing road access from the High Street junction to the appeal site is a lightly trafficked, cul-de-sac residential access route with only modest levels of on-street parking, located towards the edge of Sutton Courtenay village. Within this context, the proposal would, once occupied entail an increase from 35 existing homes up to a total of 210 existing and proposed dwellings served by the Frilsham Street/Hobbyhorse Lane cul-de-sac route.
20. Regarding local concern about HGV-type vehicles potentially trying to unsuccessfully pass each other on this route, during or after construction of the proposed residential development, I find as follows. Given the typical HGV width of up to around 3m, even with parts of the route between the Frilsham Street/High Street junction and the proposed development access widened to 5.5m and 5m, as part of the off-site Section 278 highways works, passing of two HGVs on the carriageway would not be possible without at least one of the vehicles mounting the kerb. The possibility of this occurring, and with potential for damage to the pavement and or/road cannot be ruled out.

21. However, that said, the following measures suggested in paragraph 2.1.4 of the appellant's highways consultant's Rebuttal Proof of Evidence are to be included in the proposed development's Construction Traffic Management Plan (CTMP), to be secured through planning condition. The CTMP shall include construction traffic management measures to control of number, size, routing and timing of construction vehicles' access to and from the appeal site. Also, it shall include provision for holding of construction HGVs at the appeal site and use of a banksman to ensure safe passage of vehicles when the route to High Street is suitably clear. Also, wheel washing of construction vehicles will help maintain a safe road surface.
22. As such, I expect that the CTMP would help achieve responsible management of construction traffic, and provide a substantial degree of reassurance that bi-directional passing of larger construction vehicles of the route from High Street junction to the appeal site access could be avoided. And even if such passing did occasionally occur, I expect that the driver of such a vehicle would exercise professional standards of vigilance and care before attempting such a manoeuvre, which given the road layout and dimension and potential size of vehicle would likely occur at very slow speed. The above together would protect the safety of other highway users including pedestrians and cyclists in the vicinity of construction traffic.
23. Furthermore, even if construction vehicle damage to the pavement and/or roadway did occasionally occur during the construction period, a highway survey and remediation protocol, to be secured by planning condition, would reinforce developer and contractor accountability for responsible construction traffic management and timely delivery of highway repair. The above, together with anticipated reasonable standards of vigilance and care by other drivers, cyclists and pedestrians in the locality would help contribute to safe use of the highway.
24. The detail of construction activities and programme, including potentially substantial earth moving for anticipated flood risk mitigation ground raising at the appeal site, and associated detailed calculation of construction traffic volume, are yet to be finalised. That said, in the light of the above analysis of anticipated scenarios and solutions, I expect that construction traffic could be safely managed on and in the locality of the appeal development.
25. Also, with the anticipated maximum total new and existing traffic flow still being well under 2,000 vehicle movements per day post-construction, and with a 20mph maximum speed limit, the Frilsham Street/Hobbyhorse Lane cul-de-sac route would remain lightly trafficked. Within this context, the likelihood of two HGVs regularly needing to pass each other on this route once the development is occupied is very limited.
26. The following would also apply during and after construction of the development. With a typical car width of around 1.8 to 2m, and typical HGV width of around 3m, drivers of each type of vehicle would need to drive with care at a suitably low speed in the event that they would need to pass each other on the envisaged 5.5m wide part of the route. And were this to occur on a narrower part of the route, one of these drivers may well need to mount the pavement with care. However, that said, drivers exercising care when passing another vehicle or mounting the kerb occurs on the existing route between the High Street junction and some of the residential part of Hobbyhorse Lane, and

I see no reason to expect that such levels of driver care in such situations would much alter, with the proposed development. Within the context of the anticipated future lightly trafficked nature of the route, this would help protect the safety of road and pavement users.

27. It is undisputed by the Council and appellant that, as indicated by Table 5.2 of the Highways Proof of Evidence prepared by the appellant's consultants, occupation of the proposed development would generate around up to 869 additional daily trips on the Frilsham Street/Hobbyhorse Lane cul-de-sac route, resulting, in combination with existing traffic, in approximately up to 1,369 total daily trips on this stretch of road. This would likely entail up to around three to four vehicles per minute using this cul-de-sac route and its junction with High Street in the morning and evening peak hours (8am to 9am, and 5pm to 6pm). This would mean an increase of two to three vehicles per minute over the existing situation at these peak times, with a substantially lower frequency over the course of the rest of the day.
28. The above would result in noticeably increased volume of vehicular traffic, and pedestrian and cycle usage on this residential access route, arising from the proposed development. This would increase the number of fellow highway users and manoeuvres on this route for existing and future residents to have regard to, in order to travel safely, compared to the existing situation. However, that said, the following combination of factors would help moderate impacts on highway safety for various users in the locality of the appeal development.
29. In terms of composition of traffic once the development is occupied, it is undisputed that most of the vehicle movements on the Frilsham Street/Hobbyhorse Lane cul-de-sac route from High Street to the appeal development would remain by private car. This reflects the residential character of the existing and proposed parts of the neighbourhood, and that the route is not a bus route. Additional larger vehicles would use the route once the development is occupied, for domestic functions such as refuse collection, home deliveries and removals, and emergency services. However, these types of vehicle and also farming traffic are currently accommodated with a good road safety record, as demonstrated by the PIC data. Given the following moderating factors, I anticipate that a good road safety record on this route would continue to be the case with the proposed development.
30. I expect that levels of on-street parking on the route from the High Street junction to the development would be modest enough to normally avoid unusual obstruction of the carriageway to the normal mix of residential-related traffic described above, and traffic accessing the Village Hall and associated allotments and tennis courts.
31. Also, the appellant's highways consultant's analysis¹ indicates that with the proposed development, the Frilsham Street/High Street junction would continue to operate with spare capacity without notable queuing. Also, required visibility splays can be achieved, including from the appeal site access towards the Village Hall. And swept path analysis demonstrates that acceptable access into the development site can be achieved for vehicles including refuse vehicles.

¹ As per paragraph 5.2.24 And Table 3 of the Proof of Evidence of Ronald Henry.

32. Moreover, with the setback of front garden boundaries beyond pavements and/or verges contributing to clear sight lines, visibility for highway users would be acceptable along this Frilsham Street/Hobbyhorse Lane route to the appeal site. Also, with the traffic-calming effect of the combination of a) the residential cul-de-sac nature of this route, b) the modest curve of its Frilsham Street stretch, c) the proposed T-junction access to the development giving way to Hobbyhorse Lane, and d) a local 20mph maximum speed limit supported by Section 106 provision, vehicle speed would be likely typically low at and in the vicinity of the proposed development access. These factors would further help safeguard road safety for various highway users.
33. Furthermore, I expect that road and footway users in the vicinity of the proposed development access would in future, exhibit reasonable levels of road safety sense and consideration, which have apparently helped sustain the locality's good PIC road safety record, in this village context with its noticeably strong community spirit. This would include reasonable standards of vigilance and awareness of fellow highway users on this residential cul-de-sac access route whether driving, cycling or walking, and appropriate supervision of children, including for example among pedestrians walking to the Village Hall and associated allotments and tennis courts.
34. Also, as the Frilsham Street/Hobbyhorse Lane cul-de-sac route would, as established earlier, remain lightly trafficked, and would likely be suitable for most people to cycle on, in line with definitions provided by paragraph 7.1.1 and figure 4.1 of the government guidance Cycle Infrastructure Design Local Transport Note 1/20 (the LTN).
35. Furthermore, while, judging by the envisaged Section 278 highways works, this route would not, along its full length, provide the guideline minimum 5.5m two lane carriageway width sought by, for example, table 7.2 of the LTN, or the minimum 5.1m carriageway width indicated in the Council's highway consultant's analysis of Manual for Streets and LTN guidance², I anticipate the following. Cyclists could still comfortably move into the primary visibility position³ in the centre of the open lane to safely pass the likely no more than modestly occurring presence of cars parked on the street. Also, should cyclists encounter two-way vehicle traffic, even including HGVs, on this route they could reasonably find a safe place to stop until the vehicles' positioning enables them to comfortably pass.
36. Within this context, among safe future highway usage that I anticipate on this route, I expect that, given the identified indications of a local cycling culture of safe usage of a mix of on-road and traffic-free sections of route, the Hobbyhorse Lane and Frilsham Street stretch of NCR5, including the Hobbyhorse Lane BOAT, would be a comfortably safe stretch of route for cyclists.
37. That the identified non-compliance with some highway width guidance means that Sustrans National Cycle Network design principles for a 'quiet-way' on-road section of National Cycle Routes would not be fully achieved does not alter my above finding. This is because I anticipate that sufficiently comfortable, safe sharing of the carriageway by cyclists, drivers and pedestrians would in practice endure, for the reasons set out above. Also,

