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## Appeal Decision

Inquiry held on 15-18, 22 and 23 March 2016 and closed on 11 April 2016

Site visit made on 21 March 2016

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 20 June 2016

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**Appeal Ref: APP/X0360/W/15/3097721**

**Land at Stanbury House, Basingstoke Road, Spencers Wood, Reading RG7 1AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Cooper Estates Strategic Land Limited against Wokingham Borough Council.
  - The application Ref O/2014/2101, is dated 23 September 2014.
  - The development proposed is for up to 57 new homes and access from Basingstoke Road.
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### Decision

1. The appeal is allowed and outline planning permission is granted for up to 57 new homes and access from Basingstoke Road at Land at Stanbury House, Basingstoke Road, Spencers Wood, Reading RG7 1AJ in accordance with the terms of the application, Ref O/2014/2101, dated 23 September 2014, subject to the conditions contained within the Schedule at the end of this decision.

### Preliminary Matters

2. As was agreed by the main parties during the Inquiry, I have altered the description of development from as it appears on the application form to reflect the fact that the proposed Suitable Alternative Natural Greenspace (SANG) stands close to but beyond the appeal site boundary. Since the appeal was submitted the Council has made a Tree Preservation Order (TPO) in respect to seven single trees, six groups of trees and three woodlands that are within or in the vicinity of the appeal site<sup>1</sup>.
3. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details relating to these reserved matters submitted with the application and appeal as a guide as to how the site might be developed.
4. During the Inquiry the appellant and the Council submitted a signed Planning Obligation, dated 22 March 2016, pursuant to Section 106 of the Town and Country Planning Act 1990 (the S106 Agreement)<sup>2</sup>. The S106 Agreement would secure the provision of on-site affordable housing at a rate of 40% of the

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<sup>1</sup> Inquiry Document 3

<sup>2</sup> Inquiry Document 21

development; the implement of mitigation in the form of a SANG on land to the west of a appeal site<sup>3</sup> and compliance with the provisions of the associated planning obligations; and, subject to certain circumstances, the provision of a footpath south from the proposed site access along the western side of Basingstoke Road to an existing bus stop. I have had regard to the S106 Agreement during my consideration of the appeal.

5. The Council has also confirmed that the matters that would be secured via the S106 Agreement address its concerns embodied in its third and fifth putative refusal reasons such that it no longer wishes to defend either of these reasons concerning affordable housing provision and mitigation in respect to the Thames Basin Heath Special Protection Area respectively. I have assessed the appeal on this basis and adjusted the main issues, as I identified them at the start of the Inquiry, accordingly.

### **Main Issues**

6. The main issues are:

- Whether or not the Council is able to demonstrate a five-year supply of housing land for the area;
- The effect of the appeal scheme on the location strategy for new development in the Borough;
- Its effect in terms of landscape character and visual impact;
- Its effect on trees; and
- Whether any development plan conflict and harm arising is outweighed by any considerations including whether or not there is a National Planning Policy Framework compliant supply of housing land in the area.

### **Background**

#### **Site Context**

7. The appeal site is located on the western edge of the village of Spencers Wood. It has an area of some 2.9 hectares and its main body comprises semi-improved grassland used for grazing. There are several hedges and trees within and along the edges of the site and a pond to the south west corner. Spencers Wood is a settlement located to the south of and separated from the edge of Reading by the M4 motorway. The site is roughly 5 miles, by road, from the centre of Reading.
8. The site's easternmost fringe abuts Basingstoke Road, the B3349. This section of the site adjacent to the highway is occupied by an existing residential property with a domestic garage set a little to the southwest. There is also a barn-like building set further to the west of the garage. Other than this area adjacent to Basingstoke Road the site lies beyond the defined settlement limits of Spencers Wood. The rest of the eastern boundary is set behind the residential properties that line this section of Basingstoke Road. On the eastern side of the road, roughly opposite the proposed site access, there is the junction with The Square, a largely residential street that links through to the wider highway network to the east.

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<sup>3</sup> As approved under planning permission Ref F/2011/2106

9. The site is only accessed from Basingstoke Road and there are no public rights of way across it. There is agricultural land to the west of the site that has planning permission to be converted to the SANG referred to above. The approved access to the SANG is from Basingstoke Road, and runs along the southern edge of the appeal site.
10. To the north, the site is bounded by a tree lined access road which runs west from Basingstoke Road to serve a residential development known as Wellington Court. The trees to the north are firstly a line of Oaks, shortly followed by two lines of prominent Wellingtonia on each side of the carriageway. The southern boundary of the site is also tree-lined with office/commercial development at 'Highlands' beyond. The development at Wellington Court stands on the site where a now demolished Victoria mansion, Stanbury, once stood. The appeal site and other surrounding land, including the tree lined driveway, formed part of the parkland to Stanbury. Other than the Wellingtonia, these trees, along with others within or near the site, have recently been made the subject of a TPO. The Wellingtonia are, as a group of 38 trees, the subject of a separate TPO that was confirmed in 1996<sup>4</sup>.
11. In broad terms the land gently rises from the east adjacent to Basingstoke Road up to a high point west of the application site boundary within the approved SANG land before gradually falling to the A33, which runs some distance to the west. The site also lies within the 5km zone of the Thames Basin Heaths Special Protection Area and within the J3 Spencers Wood Settled and Farmed Clay landscape character area as defined in the Wokingham District Landscape Character Assessment, March 2004 (the LCA)<sup>5</sup>.
12. Whilst largely outside of the settlement limits the site is centrally located relative to the existing village and so stands reasonably close to the range of shops and services found in Spencers Wood. These include a restaurant, a church, a village hall, a primary school, a library, a pre-school, a vet's practice, a petrol station and shops including a post office.
13. There are also bus stops within 200 metres to the south of the site entrance on both sides of Basingstoke Road, although there is no footway on the western side of the road between the proposed site access and the existing bus stop. Hourly weekday bus services run through Spencers Wood providing access to Reading and other nearby settlements. Cycleways also provide the opportunity to cycle into Reading from Spencers Wood. There are also a number of commercial/business uses in the village including those at Wellington Industrial Estate such that there are some employment opportunities in the site's vicinity.

