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## Appeal Decision

Inquiry held on 8 - 11 November 2022

Site visit made on 11 November 2022

by H Porter BA(Hons), MSc PGDip, IHBC

an Inspector appointed by the Secretary of State

Decision date: 18<sup>th</sup> January 2023

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Appeal Ref: APP/D3125/W/22/3301202

Land West of Wroslyn Road, Freeland, Oxon, OX29 8AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Senior Living (Freelands) Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 21/02627/OUT, dated 2 August 2021, was refused by notice dated 31 May 2022.
  - The development proposed is outline planning application for the erection of a retirement community of up to 160 extra care units (C2 use class) with associated communal facilities and open space, with access from Wroslyn Road, (all matters reserved except access) and retention of veterinary practice in the coach house.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters, other than access, reserved for future consideration. I have dealt with the appeal on the basis that plans showing landscaping, site layout, building heights and detailed design are indicative and that up to 160 extra care units could be provided. During the appeal process, **a discrepancy in the site's 'red line' boundary** was identified and revised plans submitted. I am content to determine the appeal on the basis of the updated plans since the revisions have not materially altered the scheme and no prejudice would result.
3. Under the Inquiry Procedure Rules, Freeland Parish Council and Freeland Friends (the Rule 6 party) were granted Rule 6 status. A General Statement of Common Ground (SoCG) along with additional SoCGs covering Landscape and Visual Matters, Urban Design Matters, and Housing Land Supply (HLS), plus HLS Addendum, were agreed by the Appellant and the Council.
4. I undertook an accompanied Inquiry site visit on 11 November 2022. I also saw the site and general surroundings on three occasions during the Inquiry week, on an unaccompanied basis and from vantages suggested by the parties. This includes one early evening visit when it was dark.
5. A number of non-designated heritage assets (NDHAs) are located within or adjacent to the appeal site, while listed buildings and a Registered Park and Garden (RPG) are proximate to it. Mindful of the provisions within the National Planning Policy Framework, July 2021 (the Framework) that seek to conserve and enhance the historic environment, during the Inquiry, and at my request, the parties made written submissions clarifying their positions in respect of

various designated and non-designated heritage assets and their significance, including any contribution made by their settings. **I have taken the parties' heritage responses into account in my decision.**

6. On 22 November 2022, the Council published its HLS Position Statement (PS) for the period 1 April 2022 to 31 March 2027, which indicates a 5-year supply of 4,400 dwellings equating to 4.1 years. I deal with this in more detail below.
7. A completed agreement made under s106 of the Town and County Planning Act 1990 (the s106 Agreement) was submitted on 9 December 2022. The submission of the s106 Agreement **means the Council's second reason for refusal of the scheme<sup>1</sup>** has fallen away. The various provisions and contributions within the s106 Agreement are set out in my reasoning and planning balance. Consideration of the tests set out in the Framework and Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) (the 122 Regs), would only be relevant if I had been minded to allow the appeal.

### Main Issues

8. The main issues in this appeal are:
  - The effect of the proposed development on the character and local distinctiveness of Freeland, including its effect on the local landscape and relevant heritage assets; and,
  - Whether the appeal site offers an appropriate location for the proposed development, having regard to whether it would offer suitable access to a good range of services and facilities and where the need to travel by private car can be minimised.

### Reasons

#### *The site, proposals and policy background*

9. The appeal site occupies around 4.3 hectares of land on the west side of Wroslyn Road, towards the southern end of Freeland. The site is part of the grounds associated with Freeland House, which is in use as a care home and within the ownership of the Eynsham Park Estate. The appeal site has matured vegetal boundaries and is accessed via a tree-lined driveway off Wroslyn Road. The same driveway leads to Freeland House, which is outside the appeal site and identified as a non-designated heritage asset (NDHA)<sup>2</sup>. A cluster of agricultural-type buildings, a former coach house and stables, are within the north-west corner of the appeal site, and also identified as NDHAs<sup>3</sup>. Just **outside the site's red line and north of the driveway are two estate cottages<sup>4</sup>** and a red brick walled garden<sup>5</sup>, also identified as NDHAs associated with the Freeland House estate. A little way to the west, beyond Cuckoo Lane lies the Grade II listed Eynsham Hall Park and Garden (List Entry Number: 1001288), a designated heritage asset.
10. The largest portion of the appeal site is occupied undeveloped grazing paddocks populated by occasional mature trees, including a central Corsican pine. A band of established woodland **marks the site's western boundary and**

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<sup>1</sup> CD AD18

<sup>2</sup> CD E2 para 2.16

<sup>3</sup> CD SD21 para 4.11

<sup>4</sup> Freeland Garden Cottage and Stables House

<sup>5</sup> Freeland Nurseries

offers a green buffer between the paddocks and Freeland House. The local landform falls gradually away down towards four detached dwellings that stand **between the site's south**-eastern boundary and Wroslyn Road.