² As set out in paragraph 3.18 of their Proof of Evidence Relating to Highway Matters.

³ As illustrated in Figure 7.2 of LTN.

proposed surfacing improvements to Hobbyhorse Lane would enhance that aspect of cyclists', pedestrians' and motorists' journey safety.

38. Furthermore, judging by the Section 278 highways works package and the Local Highways Authority's acceptance of recommendations in the independent Stage 1 Road Safety Audit for safety improvements on the route between the appeal site and the Frilsham Street/High Street junction, I envisage that the following highways works, secured by the S106 agreement would provide safety enhancements for the various users of this route. These are a) widening of the carriageway to 5.5m for the first 12m from High Street, and to achieve at least 5m width for the remainder of the route, apart from a brief, approximately 4.4m wide pinch point near the Frilsham Road North junction, b) widening of pedestrian footways while maintaining footway gradients, and c) installation of tactile paving and replacement of kerb upstands with dropped kerbs at crossing points. From what I have seen and read in this case, I do not anticipate that the watercourse to the south of Hobbyhorse Lane would prevent the above highway widening.
39. Together, the above improvements would provide safe access on the route to and from the appeal site and the Frilsham Street/High Street junction, for existing and proposed residents, and other users of the route including motorists, pedestrians, cyclists, horse riders, cyclists and wheelchair users. Taking the above together, I find that the proposed development would make Frilsham Street and Hobbyhorse Lane and their environs busier with vehicle traffic, pedestrians and cyclists.
40. Some people using or residing in the vicinity of this route may on occasions find this change stressful. That said, given the various moderating factors identified above, I anticipate that this route to the proposed development would be a safe part of the local highway network, during construction and occupation phases of the proposed development. And that as the proposed development, local construction traffic and its management, and envisaged highway improvements became more familiar, increased busyness of the route would likely feel more commonplace to local residents over time.
41. I acknowledge that the total of up to 210 existing and proposed homes served by the route from the High Street junction to the appeal site would exceed, by 10 units, the Oxfordshire Residential Road Design Guide (the DG) threshold for a major access road. And as such, the Section 278 highways package as envisaged on its works plan would not achieve the DG's 5.5m guideline road width along the full length of this route.
42. However, this does not alter my finding of a safe part of the local highway network, given the following combination of factors. These are a) with its low vehicle speeds, predominantly residential traffic type, typically modest levels of on-street parking and not being a bus route, this route would continue to mainly have the characteristics of a minor access road, b) guidance in Manual for Streets sets out that carriageway widths should be appropriate for the particular context, and c) having considered the particular context in the light of the above analysis of anticipated scenarios, I anticipate that the route from the High Street junction to the appeal site would be safe for its various users.
43. Regarding local concern about congestion effects on the area's wider highway network, particularly at peak periods in the immediate area of Sutton Courtenay and the Culham/Sutton bridges over the River Thames to the north

of the village, I find as follows. In the light of Oxfordshire County Council's refusal of planning permission in summer 2023 for the HIF1 infrastructure package that includes a new Thames crossing near Culham, and in advance of the planning Inquiry and determination of the appeal⁴ about it, following the call-in by the Secretary of State, there is some fresh uncertainty whether the river crossing would be delivered by 2026 as envisaged by the Local Highway Authority. However, that said, even if the new Thames crossing, with its additional highway capacity were not open to vehicular traffic by 2026, the following safeguards would be in place to help moderate impacts on the wider highway network from additional traffic arising from the proposed development.

44. Under the S106 agreement for the appeal development, its dwelling numbers would be capped at 45, akin to the mechanism proposed in the Appleford Road planning appeal for residential development in Sutton Courtenay⁵, while the bridge crossing is not yet open to vehicular traffic. And in the event that it became clear that the new Thames crossing would not be open by 2026, the local highway authority and main parties agree that further bus service improvements funded by the additional £82,000 contribution triggered under the S106 agreement, on top of the other improvements to bus services serving Sutton Courtney funded by the £146,300 public transport services contribution, would provide sufficient stimulus to additional modal shift in the area from private cars to public transport, for the 45 dwelling cap at the appeal development to be lifted.
45. Furthermore, within the context of being in a locality that is particularly permeable on foot and bicycle, and with access to the High Street bus services and a pleasant village character, the location of the appeal site is well placed to potentially further encourage 'greener' modes of travel. This would help moderate private car use by future residents of the proposed development as well as enhancing green travel opportunities for existing village residents. Moreover, the appeal site is accessible to the surrounding local community, jobs, shops, transport links and services by a mix of non-car travel modes, including the NCR5 cycle route and bus provision in the village and, beyond that the train station at Didcot Parkway.
46. Also, the envisaged footway improvements would likely encourage some local walking in place of car trips, for example to the Village Hall and its associated community facilities. Moreover, the quality and level of public transport provision in the village would be improved via S106 contributions to enhance bus services through the village and improvements at the bus stop on High Street including a new two bay shelter. As such, the appeal development is strongly positioned to help promote some realistic transport alternatives to the private car in the locality.
47. In the light of the above, the Council considers that the second reason for refusal, concerning reliance on private motor vehicles and the highway safety effect of additional traffic, and the sixth reason for refusal concerning, among other things, dwelling occupations before the new Thames crossing is in use, have been resolved. In the light of the consensus of the local highway authority, the Council and the appellant on the adequacy of the above provision, in combination with Thames Valley Police's clarifying withdrawal of

⁴ Appeal Ref: APP/U3100/V/23/3326625.

⁵ Appeal Ref: APP/V1320/W/20/3247391.

their road safety objection, and the added safeguard of monitoring of the appeal development's Travel Plan to promote sustainable modes of transport, I am satisfied that vehicle traffic arising from the proposed development would not unacceptably impact on the safety and capacity of the wider road network.

48. Therefore, I conclude that the proposed development would not harm highway safety on the local highway network, with particular regard to a) use of Frilsham Street, and b) provision for a new Thames Crossing. As such, the proposed development would not conflict with Development Policy 16 of the LPP2, which seeks, among other things, to ensure the following: a) access for new development is of high quality design, in accordance with LPP1 Core Policy 37 criterion iv's requirement for development to provide for safe movement for all highway users including vehicle drivers, pedestrians and cyclists, without vehicular traffic being over-dominant, b) adequate provision is made for loading, unloading, circulation, servicing and vehicle turning, and c) adequate off-site improvements to the highway infrastructure including the public transport network are secured, where necessary.
49. Also, the proposal would not conflict with paragraphs 110(b) and 111 of the Framework, which together seek to ensure safe and suitable access to development, and avoid unacceptable impact on highway safety and the road network.