### **Policy Context**

14. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Paragraph 14 sets out how this presumption is to be applied and indicates that development proposals which accord with the development plan should be approved without delay, while going on to say that where it is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

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<sup>4</sup> CD 32

<sup>5</sup> Appendix CH/14 to Mr Harrington's Proof of Evidence

15. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
16. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. Indeed there are regular reminders of this and the importance of a plan-led planning system within the Framework such as those at paragraphs 2, 11, 12, 17 and 196.
17. The development plan for the area includes the Wokingham Borough Core Strategy Development Plan Document January 2010 (the Core Strategy) and the Managing Development Delivery Local Plan February 2014 (the MDD). These documents both plan for development, including housing, to 2026. The Council's remaining putative reasons for refusal indicate that the appeal development would be contrary to Policies CP1, CP3 and CP11 of the Core Strategy and Policies CC01, CC02, CC03 and TB21 of the MDD. These are the most pertinent development plan policies to the appeal proposal.
18. Core Strategy Policy CP1 seeks to deliver sustainable development in the Borough and to enhance the overall sustainability of the area through minimising any impact on the environment. It identifies a range of characteristics for development for which planning permission will be granted. These include proposals that maintain or enhance the high quality of the environment, ensure the provision of adequate drainage, avoid areas of best and most versatile agricultural land and demonstrate how they support opportunities for reducing the need to travel, particularly by private car. The supporting text at paragraph 4.2 also refers to the Council's Landscape Character Assessment which *highlights the areas of the borough with landscapes which should be protected or enhanced by development*.
19. Core Strategy Policy CP3 sets out the general principles for all development including, among other things, that planning permission will only be granted for proposals that have no detrimental impact upon important ecological, heritage, landscape or geological features or watercourses. Policy CP11 states that, in order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside the defined development limits of settlements will not normally be permitted.
20. Policy CC01 of the MDD reflects the statutory status of the development plan and sets out the presumption in favour of sustainable development in similar terms as the Framework. MDD Policy C002 refers to development limits for settlements and states, among other things, that proposals at the edge of settlements will only be approved where they can demonstrate that the development, including boundary treatments, is within development limits and respects the transition between the built up area and the open countryside by taking account of the character of the adjacent countryside and landscape.
21. CC03 of the MDD concerns green infrastructure, trees and landscaping. Among other things it sets out that development proposals should demonstrate how

they have considered and achieved a series of criteria. The criteria include provision of new or protection and enhance the Borough's Green Infrastructure networks including the need to mitigate potential impacts of new development, promotion of the integration of the scheme with any adjoining public open space or countryside and protection and retention of existing trees, hedges and other landscape features. Basingstoke Road to the east of the appeal site is a designated Green Route, which are expressly identified in the MDD as an element of the green infrastructure network.

22. MDD Policy TB21 requires proposals to demonstrate how they have addressed requirements of the Council's Landscape Character Assessment, including the landscape quality, strategy and sensitivity and key issues. It also requires proposals to retain or enhance the condition, character and features that contribute to the landscape.
23. While not identified in the putative refusal reasons, Core Strategy Policy CP17 is also relevant as it sets out the housing requirement for the Borough. It identifies that provision will be made for the development of at least 13,230 dwellings and associated development and infrastructure in the Borough in the period 2006-2026. It adds that provision will be on a phased basis of 600, 700, 723 and 623 dwellings per annum (dpa) in the periods 2006-11, 2011-16, 2016-2021 and 2021-26 respectively. The Policy also states that through subsequent DPDs the Council will phase and manage the release of allocated sites to ensure the overall targets for the plan period are met and that this will include the identification of reserve housing sites, which will be allocated for development post 2026.
24. The Core Strategy housing requirement was formulated well before the publication of the Framework and stems from the now revoked Regional Spatial Strategy (RSS). In view of the relevant legal cases on housing land-supply, such as the Barwood judgment<sup>6</sup>, a revoked RSS is not a basis for the application of a constraint policy to the assessment of housing needs, because it has been revoked and cannot be part of the Development Plan. The same would be true of an out of date Local Plan which did not set out the current full objectively assessed needs. Until the full, objectively assessed needs are qualified by the policies of an up to date Local Plan, they are the needs which go into the balance against any Framework policies. It is at that stage that constraints of otherwise may apply. In these circumstances, therefore, the housing requirement of the Core Strategy cannot be said to be up to date in the terms of the Framework.
25. The Council has started work on a new Local Plan, albeit that this work remains in its early stages. Nonetheless, an important part of the evidence base for the new Local Plan has been produced in the form of a Strategic Housing Market Assessment (SHMA)<sup>7</sup>, which was published in January 2016. The Council is one of six authorities in Berkshire which jointly commissioned the SHMA.

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<sup>6</sup> South Northamptonshire Council v Secretary of State for Communities and Local Government, Barwood Land and Estates Limited, 10 March 2014, EWHC 573 (Admin)

<sup>7</sup> Berkshire (including South Bucks) Strategic Housing Market Assessment, GL Hearn Limited, January 2016

## Reasons

### *Housing Land Supply*

26. As outlined above, the housing requirement of the Core Strategy is not up to date in the terms of the Framework. Consequently, in line with the relevant legal authorities, it is for me to assess the housing requirement in order to properly determine the appeal in accordance, among other things, with paragraph 47 of the Framework. This is consistent with the approach adopted by another Inspector in her fairly recent appeal decision for residential development at another site in Spencers Wood (the Beech Hill Road appeal)<sup>8</sup>.
27. The Beech Hill Road appeal Inspector concluded that the Council could not demonstrate a five-year housing land supply in accordance with the Framework. However, there have been significant changes in circumstances since that decision was made. In particular, the SHMA has been produced and the Council has also published a mid-year Strategic Housing Land Availability Assessment (the Mid-Year SHLAA)<sup>9</sup>.
28. The Mid-Year SHLAA is an update to the, more detailed, SHLAA that was before the Beech Hill Road Inspector (the Main SHLAA)<sup>10</sup>. The evidence indicates that the Council has altered some of the methods it employs in the production of its SHLAA in light of the Beech Hill Road appeal decision such that the projections in the Mid-Year SHLAA foresee different delivery trajectories for many of the identified sources of housing compared to the Main SHLAA. This includes a change to the way in which lead-in times are calculated.
29. The parties disagree over both principal aspects of the five-year land supply in terms of the full objectively assessed need for housing (the FOAN) and the anticipated amount of homes that will be delivered over the five year period. I consider these matters in turn.