11. The outline scheme proposes the erection of a retirement community, comprising up to 160 Extra Care units within a series of cottages and apartment buildings, **as well as a 'Village Centre' containing communal facilities** including a wellbeing centre, shop, cafe, and restaurant. An extant veterinary practice housed in the former coach house would be retained and served by six parking spaces, and the adjacent stables would be converted for residential use. The remaining agricultural-type buildings would be demolished. Access to the site would be via the existing driveway off Wroslyn Road, with improved visibility splays and a new secondary access for pedestrian, cycle and emergency use.
12. The development plan includes the West Oxfordshire Local Plan (2011 – 2031), adopted September 2018 (the LP)<sup>6</sup>, which sets out an overall strategy for accommodating future growth including the most suitable locations for development in the District. Table 4b lists Freeland under the category of **'villages'**<sup>7</sup>, which LP Policy OS2 identifies as being suitable for 'limited development' that, amongst other things, respects village character, local distinctiveness, and maintains community vitality. The same policy also lists **'general principles'** for all development, including that it is of proportionate and appropriate scale to its context; forms a logical complement to the character of the area; and conserves and enhances the natural, historic, and built environments. LP Policy H2 indicates new dwellings will be permitted in villages in certain circumstances, whilst also requiring accordance with the Policy OS2 general principles.
13. LP Policy OS4 relates to high quality design and establishes that new development should respect the historic, architectural and landscape character of the locality, and contribute to local distinctiveness including through conserving or enhancing areas, buildings, and features of historic, architectural, and environmental significance. The site also falls within the Wychwood Project Area (WPA), to which LP Policy EH2 requires special attention and protection be given to the landscape and biodiversity. LP Policy EH9 requires all development proposals conserve and/or enhance the special character, appearance and **distinctiveness of West Oxfordshire's historic environment, including the significance of the District's heritage assets.**
14. LP Policy T1 gives priority to locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised, due to opportunities for walking, cycling and the use of public transport. LP Policy T3 establishes that all new development will be located and designed to maximise opportunities for walking, cycling and the use of public transport and where such opportunities are more limited, other measures will be sought to help reduce car use as appropriate.

*Character, local distinctiveness, landscape and heritage assets*

15. Freeland is a modestly sized, traditional rural village, identified in the West Oxfordshire Design Guide<sup>8</sup> as having a **'Linear'** and **'Dispersed'** settlement

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<sup>6</sup> The West Oxfordshire Local Plan (2011 – 2031), adopted September 2018 (the LP) CD C1

<sup>7</sup> CD C1

<sup>8</sup> CD C2

pattern. I observed Freeland to be comprised of two distinct portions. The area known as The Green unfolds where the open countryside that characterises the route along Wroslyn Road from the south meets a loose-knit collection of detached properties in generous plots that are principally grouped around a small triangular green. Moving northwards along Wroslyn Road away from The Green there is a verdant punctuation where the instances of built form decrease, and the route is framed by the tree and hedgerow boundaries of undeveloped fields either side. Just past the driveway to Freeland House and north of Pigeon House Lane there is a transition to the main body of the settlement, distinguished by a more regular concentration of built form and a ribbon-like development pattern.

16. The discernible separation between the two distinct portions of Freeland is aided by undeveloped areas, numerous impressive trees, intermittent views towards the wider undeveloped countryside. The notable absence of street lighting at night reinforces a sense of tranquillity and rurality, which, together with an overall sense of spaciousness, underpins the form and local character of Freeland as a modestly-sized, distinctively rural village.
17. Typical of many traditional settlements, the built form in Freeland has evolved incrementally and is reflected in the mix of older vernacular buildings, small pockets of infill, and later housing-estate type developments at its edges. Yet, while noting some range in the age and architectural styles in Freeland, the majority of domestic buildings are one-and-a-half to two storeys, of stone or masonry construction, with slate or tile pitched roofs, some featuring dormers or gables. Notwithstanding occasional short terraces, dwellings also tend to be detached, or semi-detached, standing in good-sized gardens, many with independent driveway forecourts and pedestrian gateways. The overall consistency of scale and form of domestic buildings offers a sense of spaciousness, which contributes positively to the character and local distinctiveness of the settlement.
18. Against the prevailing backcloth of domestic buildings are occasional larger structures, atypical in terms of their use, height, footprint and architectural detailing. Rather than being representative of the dominant local character of the settlement, such buildings convey a sense of its historic, religious or community status and evolution, and play a defining role in establishing the unique character and distinctiveness of Freeland.
19. One such structure is Freeland House, an imposing late Victorian building, conspicuous for its scale, footprint and ornate detailing. In addition to the principal building are its historic estate grounds. Whether or not in the same use, today the various components including ornamental gardens, parkland, tree-lined avenues, productive gardens and plantations, farmland, and 19<sup>th</sup>-century ancillary estate buildings, collectively reveal the origins and functioning of Freeland House and its grounds as a consciously and holistically planned mid-to-high-status country house estate. Thus, they are all elements that contribute to the significance of Freeland House as a NDHA. The cluster of agricultural-type ancillary estate buildings are ostensibly contemporary with Freeland House and exhibit a similarity in material treatment and historic authenticity in their use and features, which underpins their significance as NDHAs of local importance.
20. Whether or not it satisfies the criteria for statutory listing, Freeland House and its wider estate contribute greatly to the local distinctiveness of Freeland and to

the historic, architectural and landscape character of the locality. There are designed landscape elements within the appeal site itself, including avenues, and undulating designed parkland, containing distinctive **'isolated parkland trees'**<sup>9</sup>, which form a part of the historic estate and setting for Freeland House NDHA and the other NDHA estate buildings.