Odour

50. The local waste sites for consideration under this main issue are as follows. The Sutton Courtenay Composting Facility is situated approximately 750m to the east of the appeal site. As set out in its Environmental Permit, this composting facility's operation includes sorting, shredding and composting of green waste, using a system of windrows and screening. Also, a materials recycling facility is situated around 1km east of the appeal site, near the composting facility. And the operational area of Sutton Courtenay landfill site is located around 1km to the south-east of the appeal site.
51. Judging by the waste facilities operator FCC's recent correspondence with the Council, a) it cannot be ruled out that the composting facility could be subject to a planning application seeking to extend its operation, beyond the end of the 2030 cessation deadline that is a condition of its current planning permission, and b) if so, the outcome of any such application could not be prejudged. Given this, I do not rely on the possibility of cessation of its green waste composting operations by that date as meaning certain cessation by then of any associated odour exposure at the appeal site.
52. Odour experienced at the appeal development would not include methane odour as methane is odourless. And I shall address concerns about ground gas contamination from the Hobbyhorse North former landfill site under the third main issue.
53. The fourth reason for refusal expressed concern about insufficient information about odour. Since then, a range of additional evidence has been considered in this Inquiry. This includes expert sniff test odour surveys, further analysis by the appellant and Council and their odour consultants, the Environment Agency's response to the Council in December 2022, the September 2023 update for the Sutton Courtenay Community Liaison Meeting, and statements to the Inquiry by Sutton Courtenay Parish Council and local residents. This is in

addition to earlier evidence including the Air Quality and Odour Assessment 2021 (AQOA) by the appellant's odour consultants. The AQOA includes a qualitative assessment in accordance with Institute of Air Quality Management Guidance on the assessment of odour for planning, 2018 (the IAQM guidance), informed by the Environment Agency's odour complaint record from 2016 to 2020. The earlier evidence also includes some local residents' experiences of odour in the village.

54. Given the substantial odour evidence before me in this case, including the above items, and my following findings on odour, I am satisfied that sufficient information has been presented and aired in his Inquiry, on which to base my judgment on this second main issue.
55. The IAQM guidance sets out, among other things, that even with effective operational pollution regulation in place under an Environmental Permit, any likely residual effect of odour on nearby sensitive users still needs to be considered, which I shall do, as follows. The following findings take account of the fact that while some odour management measures are undertaken by the waste facilities' operators, odour mitigation measures within the development are not proposed.
56. The Environment Agency's odour complaints records in the almost seven year period from January 2016 and April 2023 show 269 complaints from Sutton Courtenay. Of these, complainants attributed more than two thirds of complaints to landfill, and around a seventh to composting. The period of a spike of 53 odour complaints from Sutton Courtenay to the Environment Agency in a week shortly before this Inquiry's opening coincided with reports by Sutton Courtenay Parish Council to this Inquiry of offensive odours in the village on 6 and 7 September, and the Environment Agency's odour survey detection of compost odour in Sutton Courtenay on the night time of 7 September. That said, I take the lower complaint rate over the much longer period of January 2016 to April 2023 to be more typically representative of the volume of odour complaints in the locality over recent years.
57. Other evidence in the form of various Sutton Courtenay Parish Council and residents' representations describes repeated experience of unpleasant odours, which complainants attribute to waste facilities to the east in the village, over several years. They also suggest that experience of odour annoyance in the village tends to be more frequent in warmer, summer months than at other times of year.
58. Within this context, in summer 2021 for example, Environment Agency odour surveys undertaken in response to public complaints indicate that when the appeal site is downwind of the Sutton Courtenay composting facility, and associated odour management measures such as suspension of compost turning, shredding and screening are in place at the composting facility, odour experience can be as follows. Odour experience in the locality of the appeal site can vary on different days from no odour to odour of less than strong intensity. And, while in summer 2023, Environment Agency odour surveys⁶ detected offsite landfill odours on the two testing days around mid-July, these were attributed to construction of leachate wells, for which odour control measures have apparently been put in place.

⁶ A reported in the Environment Agency's September 2023 update for the Sutton Courtenay Community Liaison Meeting.

59. Also, subsequent to the Council's decision to refuse planning permission, sniff test odour surveys were undertaken by the appellant's consultant odour surveyor on the appeal site and at 'surrogate' locations in the locality, during low wind, warm weather conditions that are apparently prerequisite for potential odour exposure in the area, as follows. A sniff test odour survey was undertaken at the appeal site on 5 September 2023, when the site was downwind of the composting facility and the other waste sites. Also, on 9 and 10 August 2023, three sniff test odour surveys were undertaken at other 'surrogate' locations a similar distance downwind from the composting facility and the other waste sites as the appeal site, when the latter was not downwind from the waste sites. The results of these odour surveys, together with those also undertaken by the Environment Agency in this period, are summarised as follows.
60. The appellant's surveyor's 5 September odour survey reported detectable unpleasant odours at three of the nine sniff test locations on the appeal site. At these three with-odour survey points, the overall effect was rated as negligible at one location, and slight adverse at the other two. No odour was detected at the majority two thirds of the test locations at the appeal site. Also, Environment Agency odour surveys on 5 and 6 September 2023 detected no composting or landfill odours in Sutton Courtenay. And Environment Agency night-time odour survey on 7 September detected compost odour at a location a little further from the composting facility than the appeal site.
61. The appellant's consultant's odour survey results on 9 and 10 August showed negligible to slight adverse effects at surrogate locations a similar distance from the waste sites as the appeal site. Even a close observation at 247m, much closer than the appeal site to the waste facility, registered as slight adverse.
62. Thus, while odour annoyance at locations in Sutton Courtenay apparently triggered some local residents to lodge odour complaints during the recent three month period from mid-July to mid-September 2023, a range of professional odour surveys in the locality during meteorological conditions that are apparently prerequisite to potential odour exposure from waste sites in the locality, indicated no more than negligible or slight adverse odour effects, if at all, at the appeal site and its locality.
63. The above survey and complaints evidence together indicates the following. Unpleasant odour from waste facilities to the east and south-east of the appeal site can be experienced at and in the locality of the appeal site, even when odour control-measures like suspension of potentially odour inducing operations such as compost turning and shredding at the composting facility are in place. This has apparently resulted in some dissatisfaction and 'complaint fatigue' among some existing villagers. That said, professional odour surveying, even during periods of some existing Sutton Courtenay residents' odour complaints, indicates detectable odour effects to typically be no more than negligible or slight adverse.
64. Also, as the IAQM guidance indicates, there can be a diversity of reactions to odour, with some individuals unable to tolerate an odour, while others can be very tolerant of even high intensity odours. As the IAQM guidance also indicates, perceptions of odour can differ between people, influenced by their previous experience and emotions at the time of odour perception. Within this

context, and with the proposed development offering new homes in a locality with an attractive range of sustainability benefits and evidently community-spirited village setting, I anticipate that the development's future residents would likely feel more positive about it, and so potentially less minded to emphasise odour as a source of dissatisfaction, than those who oppose the development with a range of concerns that also includes various non-odour matters.