### *Housing Need*

30. Much of the differences between the parties on the FOAN relate to the exact nature of the model used and the inputs that are fed into it. While the Council may not have formally adopted the SHMA I do not consider that that necessarily reduces its weight. No doubt the figures will come under renewed scrutiny in due course during the Local Plan review process. In the context of this appeal, however, the main concern is whether or not, on the evidence before me, the SHMA reliably identifies the FOAN for Wokingham.
31. While the appellant is critical of many aspects of the SHMA, in my view it appears to broadly follow the policy, guidelines and advice set out in the Framework, the Planning Practice Guidance (the PPG) and the PAS Guidance<sup>11</sup>. However, from what I read and heard as part of the appeal process, I do have some concerns and these have led me to conclude that the SHMA is likely to understate the FOAN for Wokingham.
32. In respect to economic forecasts, the SHMA uses Cambridge Econometrics (CE) base forecasts and does not appear to take into account or at least make

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<sup>8</sup> Appeal Decision Ref APP/X0360/2209286, dated 8 July 2015

<sup>9</sup> Mid-year update to April 2015 Summary SHLAA (at 1 October 2015), published January 2016

<sup>10</sup> Strategic Housing Land Availability Assessment at 31 March 2015, published June 2015

<sup>11</sup> CD 29 – Planning Advisory Service - Objectively Assessed Need and Housing Targets Technical Advice Note Second Edition, July 2015

significant adjustment for alternative sources. When compared to other forecasts, as well as to past trends, the CE forecasts appear to be relatively conservative. This may, at least in part, be due to the origins of these forecasts being some two years old such that they do not take into account the most recent trends and data. The SHMA itself states that the CE forecasts are generally at the cautious end of the forecasting spectrum compared to Oxford Economics (OE) and Experian.

33. The CE forecasts appear to have been employed in the SHMA, at least partly, because they were used in the Thames Valley Berkshire Local Economic Partnership's (the LEP) Strategic Economic Plan (SEP). I also note the LEP's involvement as part of the SHMA steering group. While I acknowledge that there is likely to be benefit in attempting to align the future Local Plan and the existing SEP, this should not be at the expense of an accurate FOAN. I also recognise that, as the SHMA uses an integrated model, the application of alternative data sources can be problematic and must be approached with caution such that I am not entirely persuaded by the appellant's suggested approach, including the introduction of OE figures.
34. Nonetheless, the CE forecasts do appear to be rather conservative such that on the evidence they are likely to have had a suppressing effect on the FOAN figure for Wokingham identified in the SHMA. However, given the nature of the models employed by the main parties it is difficult to identify the precise extent to which the SHMA understates the FOAN in this regard.
35. Both parties consider that a market signals uplift is justified, but differ regarding the level of uplift. The SHMA concludes that for Wokingham an upward adjustment of 9.1% or 72 dpa is necessary to improve affordability and household formation rates amongst younger households. This adjustment takes the dwellings per annum from 784 to the final SHMA FOAN figure of 856 dpa. However, I share the appellant's concern that it is not clear how the allowance made for different headship rates relates to the Council's past performance in housing delivery, particularly during the 2000s, such that it is not entirely apparent whether the 9.1% adjustment is proportionate. The evidence also indicates that housing in Wokingham is markedly less affordable than in the rest of the Western HMA authorities identified in the SHMA and affordability also appears to have worsened in the past 2-3 years.
36. The evidence refers to the application of a flat rate by other Inspectors to deal with a market signals uplift while others have concluded that no increase would be justified<sup>12</sup>. In those cases where an increase was found to be justified the rates range from 10% to 20%, albeit that 20% appears to be somewhat out of the ordinary while 10% is more common. The PPG does not set out how any such adjustment should be quantified, though it must be 'reasonable'; *the more significant the affordability constraints (as reflected in rising prices and rents, and worsening affordability ratio) and the stronger other indicators of high demand (e.g. the differential between land prices), the larger the improvement in affordability needed and, therefore, the larger the additional supply response should be.*
37. I pause here to reflect on the context and background to the Borough's housing delivery and affordability issues. As set out above, the housing requirement of the Core Strategy is not up to date in the terms of the Framework. Any

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<sup>12</sup> Notably as summarised in paragraph 7.88 of the SHMA

backlog of unmet housing need from during the Core Strategy plan period up to the start of the SHMA period should be taken into account in establishing the objectively assessed need for housing. On that basis, if there is perceived to be such a backlog, it should not be added to the five-year housing land supply calculation as to do so would be double counting. In other words, any shortfall should be captured as part of the SHMA housing need data such that it should not be added.

38. In Wokingham there was under-delivery against the Core Strategy housing requirement over the period 2006-13 (i.e. the start of the Core Strategy plan period to the start of the SHMA period) of 1438 homes<sup>13</sup>. Clearly, the housing requirement of the Core Strategy is out of date so this figure should not be relied upon to provide an accurate measure of residual housing need. It is, nonetheless, an indicator that there was likely to have been a genuine backlog of unmet housing need at the start of the SHMA period and that such a backlog is likely to have been reasonably significant. I have come to this conclusion based on a number of considerations.
39. The Council itself acknowledges that it has a record of persistent under delivery of housing as reflected in its acceptance of the use of a 20% buffer in the calculation of its five-year housing land supply. The RSS figures that informed the Core Strategy, while now out of date, were based on forecasting and are consequently relevant as they illustrate how supply failed to keep up with the forecasts. The average annual housing requirement of the Core Strategy for the period up to the start of the SHMA was 629 dpa; this was a constrained, policy-on figure rather than the FOAN figure as it was understood at that time. This compares to the substantially higher FOAN figure identified in the SHMA of 856 dpa, albeit that this figure would include a proportion of any preceding housing backlog.
40. For these reasons, therefore, it is reasonable to conclude that it is likely that there was a fairly significant backlog of unmet housing need at the start of the SHMA period. It is also common ground that there is already a cumulative shortfall in delivery of 919 homes in the Borough over the two and a half years from the start of the SHMA period to the Mid-Year SHLAA.
41. In this context and with reference to the evidence regarding affordability, I consider that a more substantial market signals uplift, along the lines of that promoted by the appellant and as used by other Inspectors, in the range of 10% to 14% would be reasonable, proportionate and justified.
42. Applying a 13.5% uplift, as promoted by the appellant, would result in a FOAN of some 890 dpa. Alternatively, applying a flat rate uplift of 10%, as employed by other Inspectors, would result in a more conservative FOAN of some 862 dpa.

#### *Housing Delivery*

43. The appellant also disputes several aspects of the Council's projected housing delivery as set out in the Mid-Year SHLAA. In summary, the Council considers that the housing supply will be 7504 homes over the five year period from 1 October 2015 (the five year period), whereas the appellant maintains that it will be only 5731 homes.