21. The presence of new buildings, timber fencing, and a lit horse menage do not diminish from either the estate parkland qualities of the appeal site nor from the overall intactness of the wider Freeland House estate landscape, which are **consistent with the 'Parkland landscapes' type and Eynsham Vale character** area described in the West Oxfordshire Landscape Assessment (WOLA)<sup>10</sup>. There is also a correlation between the estate parkland characteristics of the appeal site and the Wooded Estatelands landscape type and landscape character of Freeland described in the Oxfordshire Wildlife & Landscape Study (OWLS)<sup>11</sup>.
22. The local topography and dense bands of established woodland provide relative containment to the appeal site. Yet, despite the natural screening, the appeal site provides a discernible degree of separation between Freeland House and the settlement; its undeveloped nature enabling legibility of Freeland House as a salient and historically high-status structure within the local context. The appeal site encompasses elements that are integral to the designed landscape character of a seemingly authentic and intact historic country estate. Of note are the mature trees creating an avenue along the driveway and significant mature trees within the open grassland portion of the site. The undeveloped paddocks reflect a functional link with the stables that has endured to this day, while the non-native trees, such as the central Corsican pine denote a planned **and imposed 'picturesque-style' landscape design, consistent with** historic country house estates.
23. The same family responsible for the late 19<sup>th</sup> century development of the Freeland House also owned the Eynsham Hall estate further west, employing the same architect for some of its outbuildings<sup>12</sup>. Today, an avenue of Lime trees links Freeland House with the Eynsham Hall estate RPG although woodlands prevent intervisibility between it and appeal site. Even so, the historic associations and the physical landscape links with the adjacent RPG denote that Freeland House estate is part of the RPG setting and contributes, in a modest but meaningful way, to its significance as a designated heritage asset.
24. Although the appeal site and wider Freeland House estate landscape are not covered by any national or local designation, this does not negate landscape value. Rather, I consider the characteristics of the appeal site and wider Freeland House estate landscape to exemplify aesthetic attraction, visual interest, historic authenticity, and strong sense of place. The opportunities to experience the landscape are offered by a permissive route along the driveway, which is well used by walkers, horse riders and cyclists, conveying a recreational value.
25. The contention that the historic grounds of Freeland House should be **considered a 'valued landscape'**<sup>13</sup> **was first advanced in the Council's PoE**<sup>14</sup>.

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<sup>9</sup> As referred to in the Appellant's Design and Access Statement (DAS) CD SD6 Site Context p. 7

<sup>10</sup> CD C6 p. 12

<sup>11</sup> ID 9 pdf p. 9 and p.12

<sup>12</sup> ID 13 para. 35

<sup>13</sup> For the purposes of paragraph 174a) of the Framework

<sup>14</sup> CD E41 p.54 para 5.33

Nevertheless, a full discussion on this took place during the Inquiry, including in reference to the GLVIA3 guidelines and **Landscape Institute's recent technical guidance note**<sup>15</sup>. On this basis of the evidence I have seen, heard, and read, I judge the Freeland House estate landscape to embody attributes that elevate it beyond that of generic or ordinary countryside. It follows that the appeal site comprises a part of a valued landscape for the purposes of para 170a) of the Framework. Furthermore, my observations bear out the landscape as having a particularly strong unspoilt character which intensifies its sensitivity to development; warranting its '**conserve**' categorisation in the WOLA<sup>16</sup>; and the aim to realise the safeguarding and enhancement of landscape character of parklands set out in the OWLS<sup>17</sup>.

*The effect of the proposals on character and local distinctiveness, local landscape and heritage assets*

26. The site layout and key masterplan principles established within the DAS denote that the Village Centre building would be positioned at the heart of the development, with other buildings located away from the surrounding residential properties, with limitation of development to the southern area of the site<sup>18</sup>. Bearing in mind the constraints identified in the DAS and the minimum quantum of development required to realise a viable scheme and the consequential amount and concentration of built form across the site, there would unquestionably be a significant urban intrusion onto it.
27. Even if vegetal boundaries and additional planting would succeed in partially screening the development from some vantages along Wroslyn Road, I consider there would be a serious undermining of the distinctive local settlement pattern of Freeland. Indeed, the characteristically green and undeveloped nature of the appeal site and the intrinsic verdant punctuation it provides between The Green and the main body of the settlement would be virtually eradicated. Thus, the scheme would advance the coalescence of the distinctively disparate portions that make up the local settlement pattern, harming local character and distinctiveness.
28. Although the precise nature of the layout, scale, appearance and landscaping are all reserved matters, the illustrative Regulating Plan<sup>19</sup> provides an indication of how the proposal could be accommodated on the site. This shows the Village Centre would occupy a footprint compatible with that of Freeland House, with the other seven apartment occupying smaller but nonetheless very large footprints. In between buildings would be a series of parking areas and landscaped courtyards. Collectively, there would be inevitable density of development would be wholly out of keeping with the spacious and more loose-knit characteristics that define the existing local context.
29. Matters of design and scale were discussed in detail during the Inquiry. Usually, a half-storey in building height would be indicative of restricted head room within roof-level accommodation. The indicative typology sections<sup>20</sup>, however, show the proposed 2.5 storey village apartments and Village Centre building as having a 2.4 metre floor-to-ceiling height on the top floor, the same as the two floors below. Irrespective of whether the proposed apartments would constitute

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<sup>15</sup> CD H33 and CD H32 Table 1

<sup>16</sup> CD C6 p. 15

<sup>17</sup> ID 9 pdf p. 17 and p. 18

<sup>18</sup> CD SD6 pp. 16 - 17

<sup>19</sup> ID 10

<sup>20</sup> CD E25 p. 20

2.5 or 3-storey buildings, and allowing for the indicative nature of the proposals, apartment blocks reaching over 11.5 metres to the roof, the apartments would be of much greater height than the prevailing buildings that characterise the Freeland context. **Rather than being of 'domestic scale and appearance'**, I consider the proposed blocks would be wholly out of keeping with the typical domestic buildings found in Freeland.