65. Moreover, it is undisputed by the appellant and Council⁷ that the appeal site is typically downwind of the local waste sites in low wind, warm weather conditions around 8% of the year. Furthermore, with the frequency of odour complaints from Sutton Courtenay covering less than 6% of the year in 2020 and less than 4% of the year in 2022, this suggests that the potential odour exposure time for future residents of the proposed development would be less than 8% of the year. A shorter than 8% annual odour exposure period is also made likely by people typically commonly being away from home some of the time, for example when shopping, for leisure or work, and even when at home sometimes indoors with their windows and doors closed.
66. Taking the above together, I find that on occasions some odour from waste facilities to the east would likely result in some olfactory discomfort to some future residents of the proposed development, for example during warm summer weather. Judging by reported experience of some existing residents of the village, this may discourage some future residents of the proposed development from using their garden or having a window open during periods of odour exposure, with consequent annoyance.
67. Thus, I anticipate that, even with composting facility management measures in line with its Environmental Permit, some unpleasant odour from waste facilities to the east and south-east of the appeal site could be experienced by future residents of the proposed development on occasions. This odour exposure may well occur more on warmer days than other times of year, including on summer mornings and evenings when future residents of the proposed development may be in their garden or in their home with windows and/or doors open. Such experiences of olfactory discomfort may have a negative effect on the development's future residents' sense of well-being, and hence a negative effect on health.
68. That said, the odour survey results of the Environment Agency and the appellant's surveyors indicate a picture over several years of typically lower intensity odours. For most of the year, future residents of the proposed development would likely not experience odour impacts from waste facilities located to the east and south-east. And during relatively infrequent weather conditions, they would possibly experience odour effect from waste facilities located to the east and south-east that is likely to be slight adverse at worst.
69. Given the above, I find that the residual adverse effect from odour to the health and wellbeing of future occupants of the proposed development would likely be limited. Thus, having carefully considered odour consequences, I find that the fact that the main parties agreed⁸ there was, in IAQM guidance terms, *significant potential* impact from odour at the proposed development site does not translate into any more than *slight adverse likely* odour impact on the

⁷ As confirmed in the Addendum Statement of Common Ground - Odour.

⁸ In the Statement of Common Ground - Odour, 15th August 2023.

enjoyment of the locality by the development's future residents. In the light of the above investigations into odour impact, no possibility of or requirement for mitigation of this odour impact has been found.

70. In relation to the requirements of the Framework's 'agent of change' paragraph 187, I note the Environment Agency's view⁹ that they 'cannot provide any reassurance that' existing odour management controls at the composting site would sufficiently protect future residents in the locality of the appeal proposal from polluting odours, without significant changes to the composting operation. That said, to my mind, the following combination of factors provides reassurance that the proposed development would not likely result in unreasonable restrictions on the composting facility.
71. While FCC, who operate the composting facility, have commented on the proposed development these comments neither express concern that the appeal development would place unreasonable restrictions on the operation of Sutton Courtenay's Composting Facility, nor object to the proposed development. Together with the limited nature of odour-related harm to the proposed development's future residents that I have identified, the above indicates that the proposed development is not likely to result in a complaint burden that would place unreasonable restrictions on the Sutton Courtenay composting facility. As such, the proposal would not conflict with paragraph 187 of the Framework.
72. In conclusion, the proposal would result in limited harm to the health and wellbeing of future residents of the proposed development, in terms of odour from nearby composting, landfill and materials recycling facilities. As such, it would conflict with Development Policy 24 of the LPP2 which seeks to ensure that occupiers of new development are not adversely affected by sources of, among other things odour. Also, the identified limited harm to the health and wellbeing of future residents would conflict with paragraphs 119, 174(e) and 185 of the Framework, which together seek to ensure that development provides acceptably healthy living conditions.

Contamination

73. The Hobbyhorse North restored former landfill site is situated east of the appeal site. This unlicensed and unregulated former landfill site ceased taking waste around three decades ago, and the Council understands that it is unlined. In the light of the emergence, since the decision to refuse planning permission, of some detail of the Council's concerns about potential contamination at the appeal site from this former landfill, the appellant has undertaken some further contamination investigation and analysis on this matter. The Technical Note: Sutton Courtenay-Landfill Gas Migration Assessment (GMA) dated 2 August 2023, prepared by the appellant's landfill gas consultant, provides additional modelling.
74. Judging by the landfill gas proof of evidence of the appellant's landfill gas consultant, that includes the GMA Technical Note, the following combination of factors indicates that methane would not be present on the appeal site in such amounts as to cause a risk to future occupants of the proposed development. The Hobbyhorse North former landfill site is around 55m away from the eastern boundary of the appeal site. In addition to this I anticipate further separation of

⁹ As reiterated in their email to the Council of 31 July 2023.

housing on the appeal site from the landfill site, to accommodate a green space buffer area for flood risk mitigation measures. Also, the landfill site's waste that the appeal housing would be separated from has been in place for at least around three decades, with associated likely reducing rates of methane generation.

75. Moreover, the former landfill site has an existing gas extraction system that appears to be maintained in good condition, with the closure of many vents indicating an absence or low level of methane generation commensurate with the age of the landfill. Also, gas monitoring undertaken at the site boundary and the allocation boundary is consistent with the absence of methane migration to the appeal site. Furthermore, detailed modelling undertaken by the appellant's landfill gas consultant, based on various conservative modelling assumptions indicates negligible concentration of methane at the nearest edge of the appeal site. As such, methane concentrations at the appeal site would likely be around or below the 'minimal risk' level defined within relevant guidance in CIRIA Report C795¹⁰.
76. Regarding gas bubbling that apparently occurs in a ditch towards the western boundary of the Hobbyhorse North former landfill site, the appellant's landfill gas consultant advises as follows. Such gas bubbling a) does not necessarily indicate gas migration further off-site, b) is present even on many sites where housing has been safely constructed, and c) is thus a poor indicator of the risk of either gas migration or the rate of gas emissions from the ground surface. I see no evidence to suggest otherwise.
77. Thus, the risk of landfill gas migration from the Hobbyhorse North former landfill site causing hazardous emissions at the proposed development is, for the reasons set out above, negligible. Moreover, given that the exact contents of the former landfill site are not known, the following gas protection measures in the design of the base of dwellings would provide an additional layer of assurance of future residents' health and wellbeing. These Characteristic Settlement Level CS3 gas protection measures (the CS3 measures), in line with BS 8485:2015+A1:2019¹¹, to be secured by planning condition, include gas membranes in the floor of dwellings on the appeal site, and void spaces beneath dwellings that would be vented with air bricks to prevent accumulation of methane and its ingress to the houses.
78. In the light of the above, the Council's and appellant's contamination landfill gas consultants agree that with an appropriate planning condition to secure pre-occupation verification of CS3 measures for each dwelling, ground gas and dissolved gas risk at the proposed development can be adequately addressed, and that a perimeter gas vent trench would not be necessary. I see no reason to differ from these experts' views on these points.
79. Also, the Council agree that the results of the GRM Shallow Soil Sampling Letter Report dated 27 March 2023 submitted by the appellant demonstrate that the shallow soils on the appeal site are not significantly impacted by contaminants of concern, which I accept.

¹⁰ Retrofitting hazardous ground gas protection measures in existing or refurbished buildings.