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<sup>13</sup> The total Core Strategy housing requirement for the seven years from 2006 to 2013 was 4400 homes compared to the total of 2962 homes delivered during that period



44. In light of the Beech Hill Road appeal decision, for the Mid-Year SHLAA the Council amended its approach to calculating lead-in times by applying a 24 month period from the submission of the planning application, which includes 21 months to represent the time taken from planning permission to first home sale. I see this as a positive step. I am, nonetheless, concerned regarding the remaining three month period, which is intended to account for the time taken to determine planning applications.
45. The Council's rationale for using three months is that the statutory period for the determination of major planning applications is 13 weeks. However, this overlooks that planning applications for development requiring Environmental Assessment should be determined in 16 weeks. Perhaps more significantly it also fails to recognise that in practice many planning applications are not determined within the statutory time period.
46. While I have not found within the evidence an overall figure for the average time taken to determine applications for major residential development, there are numerous examples which illustrate where the Council has taken very much longer than the statutory period, in excess of two years in some cases. Planning appeals will also generally result in a longer timeframe. Consequently, there is a reasonably strong likelihood that the delivery figures set out in the Mid-Year SHLAA have been buoyed by what is likely to be an artificially constrained lead-in period in respect to the time taken from the submission of planning applications to their approval.
47. As was the case at the Beech Hill Road appeal, the appellant has referred to the Council's past record in forecasting housing delivery, which is fairly poor in terms of its tendency to over-predict provision compared to how many homes were actually completed. But like the Beech Hill Road Inspector, in my experience, this is not unusual and illustrates the difficulty of the task. There is no apparent reason why the fact that past forecasts have proven to be mistaken, or the evidence of previous slippage in delivery, should alone necessarily lessen the weight that attaches to the current SHLAA. This does, nonetheless, indicate that the forecasts should be viewed with caution, as tending to present a 'best case' scenario. I now look at the main matters of disagreement between the parties regarding the sources of housing delivery.
48. A substantial proportion of the Borough's planned housing delivery is from the four Strategic Development Locations (SDLs) identified in the Core Strategy. The Arborfield Garrison SDL is allocated by Core Strategy Policy CP18 for the phased delivery of around 3,500 dwellings. The appellant maintains that this site will yield 445 fewer dwellings than the Mid-Year SHLAA predicts. While I note the appellant's submissions, I do not find that the current circumstances are significantly changed from when the Beech Hill Inspector concluded that the Council's approach, while very optimistic, is not unfeasible.
49. I also note that in respect to the Crest Homes part of the Arborfield Garrison SDL the projected delivery of 200 dwellings per annum does not appear to conform to the assumed delivery rates of the Mid Year SHLAA, particularly given that there is no evidence that that site will be developed by more than one house builder. This too suggests that the projections are very optimistic.
50. The South of the M4 SDL is allocated by Core Strategy Policy CP19 for the phased delivery of around 2,500 dwellings by 2026. This SDL is sub-divided

into different areas, which are the subject of a number of separate planning permissions and applications. The appellant suggests that 50 dwellings should be removed as the 'Non-SDL consortia land north of Hyde End Rd, Spencers Wood' cannot be considered available now. However, from the evidence I am not persuaded that it is not available. While it does not have planning permission it still appears to be allocated in the development plan and I have not found any other reason to believe that it is not deliverable. I do note, nonetheless, that the evidence indicates that it is a long standing development plan allocation.

51. The appellant had raised concerns over the land west of Shinfield, which is also within the South of the M4 SDL. I broadly agree with the matters raised by the appellant's witness Mrs Mulliner in her proof of evidence regarding potential slippage. However, in light of a breakdown of SDL delivery provided by the Council during the Inquiry<sup>14</sup>, I consider the annual delivery set out therein broadly reflects that kind of slippage and generally appears to be reasonable. Overall, therefore, I do not see any justification to alter the Council's projected delivery for the South of the M4 SDL.
52. The North Wokingham SDL is allocated by Policy CP20 of the Core Strategy for the phased delivery of around 1,500 dwellings by 2026. This SDL is also sub-divided into different areas, which are the subject of a number of separate planning permissions and applications.
53. In her proof of evidence Mrs Mulliner identifies that there was an increase in projected delivery from the North Wokingham SDL from the Main SHLAA to the Mid-Year SHLAA. While this was unexplained at that stage, during the Inquiry the Council shared the three responses it had had from developers/agents regarding its projections for the Mid-Year SHLAA<sup>15</sup>. One of these was from the agent for the Matthews Green Section of this SDL who estimates different projected completion rates for this land that result in a net increase of 77 homes. That correspondence also indicates that the site has two developers rather than one as Mrs Mulliner appears to have assumed. On this basis the Council's projections for the Matthews Green Sector appear reasonable.
54. Although it is clearly delivering, the wider North Wokingham SDL does, nonetheless, appear to have experienced some slippage. Again, while in my view the appellant has not provided any specific evidence to justify a reduction in the Council's projected supply from this SDL, I am concerned that the projections appear somewhat optimistic.
55. The South Wokingham SDL is allocated under Core Strategy Policy CP21 for the phased delivery of around 2,500 dwellings by 2026. The area of the SDL that lies to the north of the Wokingham-London railway line received outline planning permission in December 2012 for up to 650 dwellings. The appellant's concern, however, is with the area south of the railway line, which the evidence indicates is dependent, at least in part, on the provision of a railway crossing and other infrastructure.
56. The Council has produced evidence to support the projections of the Mid-Year SHLAA in respect to this land. This includes letters from the local highway authority and Network Rail, as well as an email from Kier, one of the

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<sup>14</sup> Included within Inquiry Document 10

<sup>15</sup> Inquiry Document 11

developers of this land, which are positive regarding the delivery of infrastructure and housing in this part of the SDL<sup>16</sup>. However, the appellant's evidence in Mrs Mulliner's proof suggest that there has already been slippage on infrastructure delivery and also indicates that there is good reason to believe, for instance the absence of any planning permissions and the complexity of the infrastructure requirements, that the Council's housing delivery projections for this part of the SDL are unrealistic.