30. The only buildings of similar scale in the locality are Freeland House and **St Mary's Church**. To meet the ambitions of this outline scheme the introduction of numerous blocks over 11 metres high occupying extremely large footprints would, in my judgement, severely diminish legibility of these as important salient structures, to the detriment of the character and local distinctiveness of the settlement. The blocks may not exceed the height of Freeland House but through sheer bulk and number, visual subservience would not be achieved. While the blocks located close to the Wroslyn Road boundary would be lower than those further into the site, there would be a tiering of built form that would be atypical of the domestic built form in Freeland, even where it has developed in depth. To my mind, no matter the details submitted in reserved matters, the necessary scale and form of the buildings across the site would dominate and be wholly uncharacteristic of the local context.
31. I take further issue with the indicative roof design of the proposed blocks, which the same typology section reveal would essentially comprise an expanse **of flat roofs concealed by 'dummy' frontage pitches**. Detailed design elements could provide some degree of articulation and material variation to the apartment blocks, with the effect of breaking the visual impact of their bulk and mass, yet proportionally, the proposed apartment blocks and Village Centre building would, in reality, be of a height, bulk and form that would be wholly disproportionate and of a scale inappropriate to its context.
32. The constituent parts that make up the Freeland House estate are integral to its overall landscape value and its sensitivity to change. The appeal scheme would severely erode a significant portion of the open undulating parkland area that separates Freeland House from Wroslyn Road. While the central Corsican pine would be retained and a channelled view between it and the spire of **St Mary's Church** created, the proximity of development would eclipse it as a characteristic feature tree within the site and component of the parkland. **The DAS refers to the scheme 'allowing the return of a large proportion of the site to a parkland landscape' and 'setting a balance between the built form and green open space'. By contrast, I consider the urbanising impact of the proposals would be overwhelming and particularly noticeable from the permissive path access driveway. Not only would intactness and historic authenticity of the Freeland House landscape be compromised, but the landscape qualities particular to the appeal site also severely eroded.**
33. The settings of Freeland House and of the ancillary estate buildings as NDHAs would be compromised, weakening their significance. Not least two NDHAs would be demolished wholly, while residential conversion of the former stables NDHA would bring about the loss of their intact stalls and internal features, causing complete loss of or serious harm to their significance respectively. The Council has not identified any harm to the significance of the Eynsham Hall RPG<sup>21</sup>. Nevertheless, irrespective of a lack of intervisibility, I judge the appeal scheme would have an adverse impact on lands that are intrinsically linked and

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<sup>21</sup> ID13 para. 38

- thereby form part of the setting of this designated heritage asset, resulting in some small residual harm to its significance. I deal with the degree of harm and public benefits later in the final heritage and planning balance.
34. Concerns in respect of light-spill and the implications for bat foraging corridors **are not shared by the Council's officers and there is nothing substantive to** cause me to deviate from their professional judgement. Nonetheless, even if lighting could be carefully designed, at low level to ensure no upward light spill, it seems inevitable that the proposal would create at least some lit intrusion, to **the detriment of Freeland's** dark skies and tranquil character at night.
35. **The Appellant's** willingness to work constructively with the Council on the production of a Design Code is laudable. At a more detailed level, the elevation treatments to the buildings, as well as hard and soft landscaping, might offer a sense of material quality to the scheme. Additionally, boundary planting could limit views into the site especially along Wroslyn Road and create attractive external spaces for future occupiers. However, the fundamental objectives of good design go beyond what the scheme may look like on the surface or whether views to it are restricted. Although conditions could ensure certain controls such as natural screening and a production of a design code, the fundamental issues relating to the bulk, massing and sheer size of the development would remain.
36. I am also mindful of the comments made at the Inquiry. On the one hand, that reducing building heights or the quantum of available accommodation at roof level would cause a reduction in unit numbers. Secondly, that the precise nature of the retirement village offer requires a certain level of development. This causes me to doubt there is scope for a material reduction in the scale, layout or quantum of development that could meaningfully come forward at the reserved matters stage. Rather, I judge the proposal has intrinsic and fundamental issues inherent to the need to balance the specific offer with commercial viability and affordable service charges.
37. The Appellant contends that a population increase of around 13% to the **settlement would be 'limited'**<sup>22</sup>. I cannot agree. While there is no definition of **'limited development' in the LP**, in my judgement, a population increase of 13% seen in the context of up to 160 units plus a fully equipped leisure facility with swimming pool, spa, gym and treatment room, restaurant, café, shop and community spaces; around 150 car parking spaces distributed across the site; and 500 or so daily traffic movements generated, and landscaped attenuation pond, **cannot sensibly be considered 'limited'**.
38. The proposal would not fit with the overall form and layout of its surroundings but cause serious harm to the intrinsic character and quality of the appeal site, as well as wider harm the historic, architectural and landscape character of the locality. Such harms, though localised, would be both severe and permanent. **The proposal would not realise 'limited development'** in a village, nor would it respect village character or local distinctiveness.
39. Whilst community vitality would be maintained, overall, conflict arises with the strategic element of LP Policy OS2 as well as with its general principles, notably those that require development conserves and enhances the natural, historic and built environment; avoids the loss of an area of open space which makes an important contribution to the character or appearance of the area; protects

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<sup>22</sup> CD E30 para 8.6 p. 16



or enhances of the local landscape and the setting of the settlement; complements the existing pattern of development and/or the character of the area; and be of a proportionate and appropriate scale to its context. The conflict with the Policy OS2 general principles generates conflict with Policy H2 and the circumstances under which development in villages is supported.