¹¹ Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

80. Regarding concern about contamination of groundwater on the appeal site by leachate migration from the former landfill site to the east, I find as follows. Given the age of the waste in the former landfill site, its leachate generation rates are likely to be reducing over time. Also, while water flow from the landfill site towards the appeal site was recorded, for example in 2018 (in the JNP technical note Additional Groundwater Monitoring Report), review of groundwater flow data from 95 monitoring visits from 2016 to 2023 by the appellant's groundwater contamination consultant indicates that the flow is predominantly to the north and north-east, not from the former landfill towards the appeal site.
81. Moreover, further groundwater sampling undertaken on behalf of the appellant in August 2023 tested for a comprehensive suite of contaminants that included a range of chemicals likely to be present in landfill leachate. Analysis by the appellant's groundwater contamination consultant is that if landfill leachate was migrating to the appeal site via groundwater, high ammonium concentrations, elevated metals and a slightly alkaline pH would be anticipated to be present within the groundwater, based on worst case methanogenic conditions being present within the landfill waste. And that this is not shown to be the case here.
82. As such, there is no discernible evidence of leachate impact on groundwater or surface water from the former landfill site. The above together indicate no likely pathway for potential leachate in groundwater from the former landfill site to come into any contact with future residents of the proposed development in outdoor areas including gardens. Thus, potentially harmful landfill leachate would not likely be present on the appeal site at levels or a depth to have adverse impacts on the health and wellbeing of its future residents.
83. Nevertheless, the possibility of groundwater flow from the Hobbyhorse North former landfill site other than in the predominant direction away from the appeal site cannot be ruled out, and the exact contents of the former landfill site are not known. Therefore, the requirement, to be secured by planning condition, for an additional pre-commencement two rounds of groundwater sampling and testing, and in the event of hitherto unsuspected significant contamination presence, a scheme for remediation and/or mitigation, provides an additional layer of health and wellbeing assurance for future residents of the proposed development.
84. In the light of the evidence presented to the Inquiry, the Council consider that subject to planning condition, the reason for refusal concerning contamination has been resolved. For the above reasons, I agree on this point. Therefore, I conclude that the proposal would not harm the health and wellbeing of future residents of the proposed development, in terms of contamination from adjacent land east of the appeal site. As such, it would not conflict with Development Policies 24 and 27 of the LPP2 which together seek to ensure that development is appropriately located and designed so that its intended use is compatible with the contamination condition of the land, and its occupiers are not adversely affected by existing or neighbouring uses.
85. Also, for the above reasons, the proposed development would not conflict with paragraphs 119 and 183(c) of the Framework, which together seek to ensure

that development provides acceptably healthy living conditions, informed by adequate site investigation.

Flood risk

86. The appeal site is located in Flood Zone 1, with a low probability of fluvial flooding. That said, as indicated by evidence including a range of site photographs and analysis by the Council's flood risk consultant, parts of the site are subject to some surface and groundwater flooding, with examples cited of standing water on various occasions in at least the last decade.
87. Judging by the illustrative surface water drainage layout and surface water drainage strategy for the site, the proposed development would entail raising ground levels on parts of the site by around 0.7m, to achieve unsaturated clearance below the base of infiltration features. As set out in the appellant's flood risk and drainage consultant's proof of evidence, allowance has been made for climate change in rainfall calculations and the indicative location of housing and surface water management features. It is envisaged that surface water on the proposed development would be drained via infiltration, either on-plot through permeable paving or with runoff conveyed via swales to infiltration basins. The basins would take water for a short period after heavy rainfall, which would then drain into the soil beneath. As such, the evidence demonstrates that there would be no increase in surface water runoff leaving the site, and therefore no increase in flood risk to third parties.
88. In response to the Council's Appeal Statement, the appellant has provided further information including the surface water run-off calculations that informed their concept drainage strategy. Following review of this further information by the Council's flood risk consultant, the Council confirms that subject to planning conditions to secure a detailed surface water and foul drainage scheme, and sustainable urban drainage compliance report, they have withdrawn the fifth reason for refusal concerning flood risk. Also, the Lead Local Flood Authority confirm that they do not object to the appeal proposal, subject to planning conditions. I find no reason to differ from the above expert views on these points.
89. In conclusion, the proposed development would be acceptably resilient to flood risk, and not increase flood risk elsewhere, taking account of the effects of climate change. Therefore, the proposed development would suitably address surface water and groundwater flood risk. As such, it would accord with criterion iii) of Core Policy 42 which seeks to minimise the risk and impact of flooding through ensuring that development does not increase the risk of flooding elsewhere.
90. Also, with recent information about existing and potential flood risk having been considered, and the evidence in the Flood Risk Assessment and Concept Drainage Strategy for the proposal indicating that the development would be safe for its lifetime without increasing flood risk elsewhere, the proposal accords with the second part of the Framework's exception test, and so complies with Framework paragraph 166.

Other Matters

91. Given the investigations into highways and access matters, and the identified infrastructure provision and acceptable highway safety position, the proposal

does not conflict with the highways and access criteria of the LPP1 Site Development Template (the SDT) for the 'East of Sutton Courtenay' strategic housing allocation. Also, given the identified absence of possibility of or requirement for mitigation of the odour impact, the proposal does not conflict with the odour part of the environmental health criteria of the SDT.

92. Some local residents have expressed other concerns about the proposed development that go beyond the reasons for refusal, which I address as follows. Biodiversity would be safeguarded through a construction phase protection plan and an enhancement plan, to be secured by planning condition. The development would achieve 10% biodiversity net gain. Water pressure in the village is addressed by a planning condition regarding water network phasing. Also, Thames Water confirm that there is adequate capacity in the sewerage system for the proposed development, which I accept. Appropriate contributions are secured by the Section 106 agreement towards, among other things educational facilities. Also, the residents of the development would provide additional future patients for local healthcare services, potentially helping to sustain this provision in the future.
93. Regarding local character, the appeal site reads on the ground as part of a transition zone from the suburban character of Frilsham Street/and the western part of Hobbyhorse Lane, with its mainly residential development and the presence of the Village Hall building and car park, to the more verdant and open countryside beyond. This locally distinctive transitional character is experienced from various public and private viewpoints in the locality, including from the Hobbyhorse Lane BOAT 'spine' route. Within this context, the change from part of an arable field to a residential development would have a localised urbanising impact on the appeal site and its immediate environs.
94. However, that said, I anticipate that the following combination of moderating factors would be noticeable. The verdant, open character of land to the north, east and south of the site would remain. The part of the Hobbyhorse Lane BOAT in the vicinity, with roadway towards the west, and off-road feel towards the east would retain its character. Also, the separation of the site from Didcot is such that the appeal development would not coalesce with it. Also, proposed resurfacing of part of the BOAT spine route would encourage further use and appreciation, by local and visiting pedestrians and cyclists, of the green infrastructure network and countryside character in the vicinity of the site. And, the verdant visual appeal of the adjacent recreation ground, and hedgerows and trees in the locality would endure. Together these moderating factors would help safeguard the character of the area.

Section 106 Agreement

95. The S106 secures up to 61 affordable housing units. Also, it secures contributions towards bus service improvements, travel plan monitoring and information packs, improvement of the strategic highway network serving the site, and a package of off-site Section 278 highways works described more fully below. It secures contributions towards local speed limit provision and public rights of way improvements. Also, the S106 secures contributions towards public art, street naming, waste and recycling bins, and on-site public open space, including play facilities. And it secures contributions towards secondary school education including sixth form, and special education capacity.

96. Together, this Section 106 obligation accords with the LPP1 Core Policies 7, 24, 33 and 35, and LPP2 Detailed Policies 28, 33 and 35. In combination these policies require necessary infrastructure provision, and 35% affordable housing on sites capable of a net gain of eleven or more dwellings, with a split of a 75:25 split for rented and intermediate housing. Also, together they a) require minimisation of impacts on road networks, and promotion of improvements to the transport network that increase safety, and b) encouragement of sustainable modes of transport and support of measures that enable a modal shift to public transport, cycling and walking in the district. And together they require provision for public art, waste collection and recycling, and protection of the public rights of way network. As established below under the third main issue, a perimeter gas vent trench is not necessary, and so provision for this is not included in the S106.
97. I have considered the S106 against the requirements in Regulation 122 of the CIL Regulations and paragraph 57 of the Framework. I consider that all the measures as detailed in the S106 are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore, I find that the submitted S106 complies with the CIL Regulations and the Framework, and I have taken it into account in coming to my conclusions in this appeal.