57. Shortly before the Inquiry opened the appellant also submitted a letter from Miller Homes<sup>17</sup>. On my reading, the letter although from Miller Homes is written on behalf of the consortium of developers for the land south of the railway line at this SDL. It clearly sets out a range of considerations affecting this land and concludes that the earliest that completions can now be expected from the site would be late 2019. It adds that this is an optimistic timetable. Having reviewed all of the evidence, I consider that it would be appropriate to adjust the housing supply forecast for this land in line with the earliest delivery time indicated in the letter. I would also note that, in my view, this letter supersedes the earlier estimates contained in the Miller Homes email<sup>18</sup>.
58. I therefore conclude that the Council's calculation of its five year supply of deliverable sites should be reduced from 7504 by 300 to 7204 dwellings to reflect slower delivery from the Wokingham South SDL.
59. The appellant also raised concerns regarding other, non-SDL sites that are included in the Mid-Year SHLAA. Loddon Vale House has a prior approval for 11 flats. However, in view of the appellant's evidence regarding how the site is being marketed for other purposes it seems unlikely that it will come forward for that residential development. For these reasons, the Council's identified supply should be further reduced by 11 units to 7193 dwellings.
60. Land at Hatch Farm Dairies, Winnersh is allocated in the MDD and has outline planning permission for 433 homes dating from November 2014. While I note that a pursuant reserved matters application recently went to the Council's Planning Committee for approval, given the evidence regarding pre-commencement conditions and on the basis that only one developer appears likely to be involved, I agree with the appellant that the first year is unlikely to yield 100 dwellings nor subsequent years 120 units. Accordingly, the Council's supply figure should be further reduced by 220 homes to 6973 dwellings.
61. While the appellant requests that a further 125 units should be omitted in respect to development at land at Elms Lane and The Paddock, I note that an application for full planning permission was to be reported to the Council's Planning Committee at the end of March 2016. I see no good reason why it would not gain planning permission. On this basis there is no overriding reason why these 125 homes should not remain in the projected supply. Nonetheless, given that the site is previously developed and requires relocation of existing uses, I again consider that this is a reasonably optimistic forecast by the Council.

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<sup>16</sup> Included within Inquiry Document 7

<sup>17</sup> Letter from Andy Evans, Associate Director Planning, Miller Homes, 9 March 2016

<sup>18</sup> Included within Inquiry Document 11

62. Mrs Mulliner's evidence also criticises the way in which the Mid-Year SHLAA deals with supply from small previously developed sites delivering nine units or less. In short the combined supply for years 2017/18 and 2018/19 is 81 and 107 dwellings respectively. However, the evidence suggests that this results in double counting as the two categories that make up these figures appear to be drawn from the same pool of sites. Therefore, a further reduction of 80 units is warranted, which would bring the Council's supply down to 6893 dwellings.
63. Although the potential application of a lapse rate was discussed during the Inquiry and referred to in the evidence, one is not included in the SHLAA and nor does the appellant request the application of one. I also note that Beech Hill Road Inspector did not apply a lapse rate at that appeal. Nonetheless, for the reasons set out throughout this subsection I consider that a lapse rate of 10% is warranted on the evidence before me.
64. In summary, these reasons include the potentially over-optimistic character of the Council's projections for the sites discussed above, its record of tending to over-predict delivery and the likelihood that the lead-in times employed in the Mid-Year SHLAA are artificially constrained. Furthermore, while I note the wider evidence gathering and checking undertaken as part of the SHLAA process, given that the Council received only three written responses from developers/agents to its request for information, the degree of verification in this respect appears rather limited in the circumstances.
65. On this basis the Council's housing supply should be reduced by a further 689 units to 6204 dwellings.

*Five-Year Housing Land Supply Conclusion*

66. I have concluded that the FOAN lies in the range of 862 to 890 dpa which equates to some 4312 and 4449 homes respectively over five years. As identified above, there is a deficit of 919 homes in delivery against the Council's preferred figure of 856 dpa since the start of the SHMA period. This rises to 935 and 1004 homes against a FOAN of 862 and 890 dpa respectively thus resulting in totals of 5247 and 5453 dwellings. When the undisputed 20% buffer is applied, and following the Sedgefield method, this results in five-year requirement figures of 6297 and 6544 dwellings respectively. Setting these figures against the projected housing delivery of 6204 dwellings results in a shortfall of some 93 and 340 homes respectively for the five year period in question<sup>19</sup>.
67. Therefore, even applying the more conservative FOAN figure of 862 dpa arising from the application of a 10% flat rate for market signals there would not be a Framework compliant supply of housing land. On this basis, while the shortfall would be only 93 homes it is, nonetheless, significant and exceeds the 56 net dwellings that the appeal scheme would potentially yield.

*Affordable Housing and Housing Summary*

68. Both parties agree that there is a need for affordable housing in the Borough. The Council's evidence indicates that there are 1400 households on its housing register awaiting suitable rented accommodation and a further 900 households waiting for Help to Buy products. The proposed level of affordable housing

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<sup>19</sup> The five year FOAN figures and the deficits over the two and a half year period in this paragraph are a little higher than the respective cumulative annualised figures as the latter have been rounded down to whole numbers

equates to the 40% generally required by the development plan as part of schemes of this type. Nonetheless, affordable housing provision should be regarded as a benefit, particularly where it would help meet an identified need and therefore should be weighed against any harm identified.

69. The proposed development, therefore, would make a valuable contribution to identified housing need. For the reasons outlined, I find that the need for both market and affordable housing carries weight in favour of the proposal.

### ***Borough Development Strategy***

70. The Council's location strategy for new development in the Borough is set out in the development plan. Core Strategy Policy CP9 is particularly relevant as it identifies that the scale of development proposals in the Borough must reflect the existing or proposed levels of facilities and services at or in the location, together with their accessibility. The Policy identifies three categories: *major*, *modest* and *limited* development locations. The supporting text explains that the SDLs have been selected on the basis of compliance with Policy CP9.

71. Spencers Wood is one of the eight *modest development locations* identified in Policy CP9. In the supporting text to this Policy they are said to be those locations with access to some facilities and services either within them or through good public transport services to major development locations or centres in neighbouring areas such as Bracknell, Crowthorne and Reading. The text also states that it is within the development limits of these second tier settlements where modest development would be acceptable.

72. On my reading of the development plan the Council's location strategy for new development is principally based on housing and associated service and infrastructure delivery via the SDLs, which is informed by and also supported by the hierarchical approach of the major, modest and limited development locations for non-SDL development.

73. While the appeal site is located adjacent to the western edge of Spencers Wood, other than a small portion adjacent to Basingstoke Road, it is not within the defined settlement limits in the terms of Core Strategy Policy CP11 and MDD Policy CC02. Nor does it fall within a site identified for development in the wider development plan. Consequently, the appeal development would be at odds with the Council's location strategy for new development in conflict with Policies CP11 and CC02 of the Core Strategy and the MDD respectively.

### ***Landscape Character & Visual Impact and Trees***

74. While I identify these matters as separate main issues, any effect on trees is likely to have at least some influence in terms of landscape character and visual impact. Given this interrelationship I consider these issues together; firstly the scheme's effect on off-site trees and then on the overall landscape character and visual impact, including in respect to on-site trees.