**Conflict also arises with LP Policies EH2 and OS4. Notwithstanding the Council's case does not advance an objection in respect of heritage asset, my findings in respect of the harm to the significance of NDHA's indicates conflict with LP Policy EH9 would also arise, given that it seeks to conserve and/or enhance the special character, appearance, and distinctiveness of West Oxfordshire's historic environment.**

#### *Locational sustainability*

40. **In the context of the District's settlement sustainability, Freeland ranks at 28<sup>th</sup> or 29<sup>th</sup> out of the 41 settlements considered for their key services. Indeed, the services and facilities in Freeland include a horticultural nursery, public house, church, village hall, and chapel. While the range is limited, and a primary school might have little bearing for a retirement village community, these facilities are a short, level distance from the appeal site. Opportunities for using public transport to access a wider range of services further afield are offered by a limited local bus service, with additional stops proposed close to the appeal site's entrance.**
41. In a usual housing development, it would be reasonable to expect that the day-to-day needs of future residents would have to be met by travel to larger settlements by private car. But the appeal scheme retirement village offer provides a range of additional communal and wellbeing facilities<sup>23</sup>. Even noting some restrictions to access to general public membership, the range of facilities on offer would reduce the necessity to undertake certain journeys by car.
42. The scheme would also provide a Village Transport Service (VTS), consisting of at least one vehicle with at least six seats to facilitate social outings, shopping trips and access to hospital appointments, with priority given to residents of the development and any nominated family member acting as carer<sup>24</sup>. Pragmatically, the VTS would not feasibly offer the type of transport option that could replace private car journeys for staff, visitors or indeed the majority of future occupiers. The quantum of indicative parking provision and anticipated additional trips are testament to this. That said, the LP gives endorsement to **'other measures' to help reduce car use as appropriate where opportunities to use public transport are more limited, such as in Freeland.** Furthermore, there is recognition under paragraph 105 of the Framework that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
43. It would not be reasonable to expect the same level of bus service in a settlement the size of Freeland as in a larger urban area and the frequency of the bus services might suggest its use for occasional leisure trips. The proximity of the site to the facilities in Freeland along with the offer that some of the on-site facilities would be open to the extant community to access, leads me to the view that the proposal would not advance a wholly self-contained,

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<sup>23</sup> Those parts of the development comprising the café and shop, restaurant, treatment room, hair salon and open space PID2 p. 3; the swimming pool, gym and fitness studio to be provided within the village Centre Building PID2 p. 9

<sup>24</sup> PID2 p. 8

**'inward-looking' development**, nor would it disrupt community vitality in Freeland. On balance, I consider the specific nature of the proposal would ensure use of the private car can be minimised, and offer convenient access to a good range of services and facilities. Therefore, I find no conflict arises with LP Policies T1 and T3.

## Other Considerations

### *Need*

44. The PPG recognises there are different types of specialist housing designed to meet the diverse needs of older people, and that there is a significant amount of variability in the types of specialist housing available<sup>25</sup>. The level of need and supply for specialist housing for older people within the District was discussed, including in relation to whether specific developments satisfy that of Extra Care. So too, the most appropriate methodology for measuring the need for specialist accommodation within the District. Considering the scope of the definition of Extra Care housing, including in the PPG and Housing LIN<sup>26</sup>, the shortfall may not be as acute as suggested by the Appellant.
45. **Yet, even if the Council's provision of Extra Care housing may be improving and** the LP policies performing in securing its provision, there remains compelling evidence of a growing population of older persons in the District, and that the proportion of older people in the Eynsham-Woodstock Sub-Area is even greater, and expected to increase substantially over the plan period and beyond<sup>27</sup>. It is also acknowledged that West Oxfordshire has higher than average rates of owner occupancy and there is an undersupply of provision for older persons within the Eynsham-Woodstock Sub-Area and a lack of future supply in the pipeline<sup>28</sup>.
46. The Framework recognises the importance that a sufficient amount and variety of land comes forward where it is needed, and that the needs of groups with specific housing requirements are addressed. I understand that there are challenges in competing for sites with a traditional volume housebuilder, especially bearing in mind the significant up-front costs involved with this type of development and the provision of facilities it offers. However, other developments providing Extra Care units in the District do appear to be in the existing supply and of a similar overall offer, even if the nature of the facilities may differ.
47. The challenges facing adult health and social care and the need to provide housing for older and disabled people are not to be underestimated. The Council contends the need for extra care housing is lower than suggested by the Appellant. Even if it were, the need for more extra care units, including private ones is clear given the pressures of the local demographic trends in West Oxfordshire that has a higher-than-average proportion of older people, and the Eynsham sub-area greater still. There is also recognition that the health and lifestyles of older people will differ greatly, along with their housing needs, which can range from accessible and adaptable general needs housing to specialist housing with high level care and support<sup>29</sup>.

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<sup>25</sup> PPG Paragraph: 010 Reference ID: 63-010-20190626

<sup>26</sup> CD H27

<sup>27</sup> CD E18 para 5.1 p. 3

<sup>28</sup> CD AD17 para 5.15

<sup>29</sup> PPG Paragraph: 003 Reference ID: 63-003-20190626

48. The retirement village offer that the appeal scheme proposes would add choice to the provision of specialist accommodation available in the District. The Framework recognises the need for specialist accommodation for the elderly, and the extra care accommodation proposed would help to meet the need to provide housing for older people, which the PPG identifies as critical<sup>30</sup>. While I recognise that there may be a relatively small shortfall, if not a surplus, in the current supply I nonetheless see a significant benefit in meeting the need for **older persons' accommodation and broadening the choice of such accommodation** on offer in the District.