Conditions

98. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been found to be reasonable and necessary in the circumstances of this case. I have made modest drafting changes for clarity. Conditions relating to the submission and implementation of reserved matters and associated time limits, and approved plans, are necessary to provide certainty. Conditions relating to biodiversity protection and enhancement, and arboricultural protection are required to safeguard biodiversity and the character and appearance of the area. I attach conditions relating to construction traffic management, site access details, highway survey and remediation to safeguard highway safety. I attach a condition relating to market housing mix, to meet local housing need. Also, conditions are attached to safeguard archaeological assets.
99. Conditions regarding dwellings' space standards are necessary to safeguard residents' living conditions. Conditions regarding gas protection measures, unsuspected ground contamination protocol, groundwater sampling and removal of permitted development rights are attached to safeguard public health. Conditions regarding a travel plan, information pack and electric vehicle charging infrastructure are required in the interests of sustainable transport. Also, conditions regarding surface water and foul water drainage schemes, SUDS compliance and water network phasing are necessary to ensure sustainable water management.

Planning Balance and Conclusion

100. It is undisputed that Vale of White Horse district has more than five years supply of deliverable housing sites, which for the purposes of my decision I take to be in the region of 6.29 years supply¹². That said, five-year supply is a

¹² As indicated in paragraph 47 of the Closing Submissions on behalf of VoWHDC.

floor not a ceiling. Also, there is a pressing affordable housing need in the district, as indicated by more than 2,000 households on the Housing Needs Register, with more than 900 households in significant, urgent or exceptional need.

101. Within this context, the proposed development would provide the following benefits. The appeal proposal would deliver the majority of the Vale of White Horse District's Larger Villages' strategic housing site allocation for the village of Sutton Courtenay, for the local plan period up to 2031, that is identified under LPP1 Core Policy 4. This would contribute up to 175 dwellings to local housing supply. This would include up to 116 market homes. Also, it would include up to 61 affordable homes which are a mix of first homes, rented and shared ownership dwellings. These affordable homes would contribute to meeting the area's pressing affordable housing need. Also, this new housing of various tenure would contribute to the supply of local accommodation for, among others, those working in the Science Vale, with associated workforce wellbeing and productivity benefits. Together, the above would help meet housing needs in the South East Vale Sub-Area of the district, and Science Vale.
102. Moreover, the development's socio-economic benefits to the area during and after construction would include patronage of local facilities, businesses and services in the village, which would contribute towards sustaining them. Also enhanced frequency and thus convenience of improved local bus services, public rights of way improvements, improvement of the strategic highway network and additional public open space provision in the locality would result. This includes improvement to the strategic cycle network and 33 bus route, both which conveniently link the locality of the appeal site to the strategic employment allocations at Milton Park and Didcot, within the Science Vale. Together, this would enhance local residents' and visitors' access to employment, services, facilities and shops in the area, and also help promote modal shift to 'greener' travel and healthy exercise. And the proposal would achieve 10% biodiversity net gain, in accordance with Framework paragraph 174d).
103. Together with increasing available choice of housing in the village, the above would help maintain Sutton Courtenay as a vibrant community. This would help deliver one of the South East Vale Sub-Area's main strand objectives identified in LPP1's Spatial Strategy, of promoting thriving villages and rural communities. Also, the proposed residential development would secure the majority of Sutton Courtenay's share of aligned delivery of housing and employment growth, together with necessary infrastructure. This would include contributing over £500,000 towards improvement of the strategic highway network. In so doing, the proposal would contribute to delivering the overarching priority for South East Vale Sub-Area identified in LPP1 Core Policy 15, as part of the delivery of growth in the Science Vale. The above together amounts to a substantial combination of benefits.
104. Furthermore, paragraph 15 of the Framework requires the planning system to be genuinely plan-led. As established earlier, the appeal site is the main part of Sutton Courtenay's sole strategic housing site, the locational sustainability credentials of which commended its allocation in the local development plan. As such, delivering the development on this allocated strategic housing site would

contribute positively to supporting a plan-led system. This is a compelling material consideration in favour of the proposed development.

105. As established earlier, the proposal does not conflict with the highways and access, or odour criteria of the LPP1 Site Development Template for the 'East of Sutton Courtenay' strategic housing allocation.
106. That said, given the identified limited harm to the health and wellbeing of future residents of the proposed development, in terms of odour and resultant conflict with LPP2 Development Policy 24, I find that the proposal would not accord with the development plan as a whole. In this regard, the proposal fails to satisfy one of LPP1 Core Policy 4's criteria for supporting development at strategic allocations. Thus, the proposal conflicts with LPP2 Development Policy 24 and partly conflicts with LPP1 Core Policy 4.
107. However, section S38(6) of the Planning and Compulsory Purchase Act 2004 sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. While the conflict with the development plan overall, which results from the identified breach of policy, weighs against the development, the allocation of the site in the development plan is a significant material consideration. In addition, actual harm to health and wellbeing of future residents would be limited, and the substantial weight I give to the benefits of the scheme is a material consideration of sufficient weight to outweigh the level of harm identified in relation to the main issues. These material considerations are sufficient to justify determining the appeal other than in accordance with the development plan.
108. For the above reasons I conclude that, subject to conditions, the appeal be allowed.

William Cooper

INSPECTOR

ANNEX A: SCHEDULE OF CONDITIONS

Time Limits/Plans Conditions

- 1) No development, or in the case of phased development no phase or sub phase of the development, shall be begun until full details illustrating the following matters ('the reserved matters') have been submitted to and approved in writing by the local planning authority. The development (or where relevant phase of development) shall be carried out in accordance with such details: the layout of the development; the scale of the development; the appearance of the development; and the landscaping of the development.
- 2) Application for approval of the reserved matters shall be submitted to the local planning authority before the expiration of three years of the date of this permission or, in the case of phased development, application for approval of the reserved matters within the first phase shall be submitted to the local planning authority before the expiration of two years of the date of this permission. In the case of phased development, all subsequent reserved matters applications shall be submitted to the local planning authority before the expiration of five years of the date of this permission.
- 3) Except as controlled or modified by conditions of this permission, the development hereby permitted shall be carried out in accordance with the approved drawings listed below: 1547-03 Rev C Location Plan; 50010-5501-002 Rev A Alternative Site Access and Localised Widening on Frilsham Street (Site access only).

Pre-Commencement Conditions

- 4) Prior to the commencement of each phase of the development (including vegetation clearance or carriageway widening works to Hobbyhorse Lane) a construction environmental management plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
 - (a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines;
 - (b) Risk assessment of potentially damaging construction activities;
 - (c) Identification of biodiversity protection zones, particularly when works are proposed near to watercourses;
 - (d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;
 - (e) The location and timing of sensitive works to avoid harm to biodiversity features;
 - (f) The times during construction when specialist ecologists need to be present on site to oversee works;
 - (g) Responsible persons and lines of communication;
 - (h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period, strictly in accordance with the approved details.

- 5) Concurrent with the submission of each reserved matters application, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the local planning authority. The BEP should be broadly in

accordance with the outline details of habitat enhancement details stated in Section 5 and Appendix 5 of the supporting Ecological Assessment (Ecology Solutions, August 2021, Ref: 6380.EcoAss.vf4). The BEP shall include: (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required; (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes etc. as appropriate; (c) Selection of appropriate strategies for creating / restoring target habitats or introducing target species; (d) Selection of specific techniques and practices for establishing vegetation; (e) Sources of habitat materials (e.g. plant stock) or species individuals; (f) Method statement for site preparation and establishment of target features; (g) Extent and location of proposed works; and (h) Full details of a biodiversity metric assessment to demonstrate a minimum 10% biodiversity net gain.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements shall be delivered prior to the final occupation of the relevant phase.