#### ***Off-Site Trees***

75. The Council's concerns in this regard relate primarily to the lines of Oak trees and Wellingtonia to the north of the site boundary. The appellant's evidence concedes that its initial illustrative layout showed development 'too close' to the trees along the northern boundary and there was a risk that they could have caused issues of conflict with overhanging canopies from the adjacent

Oaks. Although the illustrative layout has been amended the Council's objections remain.

76. While all matters other than access are reserved for future consideration these illustrative details are a useful guide as to how the site might be developed. They also give an indication of the extent to which trees are likely to be affected by the development and vice versa. The amended illustrative layout shows how conflict could be avoided within the current root protection area (the RPA) of the line of Oak trees to the northern boundary. That amended layout, along with additional details submitted by the appellant regarding surface water drainage<sup>20</sup>, also indicates how sustainable drainage solutions (SuDS) could be incorporated into the proposed development without having a material effect on these off-site Oaks. The remaining issues in respect to off-site trees, therefore, relate mainly to any effect on the Wellingtonia to the north of the line of Oak trees.
77. The Wellingtonia are very tall trees. The Tree Report<sup>21</sup> records the survey results for both lines of Wellingtonia as a group, G14. Because they are recorded as a group the values shown in the Tree Report are likely to represent an average. Although there is likely to be a degree of difference in the trunk diameters and heights of these trees, from what I have read, heard and seen during the appeal process, any deviation from the average appears unlikely to be significant. The Tree Report records the height of these trees as 37 metres and their trunk diameter as 1840mm. While the Wellingtonia are shown as being 'mature' the Report also indicates their 'expected remaining contribution' to be more than 40 years.
78. During the Inquiry there was discussion regarding how the RPA of the Wellingtonia should be calculated. There is a Table at Appendix D to BS 5837:2012<sup>22</sup> that indicates for single stem trees with a trunk diameter of 1250+mm the RPA is 15 metres based on the radius of a nominal circle, such that it is capped at this distance. A note to the Table indicates that the figures within it are derived from the calculations at paragraph 4.6 of the document. In short, the relevant calculation is 12 x the trunk diameter. Apply this formula to the information in the Tree Report gives a RPA radius of 22.08 metres (i.e. 12 x 1.84 metres), albeit that the effect of Appendix D appears to be to cap the upper limit of the RPA radius at 15 metres.
79. The illustrative layout shows the proposed built form - the closest parts of which are a road turning head and access driveways - standing well beyond the 15 metres RPA radius of the Wellingtonia. Even if a more cautious, uncapped RPA radius of 22.1 metres was to be applied, I see no reason why the built form and any associated works and excavations could not be reasonably contained outside that area. I also note the evidence regarding ground conditions, ground works and the construction of foundations<sup>23</sup>, which indicates that the scheme could be designed to accord with NHBC standards<sup>24</sup> and that subject to controls it would not materially affect the neighbouring trees.

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<sup>20</sup> Mr Allder's Rebuttal Statement, dated 9 March 2016, including Appendix 1 – Proof of Evidence by Mr Simon Darch regarding Surface Water Drainage

<sup>21</sup> Tree Report (Tree Survey and Constraint Advice) prepared by ACD Arboriculture, as revised 22 July 2014

<sup>22</sup> BS 5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations

<sup>23</sup> Appendix 2 to Mr Allder's Rebuttal Statement, Expert Opinion of Michael Neden's Expert Opinion, March 2016

<sup>24</sup> Inquiry Document 5

80. On this basis, therefore, subject to the careful consideration of the reserved matters as well as tree protection measures during construction and the use of appropriate construction techniques, which could be reasonably controlled by planning conditions, it appears that the development could proceed without any material harm to off-site trees including the Wellingtonia.
81. The Council is also concerned regarding any potential threat such large trees may pose to property and safety, particularly bearing in mind that the Wellingtonia have considerable potential additional growth. This concern is in respect to any actual threat as well as any threat that may be perceived by residents of the proposed development.
82. I acknowledge that the Wellingtonia are already tall and may have the potential to grow much taller still. However, on the evidence this appears unlikely to be on anything like the scale of Wellingtonia in their native habitat bearing in mind the relatively mild climate and the fairly open context found in this case. Due to their height relative to surrounding landscape features the Wellingtonia also appear to be potentially vulnerable to lightning strike. Nonetheless, I do not consider these matters and the other considerations that have been brought to my attention would be likely to pose a significant threat to people and property at the developed appeal site.
83. I have come to this conclusion bearing in mind, among other things, my assessment that the development could be completed without materially affecting the trees as outlined above. I have also taken into account that, on balance, the evidence indicates that, notwithstanding their height, Wellingtonia are generally a reasonably windfirm and disease resistant species. Furthermore, the closest row of Wellingtonia is located some 14 metres from the site boundary and based on the revised illustrative layout the nearest houses would be some 30 metres away from their trunks. The intervening line of substantial Oak trees is also likely to offer an element of protection should any of the Wellingtonia fall.
84. Given these circumstances any potential perception of threat from these neighbouring trees to the development and its occupants can attract little weight. I have also come to this view having in mind that these trees are very readily apparent and are likely to attract occupants to the development who would perceive them as welcome neighbours rather than as a threat. For all of these reasons it would be likely that any future pressure from residents of the development to remove or cut back these trees could be reasonably resisted.
85. In coming to this view I have also had regard to the evidence concerning pressure to remove Wellingtonia due to their effect on an existing neighbouring residential property<sup>25</sup>. However, that property is substantially closer to the nearest of these trees than the houses shown on the revised illustrative layout. It also appears unlikely that that dwelling would have been constructed to the standards that would be available to the appeal development, particularly in respect to the foundation design and protection.
86. For the reasons outlined above, subject to appropriate controls and careful consideration of reserved matters, the proposed development would not have a harmful effect on off-site trees and nor would trees be likely to present a significant threat to occupants of the development and their property. In this

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<sup>25</sup> Including Inquiry Document 19

regard, therefore, the proposals do not conflict with Core Strategy Policies CP1 and CP3 or with MDD Policies CC01, CC03, and TB21 and would also meet the requirements of BS 5837:2012.