#### *Housing Land Supply (HLS)*

49. LP Policy H1 relates to the amount and distribution of housing in the District, making provision for at least 15,950 homes over the plan period. It is not in dispute that the Council cannot demonstrate a five-year HLS and that the shortfall against the requirement is 'significant'. Although there are a number of points of agreement between the parties on HLS<sup>31</sup>, they disagree significantly on the extent of the shortfall. **The Council's latest position is that it can demonstrate a supply of 4,400 dwellings, equating to 4.1 years; the Appellant considers the supply to be 2,709 dwellings and just 2.5 years<sup>32</sup>. The difference in the parties' positions stems from nine disputed sites.**

50. The Council counts 298 dwellings for site Ref CA1, where detailed planning permission was granted for 200 dwellings in 2013 and 23 dwellings are under construction. While a scheme for 275 dwellings is now being pursued, the 200 consented should be considered deliverable unless there is clear evidence that they will not be delivered within five years. The Appellant raises the matter of funding difficulties, **and that the Council's 2021** position statement indicates there is potentially no longer an intention to implement the original consent<sup>33</sup>. However, I have seen no clear evidence that the 200 dwellings would not be viable nor anything confirming that if permission for the 275 dwelling scheme is not forthcoming, the 200 homes that have planning permission will not be delivered within five years. Therefore, I consider these 200 dwellings should be counted.

51. For **sites to be 'deliverable' as per paragraph 74 of the Framework, there must be clear evidence** that housing completions will begin on site within five years<sup>34</sup>. That said, in respect of the larger 275 dwelling scheme at site CA1, a planning application has not yet been submitted, consultations on the uplift undertaken, or timescales for resolution of '**other issues**' provided. **The evidence available does not in my judgement qualify as 'clear evidence' and cannot yet be considered deliverable.** Those anticipated 275 dwellings should not be counted.

52. An application for outline planning permission for 200 dwellings at site WIT 2 was submitted in 2014 and is still pending determination. In 2019, an additional full planning application for 110 dwellings was submitted and is also

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<sup>30</sup> Planning Practice Guidance (PPG) Paragraphs: 001 Reference ID: 63-001-20190626 and 016 Reference ID 63-016-20190626

<sup>31</sup> Including that the base date is 31 March 2022 and 5yr period is to 31 March 2027; the HLS should be measured **against the "stepped" housing requirement; there is no past shortfall to address; the 5% buffer applies ID23** (paras 1.1 – 1.5)

<sup>32</sup> ID23 (Table 2)

<sup>33</sup> CDE15 para 11.34

<sup>34</sup> To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years (Framework Glossary)

still to be determined. The Council explained that a masterplan is expected in the next three months and an active developer with a proven track record is now involved. The prospects for progress on submission of reserved matters, resolutions on land ownership, and advancement of a masterplan may well seem encouraging to the Council. As it currently stands, I consider the evidence provided relies on speculation and hope, which falls short of what might constitute **'clear evidence'**. **Therefore, I agree with the Appellant that the 306 dwellings included in the Council's HLS PS should not be counted.**

53. For site CN1, evidence provided by the Council is an email from a planning consultant, the anticipated development trajectories and timescales within which indicate the site will not be sold until January 2024 and reserved matters submitted the following month<sup>35</sup>. **At the Inquiry, the Council's witness accepted there was a 'broad brush aspect' to the evidence** and speculated that a **reserved matters application would be 'ready to go' to inform the process of buying the land.** While the site may be unconstrained, the purported timescales appear optimistic and lacking robust evidence such as clear progress being made towards approving reserved matters. Consequently, I consider that **235 dwellings at site CN1 cannot be considered 'deliverable' and should be discounted.**
54. At site EW1, 50 dwellings of a site with a net capacity of 2,200 are in dispute. While progress on a masterplan may be advancing, it remains outstanding; and while the Council anticipates a hybrid application being forthcoming, it has not been submitted and its precise nature is not yet known. Therefore, while 50 dwellings may seem a conservative figure for such a large, allocated site, there is no **'clear evidence' of their deliverability within 5 years and so they should not currently be counted.**
55. The Council identifies 377 dwellings at site EW2, of which 300 are in dispute. The **LPA's evidence** is an email from Blenheim Strategic Partners<sup>36</sup>, which includes a trajectory up to 2027, accounting for only 70 dwellings at site EW2. **Even accepting the Council's evidence relating to these 70 dwellings,** the evidence for the other 230 dwellings is lacking and should not be considered deliverable. These 230 dwellings should therefore be discounted.
56. Applications were submitted in January 2021 for sites EW4 and EW5. The same email referred to above refers to consent being granted at the October planning committee, which, when HLS discussions were had at the Inquiry at the end of November, had not happened. I understand that officer illness has caused delays in progressing the applications to committee. However, without an officer report, a recommendation, or even a confirmed committee date, there is currently no clear evidence to indicate that the dwellings at sites EW4 and EW5 **included in the Council's PS should be considered** deliverable in 5 years. The 156 and 120 dwellings should not, as yet, be included in HLS figures.
57. There remains a dispute over the outline elements at sites 12/0084/P/OP and 14/0091/P/OP. There may be longstanding relationships between the developers and planning officers. However, as no reserved matters applications have been submitted, nor any written agreements or build rates provided, it is doubtful whether there is a realistic prospect that housing will be delivered on the site within five years. On this basis, I agree with the Appellant that 85 and 164 dwellings from these two sites be removed from the HLS figures.