- 6) Before commencement of any works, full engineering details of the access and foot/cycleway serving the site shall be submitted to and approved in writing by the local planning authority. Thereafter, prior to occupation of any dwelling, the means of access road and foot/cycleways shall be laid out, constructed, lit and drained in accordance with the approved plans.
- 7) Prior to commencement of development, 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: (a) construction traffic management measures to control the number, size, routing and timing of construction vehicles' access to and from the appeal site; (b) provision for holding of construction HGVs at the appeal site and use of a banksman to ensure safe passage of vehicles when the route to High Street is suitably clear; and (c) wheel washing of construction vehicles. The approved CTMP shall be implemented prior to any works being carried out on site and shall be implemented throughout the whole construction.
- 8) Prior to commencement of development hereby permitted, a survey of the condition of the adopted highway along Frilsham Street and Hobbyhorse Lane, and remediation protocol shall be submitted to and approved in writing by the local planning authority. This shall consist of: (a) A survey plan to a scale of 1:1000 showing the location of all existing defects; (b) A written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey; and (c) A remediation protocol. This shall include provisions and a timetable for implementation of highway repairs arising from any damage to the adopted highway along Frilsham Street and Hobbyhorse Lane, as a direct result of construction traffic associated with the development. Provisions shall include confirmation of the name of a responsible person for highway safety inspection, and their procedure for identification of the damage to the local planning authority. The timetable shall set out target time periods for completion of potential highway repair types, from the date

of identification of the damage to the local planning authority, for the various phases of the development.

The highway repairs shall be carried out within the approved target time periods for completion, unless other time periods are subsequently agreed by the local planning authority for reasons of practicability of the actual repair.

- 9) Concurrent with the submission of each reserved matters application, a detailed sustainable drainage scheme shall be submitted to and approved in writing by the local planning authority. This shall be based on Stantec Flood Risk Assessment reference 46720/4005 dated May 2021, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. No building shall be occupied until the surface drainage works to serve that section of the development have been carried out and completed in accordance with the approved details. The scheme to be submitted shall include: (a) Discharge rates and volumes based on detailed infiltration testing to BRE 365; (b) A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire"; (c) Detailed hydraulic calculations including node references with consideration for the worst case 1:100 + 40% event based on using the latest FEH input data with cv values set to 0.95 and MADD factors set to 0.0; (d) Fully detailed sustainable surface water drainage layouts; (e) Proposed site levels, floor levels and an exceedance plan; (f) Details of any changes to the ground elevations in the eastern parts of the site beyond the development platform during the construction process and provision for their return to pre-development levels; (g) SUDS features and sections; (h) Landscape plans with sustainable drainage features integrated and coordinated as appropriate; (i) Drainage Construction Details; (j) Details of infiltration basins membranes and proposed fill material beneath basins; and (k) Maintenance and Management Plan covering all surface water drainage and SUDS features.
- 10) No development shall commence until a detailed foul drainage scheme has been submitted to and approved in writing by the local planning authority. No dwelling or building shall be occupied until the foul drainage works to serve that section of the development have been carried out and completed in accordance with the approved details.
- 11) No development shall commence until a detailed scheme of gas protection measures to all buildings on the development site to achieve Characteristic Situation 3 in accordance with BS 8485+A1:2019 (Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and CIRIA C665:2007 Assessing risks posed by hazardous ground gases to buildings), has been submitted to and approved in writing by the local planning authority.

The scheme shall include a detailed verification method statement demonstrating how the gas protection measures will be installed and verified, to demonstrate that the installation has been carried out in

accordance with relevant guidance such as CIRIA C735:2014 Good Practice on the testing and verification of protection systems for buildings against hazardous ground gases. Thereafter the scheme shall be implemented as agreed.

- 12) Prior to the commencement of development hereby permitted, details of the existing ground levels of the site and the proposed slab levels of the new dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved slab levels.

- 13) Prior to the commencement of any site works or operations, including demolition and site clearance relating to the development hereby permitted, an Arboricultural Method Statement and accompanying Tree Protection Plan shall be submitted to and approved in writing by the local planning authority. The Arboricultural Method Statement shall include the following:
 - (a) A specification of any pruning or tree surgery works to any trees to be retained, to prevent accidental damage by construction or demolition activities;
 - (b) The specification and location of temporary tree protective fencing and any ground protection required to protect all retained trees in accordance with the current edition of BS 5837 "Trees in relation to design, demolition and construction", and details of the timing and duration of its erection;
 - (c) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
 - (d) The route and method of installation of drainage or any underground services in the vicinity of retained trees. Consideration will be made to avoid siting of utilities and service runs within the Root Protection Area (RPA) of all trees to be retained. Only where it can be demonstrated that there is no alternative location for the laying of utilities, will encroachment into the RPA be considered. Methodology for any installation works within the RPA will be provided and must be in compliance with the current edition of NJUG 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees';
 - (e) The details and method of construction of any other structures such as boundary walls in the RPA of retained trees and how these relate to existing ground levels;
 - (f) The details of materials and method of construction of any roadway, driveway, parking, pathway or other surfacing within the RPA, which is to be of a 'no dig' construction method, in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and is appropriate for the type of roadway required in relation to its usage;
 - (g) Provision for the supervision of ANY works within the RPA of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the local planning authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the local planning authority.

The development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

- 14) Notwithstanding any information submitted with the application, details of the market housing mix shall be submitted and agreed as part of the reserved matters application(s).
- 15) The reserved matters application(s) submitted shall contain full details of the space standards of all dwellings including meeting the following requirements: a) All one and two bedroom market dwellings shall accord with the Department for Communities and Local Government's Technical Housing Standards – Nationally Described Space Standard Level 1; b) 15% of market dwellings and all affordable housing shall be constructed to Category 2 standard as set out in the building Regulations Approved Document M Part 2.
- 16) Prior to the commencement of the development hereby permitted, a professional archaeological organisation acceptable to the local planning authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the local planning authority.
- 17) Following the approval of the Written Scheme of Investigation referred to in condition 16 above, and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the local Planning authority within two years of the completion of the archaeological fieldwork.

Pre-occupation or Other Stage Conditions

- 18) Prior to the first occupation of any of the dwellings hereby permitted, all previously approved ground gas protection measures shall be implemented in full and a validation report confirming completion of these works to the required standard (currently BS 8485:2015 (A1,2019) Characteristic Settlement (CS) Level 'CS3) shall be submitted to in writing by the local planning authority. No dwelling shall be occupied until the validation report verifying installation of these measures for it has been submitted to and approved by the local planning authority.
- 19) The developer shall confirm in writing to the local planning authority the presence of any unsuspected contamination encountered during the development. In the event of any contamination to the land and/or water being encountered, no development shall continue until a programme of investigation and/or remedial works to include methods of monitoring and

certification of such works undertaken has been submitted to and approved in writing by the local planning authority.

20) No development shall take place until:

(a) Two rounds of groundwater sampling and testing (in addition to any undertaken prior to the grant of permission) have been undertaken by competent persons, at least a month apart. The contaminants to be analysed shall be those previously tested and reported in the GRM Groundwater Quality Analysis report dated 08 September 2023 (ref P10244/GQA.01); (b) A written report of the groundwater analysis and a risk assessment (including consideration of potential leachate migration from the historical landfill adjacent to the east of the development site) based on the results of the testing have been submitted to and approved in writing by the local planning authority; and (c) If the above investigation and risk assessment show that remediation and/or mitigation is necessary, a scheme for remediation and/or mitigation has been submitted to and approved in writing by the local planning authority. The scheme for remediation and/or mitigation shall include an appraisal of options considered, details of all works to be undertaken, proposed remediation and/or mitigation objectives and criteria, a timetable of works, site management procedures and a verification plan and any future measures, monitoring and reporting if necessary.