*Landscape Character & Visual Impact and On-Site Trees*

87. The site is located within the Spencers Wood Settled and Farmed Clay landscape character area. The LCA states that this area is an undulating pasture dominated with a patchwork of moderate sized pasture and arable fields divided by hedgerows featuring mature hedgerow oaks and that there are a number of woodlands, either mixed woodland belts and tree clumps associated with the remnant deciduous copses that once formed part of the extensive woodlands of Windsor Forest.
88. The LCA also states that the presence of parkland is a feature of the landscape and parkland trees stand out as features against the skyline especially the avenue of Metasequoia [sic] at the entrance to Stanbury Park. Key characteristics of this character area identified in the LCA include former Common land at Spencers Wood, to the west of Basingstoke Road, which is an important defining feature of the settlement and based around Stanbury Park and Highlands.
89. These features and characteristics are largely consistent with what I observed when I visited the area around the site, with remaining parkland planting particularly notable at the site and the surrounding land, including the lines of Oak trees and Wellingtonia to the north of the site. The LCA goes on to identify key issues for this area as including continuing pressure for expansion and infill within existing settlements leading to loss of features such as trees, woodland and historic features and damage to the landscape's green lanes. Nonetheless, the LCA identifies that the Spencers Wood Settled and Farmed Clay is a landscape of overall moderate quality due to its moderate character and moderate condition.
90. The site currently has no specific landscape designation or protection in adopted planning policy terms. Nonetheless, it is clear from the evidence and from my own observations when visiting the area that it contributes positively to the local landscape as well as to the setting of Spencers Wood village. The Council's landscape witness Mr Hannington also considers that the site forms part of a 'valued landscape' in the terms of paragraph 109 of the Framework.
91. The Guidelines for Landscape and Visual Impact Assessment<sup>26</sup> identifies a series of factors that are generally agreed to influence value and which help in the identification of valued landscapes. The Wellingtonia discussed above are an attractive and rather unusual, eye-catching feature in the landscape, yet they stand beyond the site boundary. The remnant parkland features within the site also make a positive contribution to the landscape and visual amenity of the area and are of some, albeit fairly limited, historical and cultural interest. Beyond these considerations the appeal site does not have any particularly significant or rare features, qualities, interest, aspects or associations and is not available for recreational use, such that I am not convinced that it does amount to *valued landscape* within the meaning of Framework paragraph 109.

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<sup>26</sup> Appendix 12 to CD 16



92. The appellant has produced a detailed Landscape and Visual Impact Assessment (LVIA) of the proposal<sup>27</sup>. The Council has not produced its own LVIA and does not challenge the methodology of the LVIA. It has, nonetheless, made a fairly detailed assessment of its own which is critical of some aspects of the LVIA and comes to different conclusions regarding the effect of the development in landscape and visual impact terms. Consequently, I focus primarily on the principal matters on which the main parties differ.
93. From the evidence and what I saw when I made my visits, the parkland character of the area appears to have diminished over time, for instance through the loss of some planting, changes to land use and management as well as due to the demolition of Stanbury house and the Wellington Court development that replaced it. Nonetheless, the remaining parkland features of the area, including the tree lined access to Wellington Court and planting within the appeal site, continue to have a positive influence on the character and appearance of the area.
94. There is some development to the west of Basingstoke Road in the vicinity of the site including that adjacent to the road, that at Wellington Court and the commercial uses at Highlands. However, this is generally of limited scale and/or fairly well screened such that the area at large, including the appeal site, has the appearance of being largely open, undeveloped countryside, beyond the settlement.
95. The appeal site is fairly well contained, for instance by Basingstoke Road and the existing intervening development and the mature planting in the wider landscape. Nonetheless, the introduction of up to 57 dwellings and associated infrastructure would be perceptible from beyond the site from some public views, particularly from Basingstoke Road and The Square via the proposed access, as well as from neighbouring private property including from along the quasi-public road to Wellington Court.
96. The built form of the village would also be extended by the appeal development westward beyond the existing development within the settlement to the west of Basingstoke Road. While I recognise that the introduction of development to any undeveloped site would be very likely to alter its character, this scale and form of development would be somewhat at odds with the small scale incremental development that this part of the village appears to have traditionally experienced. Additionally the remnant parkland character of the site would be eroded through the introduction of development of the scale and kind proposed. Although the illustrative layout reasonably indicates how many of the on-sites could be retained, some of the existing planting, including some of the trees that are the subject of the recently made TPO, would be likely to be lost as a result of the development.
97. The development of the proposed SANG to the west of the appeal site would open that land and the associated access from Basingstoke Road to public use thereby reducing the appeal site's current degree of containment and offering more views into and across it. Nonetheless, the approach taken by the LVIA is reasonable in this regard given that such public access and views are not currently available and that, if the appeal were to be allowed, it would be likely to be developed at roughly the same time as the SANG.

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<sup>27</sup> CD 1.6

98. I note that planning permission for the SANG runs to 31 October 2016 but have no good reason to believe that the permission could not be extended. Indeed it also seems likely that the SANG would be delivered in the event that the appeal were to be dismissed bearing in mind that it could offer valuable mitigation for other development. Although the SANG would result in a vehicular access similar to the appeal proposal, the new access would nonetheless 'sign-post' the existence of the proposed residential development and would also provide views into the developed site. Moreover, the proposed access and associated highway works would in themselves introduce additional built form beyond that of the SANG access details which would have a further urbanising affect close to the edge of the settlement along a Green Route.
99. In summary, I disagree with some of the Council's conclusions, including the effect of the appeal scheme on off-site trees; however, in some limited but notable respects the proposal's effects in terms of landscape and visual impacts are more closely aligned to the conclusions of the Council's witness than those of the Appellant's. For the reasons outlined above, therefore, although the Spencers Wood Settled and Farmed Clay is a landscape of overall moderate quality and the site is not a *valued landscape*, the proposed development would have a detrimental effect regarding landscape character and visual impact, including in respect to the loss of some on-site trees. Consequently, while the harm in this regard would be somewhat limited, it would conflict with Policies CP1, CP3 and CP11 of the Core Strategy and Policies CC01, CC03 and TB21 of the MDD as well as with the Framework.

#### **Other Issues, Housing Land Supply Policy and Planning Balance**

100. In undertaking the planning balance I have considered the weight to be given to the relevant development plan policies and made an assessment of whether the appeal proposal would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a Framework compliant supply of housing land, albeit that the more conservative shortfall that I have identified is reasonably small, as well as the contents of the Framework as a whole.
101. Since Core Strategy Policy CP11 seeks to direct development, including residential uses, toward locations within the development limits, and to restrict the amount that takes place outside those limits, it is a policy that is of relevance for the supply of housing. Policy CC02 of the MDD has similar objectives and consequences. To the extent that they concern the supply of housing, then, neither of these Policies should be considered up-to-date given the absence of a five-year housing land supply.
102. In terms of the economic and social dimensions of sustainable development, if implemented the appeal proposal would increase the supply and choice of housing, including affordable homes at a rate of 40% of the greater development, in an area where there is not a Framework compliant supply of housing land.
103. The appellant is not a house builder and there is no evidence to demonstrate that there is a developer lined-up to take on the scheme in the event that the appeal is allowed. Time would also be required to secure the matters controlled by conditions, including in respect to reserved matters, and to deliver the SANG mitigation. While these matters along with other development requirements would undoubtedly take some time to resolve,

given the reasonably modest scale of the development and as the site does not appear to be otherwise significantly constrained it is reasonable to assume that the development would be deliverable within the relevant five-year period.