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<sup>35</sup> CDE43 p. 90

<sup>36</sup> CDE43 pp. 69-70

58. The agreed existence of an undersupply triggers paragraph 11d) of the Framework, and I am not required to identify a precise HLS figure. It was put to me that **adopting a 'purist approach' would remove all the units from site, and even if there is some slippage in timescales it doesn't necessarily follow** that no housing will come forward within 5 years. However, while there is no **express definition of 'clear evidence'**, the PPG gives examples of far more robust and convincing evidence than that offered by the Council for some of the sites in this case.
59. Pragmatically, some, if not all the housing may be delivered on the discounted sites but the evidence available to me suggests the HLS figure to be worse than suggested by the Council. On my reading of the HLS evidence, and while the actual HLS figure may not be quite as low as purported by the Appellant, the figure is closer to the lower end figure of 2.5 years rather than the **Council's upper end figure of 4.1 years.**

#### The Heritage and Planning Balance

60. The absence of a five-year supply of deliverable housing sites triggers application of paragraph 11 d) of the Framework. Firstly, the Framework requires an assessment of whether the application of policies within it that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>37</sup>. Of particular relevance are the policies relating to designated heritage assets.
61. Bearing in mind the scale and nature of the proposals, the degree of harm to the significance of the RPG as a designated heritage asset would be less than substantial, and at the lower end of that scale. In these circumstances, paragraph 202 of the Framework requires the harm be weighed against the public benefits of the proposal. The public benefits the proposal include the provision of Extra Care housing and economic benefits associated with job creation and the construction phases. In my judgement, these would be sufficient to outweigh the scale of harm identified to the significance Eynsham Hall RPG as a designated heritage asset.
62. On this basis, the application of policies in the Framework that protect assets of particular importance does not provide a clear reason for refusing the development. Thus, the proposal benefits from the presumption in favour of sustainable development, indicating permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. An important material consideration.
63. A development of the size and use proposed would realise economic benefits associated with the construction phase and proposed use, realising in the region of 30 jobs and ongoing employment, potentially within Freeland. I consider there would be clear economic benefits that carry significant weight.
64. I have born in mind the arguments that no feasible alternative sites exist and the consequences of my dismissing the appeal. Even if the apparent shortfall in Extra Care accommodation is not to the degree claimed by the Appellant, the provision of Extra Care housing carries social benefits associated with enabling older people to live more independently, while also saving on health and social costs in the future and potentially freeing up family homes. **Up to 160 extra care units would count against the LPA's housing requirement and against a**

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<sup>37</sup> Framework paragraph 11 d i. as defined in footnote 7

backdrop of a clear and pressing need. It is accepted that there is a HLS shortfall and one more severe than set out by the Council in their evidence. In accordance with the Framework, this leads to a conclusion that the policies which are most important for determining the application area out-of-date. These are material considerations that carry significant weight in favour of the proposal.

65. The proposal would provide the VTS and financial contributions towards provision of bus stops and the existing village bus service. However, these would be of benefit to a very small proportion of the future residents of the proposal, and less so to the wider community. As it would largely be in mitigation of **the site's rural location**, I attribute very little weight to the benefits associated with the VTS. Some of the proposed facilities would be available for use by local community, albeit some on an age-restricted basis. While Freeland does not benefit from a shop, the size, range and offer of the proposed shop is not yet known. I consider the provision of access to the **scheme's facilities would be of** moderate benefit to the wider Freeland community, which carries moderate weight in its favour.
66. Healthcare contributions secured under the s106 Agreement for enhancing and improving capacity and facilities at Eynsham Medical Centre would also be as mitigation, which is neutral in the overall planning balance. The proposals would accord with LP policies relating to locational sustainability, highway safety, biodiversity net gains, drainage, affordable housing, flood risk and ecology; therefore, these are also neutral factors. The other environmental credentials mooted, such as the delivery of net zero carbon, are not guaranteed or secured and so I attribute them very little weight.
67. The out-of-datedness of the most important policies, however, does not alter the statutory primacy of the development plan nor indicate they carry no weight. The policies that seek to ensure development protect character and local distinctiveness are central to this decision. I attribute substantial weight to the degree to which the development conflicts with LP policies OS2, H2, EH2, OS4 and H9, which insofar as they are pursuing good design and development that respects the intrinsic character, quality of an area, including local landscape and historic environment, hold a considerable degree of **conformity with the Framework's policies**.
68. Crucially, the Framework seeks to achieve well-designed and beautiful places as part of the overarching social and environmental objectives of the planning system. Notably, paragraph 130 of the Framework establishes that planning decisions should ensure that developments will add to the overall quality of the area; are sympathetic to local character and history including the surrounding built environment and landscape setting.
69. Other than the low-level of less than substantial harm I have identified to the RPG as a designated heritage asset, which would be outweighed by public benefits, there would be no other harm to nearby listed buildings or their settings (see Other Matters). Yet, in respect of NDHAs on the appeal site, I have identified serious harm would be caused by demolishing the ancillary outbuildings, resulting in a total loss of their significance. There would be also considerable harm to the significance of the stables through their conversion. There would also be harm to the ability to appreciate Freeland House and the complex of estate buildings through development within their settings, causing harm to their significance. Paragraph 203 of the Framework requires the effect

on the significance of a NDHA be taken into account and a balance judgement be required having regard to the scale and harm or loss and the significance of the asset. The NDHAs in this case are of local significance, and the harm and loss of them would add emphasis to the detrimental impact of the proposals on the unique character and local distinctiveness of Freeland.