The approved remediation/mitigation scheme shall be carried out in accordance with the approved terms including the timetable. The local planning authority shall be given two weeks written notification of commencement of the remediation/mitigation scheme works.

For any remediation/mitigation scheme works undertaken, a verification report demonstrating completion of the works set out in the approved remediation/mitigation scheme and the effectiveness of the same shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the final dwelling.

Any scheme approved pursuant to condition 20(c) shall be implemented in full as approved and retained thereafter.

21) Prior to first occupation of any of the dwellings hereby permitted, an updated Travel Plan shall be submitted to, and approved by the local planning authority.

22) Prior to first occupation of any of the dwellings hereby permitted, a Travel Information Pack shall be submitted to, and approved by the local planning authority. This shall be distributed to the first residents of each dwelling prior to or at first occupation.

23) Prior to 75% occupation of the development hereby permitted, a SUDS Compliance report prepared by an appropriately qualified Engineer shall be submitted to and approved by the local planning authority. This

must suitably demonstrate that the sustainable drainage system has been installed and completed in accordance with the approved scheme (or detail any minor variations). This report should as a minimum cover the following: (a) Inclusion of as-built drawings of drainage and site levels in pdf and CAD format; (b) Inspection details of key SUDS features such as flow controls, storage features and volumes and critical linking features or pipework undertaken, with appropriate photographs and evidence of inspections incorporated; c) Details of any remediation works required following the initial inspection; d) Evidence that that remedial works have been completed; f) Confirm details of any management company set up to maintain the system; g) As built survey of eastern part of development site confirming that any restoration required to pre-development levels has been undertaken.

- 24) No dwelling shall be occupied until confirmation has been provided that either: - all water network upgrades required to accommodate the additional flows to serve the development have been completed; - or a development and infrastructure phasing plan has been agreed with Thames Water 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.
- 25) All dwellings shall be provided with access to electric vehicle charging points in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved details are operational for that property.

Compliance/Implementation

- 26) Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), there shall be no extension to the dwellings hereby permitted, and no ancillary buildings or structures shall be erected within the curtilage of the dwellings.
- 27) No more than 175 dwellings shall be constructed on the site.

ANNEX B: CORE DOCUMENTS REFERENCED IN THIS DECISION

CD 3.1a	1547-03 Rev C Location Plan
CD 3.1b	500105501-002 Rev A Alternative Site Access and Localised widening on Frilsham St
CD 3.3b	Land north of Hobbyhorse Lane, Sutton Courtenay Transport Assessment (Stantec)
CD 3.3c	Technical Note: Response to Oxfordshire County Council Comments, June 2022 (Stantec)
Appendix A to CD 3.3c	Road Safety Audit Stage 1 (TMS)
CD 4.5	Manual for Streets (DfT 2007)
CD 4.10	Oxfordshire County Council Residential Road Design Guide (2015)
CD 4.12	Sustrans National Cycle Network design principles
CD 4.13	Cycle Infrastructure Design Local Transport Note 1/ 20 (DfT)
CD 5.4	Institute of Air Quality Management Guidance on the assessment of odour for planning, 2018
CD 6.2	GRM Shallow Soil Sampling Letter Report, 27 March 2023

ANNEX C: CORE DOCUMENTS SUBMITTED AT THE INQUIRY

ID 1	Visao Ltd v Secretary of State for Housing Communities and Local Government
ID 2	R. (on the application of Hawkhurst Parish Council) v Tunbridge Wells BC
ID 3a	Public Rights of Way Map
ID 3b	Alternative access route for construction traffic
ID 4 and ID 4a	Appearances on behalf of the appellant
ID 5	List of appearances on behalf of Vale of White Horse District Council
ID 6	Opening submissions of behalf of the appellant
ID 7	Opening submissions of behalf of Vale of White Horse District Council
ID 8	Statement by Russell Harman
ID 9	Statement by Cllr Richard Webber
ID 10	Statement by Hugo Raworth
ID 12	Statement by Robin Draper
ID 13	Statement by Heather Woodward

ID 14	Statement by Mary Warrington
ID 15	Statement by Deidre Wells, Red Kite Development Consultancy on behalf of Sutton Courtenay Parish Council
ID 16	Email between the appellant and Oxfordshire County Council Transport Development Control
ID 17	Sutton Courtenay Community Liaison Meeting - Environment Agency update September 2023
ID 18	Addendum Statement of Common Ground - Odour
ID 19	South Oxfordshire and Vale of White Horse Housing Delivery Strategy 2022-2024

ANNEX D: DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. Planning Obligation by Deed of Agreement, dated 6 October 2023, received 6 October 2023.

ANNEX E: APPEARANCES

FOR THE APPELLANT

Sarah Reid of King's Counsel
assisted by Stephanie Hall of
Counsel

She called

Stuart Andrews	Partner, Eversheds Sutherland
Ronald Henry <i>CEng CMgr CMI MICE MIEI</i>	Director of Growth and Integration, Stantec
Amy Hensler <i>CEnv C.WEM MCIWEM</i>	Director, Stantec
Hilary Ilsley <i>CBiol MSB SQP SiLC QP</i>	Associate, JNP Group
Sarah Longstaff <i>FGS</i>	Associate, JNP Group
Paul Threlfall	Principal Environmental Scientist, Wardell Armstrong
Stacey Rawlings <i>MRTPI</i>	Director, Roebuck Land and Planning Ltd
Malcolm Walton <i>MCIEH</i>	Technical Director and Principal Environmental Scientist, Wardell Armstrong
Steven Wilson <i>CEng MICE CEnv CSci CWEM MCIWEM FGS</i>	Technical Director, The Environmental Protection Group Limited

FOR THE LOCAL PLANNING AUTHORITY (VOWHDC)

Ned Helme of Counsel

He called

Sarah Commins

Litigation & Planning Lawyer South Oxfordshire DC and VOWHDC

Frank Farquharson *MICE Eng*
Aled Roderick *MCIHT*

Associate, Water Resource Associates LLP
Technical Director, Turner Jomas & Associates Ltd

Roni Savage *CEng CGeol*
FICE HonFRIBA MCIWM SiLC
Tracy Smith *MRTPI*

Managing Director, Jomas Associates Limited

Stuart Walker *MRTPI*

Principal Appeals Officer, South Oxfordshire DC and VOWHDC

Team Leader, Major Applications Team
VOWHDC

Penny Wilson *CSci MIAQM*
MIEnvSc

Technical Director, Air Quality Consultants Ltd

INTERESTED PARTIES

Rita Atkinson

Chairman, Sutton Courtenay Parish Council

Robin Draper

Local resident

Maxine Harman

Local resident

Russell Harman

Local resident

David Knowles

Local resident

Susan Quainton-Blake

Local resident

Hugo Raworth

Local resident

Mary Warrington

Trustee, Sutton Courtenay Village Hall

Cllr Richard Webber

Councillor VoWHDC and Oxfordshire County Council

Deidre Wells

Red Kite Development Consultancy
(on behalf of Sutton Courtenay Parish Council)

Morna Whitlock

Local resident

Heather Woodward

Local resident

Geri Beekmeyer

Principal Infrastructure Planning Manager,
Oxfordshire County Council

Barbara Chillman

Pupil Place Manager,
Oxfordshire County Council

Karen Jordan

Deputy Principal Solicitor,
Oxfordshire County Council

Ian Marshall *FIHE*

Principal Transport,
Oxfordshire County Council