70. The site is not constrained by designations such as being in a conservation area, the AONB, Green Built or a flood plain. The absence of such constraints does not diminish the particular sensitivities of the site, nor absolve the severe, irreparable, and permanent impact the proposals would have on the character and local distinctiveness of Freeland. While putting development in the right places can help to reduce development pressures on sensitive locations, I consider that the appeal site is not the right place for the proposed development.
71. The **Government's objective to significantly boost the supply of homes** and to create high quality, well-located development are not mutually exclusive. Indeed, balancing the need for homes without compromising the safeguarding and improving of the environment is fundamental to what the planning and development process hope to achieve. Embedded within the Framework and the achievement of sustainable development are social objectives that, amongst other things, foster well-designed, beautiful places and environmental objectives that protect and enhance our natural, built, and historic environment. Paragraph 134 of the Framework is also clear that development that is not well designed should be refused, especially where, such as in this case, it fails to reflect local design policies and government guidance on design.
72. There is a serious HLS shortfall and demonstrable need for extra care housing in the District. I see no reason to doubt that the proposal would not be deliverable, nor any reason to question the security of its funding moving forward. Even in the face of this, and the suite of benefits that weigh in favour the proposal, **and even were I to take the Appellant's full assessment of the scale of that shortfall**, it is my judgement that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

#### Other Matters

73. The appeal site is located proximate to two listed buildings, the Grade II\* listed Church of St Mary (List Entry Number: 1367941) and the Grade II listed Chapel, Wroslyn Road (List Entry Number: 1053018). Mindful of the statutory duty set out in s66(1) of the Planning (Listed Building and Conservation Areas) Act, 1990 (the Act), I have had special regard to the desirability of preserving their settings. The immediate yard confines, historic built backdrop along Wroslyn Road and wider verdant surroundings of these buildings form part of their settings. These settings, along with the historic, physical, and functional relationship with the settlement of Freeland contribute to the significance and special interest of these listed buildings. Nevertheless, given the location and extent of the proposed development, it would still be possible to appreciate the **building's special interest**. Therefore, the appeal scheme would preserve the settings and special interest, causing no harm to their significance. I note the Council had no concerns in this regard either<sup>38</sup>.

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<sup>38</sup> ID13 paras. 43 and 49

74. Interested parties have raised additional concerns with the proposals that sit outside the main issues. I do not wish to diminish the importance of matters relating to highway safety, sewerage in the surrounding river network, ecology and biodiversity. However, these matters have been subject to assessment by independent professionals, none of whom has raised objection (subject to conditions) and I have no compelling evidence to warrant doubting or deviating from their professional judgement. In any event, as I am dismissing the appeal for other reasons, these other potential harms associated with the proposals will not materialise.
75. The Appellant chose to field witnesses who offer extensive professional experience on individual topic areas. I have taken note of the arguments in respect of the absence of comparative professional qualifications from certain witnesses, and the impartiality of others. Where elements of the evidence were evidently speculative, including in respect of testimonies from residents of other Inspired villages, in error, or unsubstantiated, I either reduced or attributed it no weight. However, I found the crux of the arguments and evidence being put, both by the Council and the Rule 6, to be capable of substantiating their respective standpoints on the principal issues at play. Nothing causes me to doubt the particular influence or any professional competence of any witness that would cause me to disregard their evidence wholesale.

#### Conclusion

76. I consider that the proposal conflicts with the development plan as a whole, taking in account policies that both oppose and support the proposed development. As required by s38(6) of the Planning and Compulsory Purchase Act 2004, determination of this appeal must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework, including its presumption in favour of sustainable development, is an important material consideration. However, I have judged the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits assessed against the policies in the Framework taken as a whole. In the circumstances in this case, I do not find material considerations indicate that my decision should be taken otherwise than in accordance with the development plan.
77. For the reasons given above, I conclude that the appeal should be dismissed.

*H Porter*

INSPECTOR





## INQUIRY DOCUMENTS

- ID1 **Appellant's** list of appearances
- ID2 **Appellant's Opening Submissions**
- ID3 Draft S106 Agreement
- ID4 **Council's Opening Submissions**
- ID5 FPC & FF (Rule 6 Party) Opening Submissions and appearances
- ID6 **"It's Not in the Local Plan"** written copy of poem by Fiona Lehane
- ID7 Windrush Against Sewage Pollution (WASP) written copy of oral submissions
- ID8 Mr Robert Crocker written copy of oral submissions '**State of Nature**'
- ID9 Extract from Oxfordshire Wildlife and Landscape Study
- ID10 Amended Regulating Plan
- ID11 Rule 6 response to **Inspector's** heritage questions
- ID12 **Council's** revised HLS position statement
- ID13 **Council's** response to **Inspector's** heritage questions
- ID14 Appellant's response to **Inspector's** heritage questions
- ID15 Draft Schedule of suggested conditions V7
- ID16 Draft S106 Agreement, 24 November 2022
- ID17 Estimated Need for CT Extra Care Housing Tables
- ID18 **Council's** Regulation 122 Statement
- ID19 **Council's** Regulation 122 Statement Appendices
- ID20 FPC & FF (Rule 6 Party) Closings
- ID21 Closing submissions on behalf of the Council
- ID22 Closing submissions on behalf of the Appellant (and appendices)
- ID23 Draft HLS SoCG Addendum, 24 November 2022

## DOCUMENTS SUBMITTED BY AGREEMENT AFTER THE INQUIRY

- PID1 Final schedule of suggested conditions, 2 December 2022
- PID2 Scanned copy of completed S106 Agreement, 9 December 2022