104. The development would also contribute towards economic growth during the construction phase in terms of employment and possibly an increase in local spending. In the longer term, the additional population may increase the potential for spending, for instance in local shops, and help support the sustainability of local services.
105. The role that local people have to play in shaping their surroundings is an important part of the planning process. In this case the site has not been allocated through the plan-making process and is not proposed to be. The appeal development has also attracted considerable public opposition. Nonetheless, the weight carried by that role is tempered in the circumstances of this case given that the Core Strategy was adopted prior to the publication of the Framework, with a contrasting housing requirement against which there has been under-delivery of homes, and bearing in mind the absence of a Framework compliant housing land supply.
106. The appeal development would also be at odds with the Council's location strategy for new development in the Borough. Nonetheless, given the site's location on the western fringes of Spencers Wood, as outlined in the *Background* section, the appeal development would be in a reasonably sustainable location such that residents would have access to a good range of facilities, services and transport options.
107. Regarding the environmental dimension, the development offers potential for the incorporation of energy efficiency/renewable energy measures as well as additional planting and habitat enhancement, for instance as associated with the proposed SuDS. The provision of the neighbouring SANG, as would be required by the S106 Agreement, for general public use would be of environmental and social benefit although it would be likely to also serve as mitigation for other development. All of these matters weigh in favour of the proposals albeit to a limited extent.
108. Nonetheless, as set out above, the scheme would cause some harm in terms of landscape character and visual impact, including in respect to some on-site trees, and by consequence on the intrinsic character and beauty of the countryside. In these regards I have also taken into account the cumulative effect of development/proposals elsewhere in Spencers Wood including that allowed on appeal at Beech Hill Road insofar as it is apparent from the evidence before me.
109. In summary, the appeal scheme would conflict with the location strategy for new development in the Borough contrary to Core Strategy Policy CP11 and MDD Policy CC02. It would also cause some harm to the landscape character and visual amenity of the area contrary, in those respects, to Core Strategy Policies CP1, CP3 and CP11 of the Core Strategy and Policies CC01, CC03 and TB21 of the MDD. However, in the current circumstances these important considerations, along with the other factors identified that weigh against the appeal scheme, do not significantly and demonstrably outweigh the matters that are in favour of the proposals, particularly the delivery of housing. Overall, therefore, the appeal development would represent sustainable development in the terms of Core Strategy Policy CP1 and of the Framework.

## Other Matters

110. In the event that planning permission were to be granted and implemented the S106 Agreement would secure the provision of affordable housing; the provisions of the approved off-site SANG; and the provision of a footpath south from the proposed site access along the western side of Basingstoke Road to the existing bus stop unless provision for an alternative bus stop is secured prior to the first occupation of the development.
111. The Council has submitted a S106 Agreement Note<sup>28</sup>, which addresses the application of statutory requirements to the planning obligations within the S106 Agreement and also sets out the relevant planning policy support/justification. I have considered the S106 Agreement in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations of therein would be required by and accord with the Policies set out in the S106 Agreement Note. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
112. In addition to the foregoing matters, concern has been expressed, including by those who spoke at the Inquiry, in respect to several considerations. These include the development's effect, including in combination with other development, on highway safety and congestion; on the wider character and appearance of the area, including The Square, and in terms of its relative density; on light pollution, pollution and carbon emissions; on existing services, utilities and the adequacy of existing and future infrastructure/ facilities, including schools, healthcare, pedestrian facilities, park and ride and public transport, libraries, drainage/sewerage and electricity; on the living conditions of neighbouring occupiers, including in regard to being overlooked and loss of light, views and security as well as noise and disturbance; and on wildlife and biodiversity.
113. Other issues raised include the loss of grazing/farmland; the accuracy of the highways/traffic information submitted in support of the development; that the village does not need nor can it accommodate any more housing and there is already enough housing development on-going/planned to meet needs; the loss of 'open skies'; the SANG scheme may have been a 'stealth' tactic and also may not be implemented; motorbikes may use the SANG as they already use the bridleway to the west; the site was once designated as SANG for development at Spencers Wood; the development conflicts with and is not allocated within the development plan; there is other land that should be occupied/developed prior to green fields; the scheme should make a fair contribution to the planned infrastructure for development in the wider area; it would have a greater cumulative impact when combined with the other planned/permitted development; and the scheme would represent overdevelopment and be out of proportion to the village and would create a precedent for further development.
114. These matters are largely identified and considered within the Council officer's report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry.

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<sup>28</sup> Inquiry Document 18

Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I also note that, notwithstanding the substantial concerns raised locally, the local highway authority has not objected to the proposal. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's and the local highway authority's conclusions subject to the identified obligations of the S106 Agreement and the imposition of planning conditions.

115. Concern has also been raised in respect to the conduct and motives of the appellant. However, this is not a matter for my consideration in the determination of the appeal.

### **Conditions and Conclusion**

116. The Council and the appellant jointly prepared a list of draft conditions, which include the standard time limit/implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
117. In order to provide certainty, to protect the character and appearance of the area, in the interests of highway safety and to accord opportunities for training, apprenticeships or other vocational initiatives to develop local employability skills, a condition would be necessary to control proposed levels, bin/recyclable storage and internal circulation and parking, and also to secure an employment skills plan. Also in the interests of highway safety, as access is not a reserved matter, conditions would be necessary to ensure that the approved access is implemented in a timely manner.
118. In the interests of highway safety and to safeguard residents' living conditions, conditions would also be necessary to ensure that the construction works proceed in accordance with a Construction Management Plan and within limited hours. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded. Conditions would also be necessary to secure arboricultural and biodiversity mitigation to protect the character and appearance of the area as well as trees and hedgerow and wildlife and their habitat.
119. A condition to promote and control the use of renewable/low-carbon energy would be necessary in the interests of sustainable development. For that reason and to promote sustainable modes of transport and to reduce the need for travel, a condition to secure the implementation of a Travel Plan would be necessary. A condition requiring that an investigation of the nature and extent of any contamination affecting the site, along with any requisite remediation, would be necessary to safeguard the health and well being of future occupiers, albeit that the suggested conditions could be rationalised into a single condition. Conditions to secure the installation of sustainable drainage as part of the development and foul water drainage would be necessary in the interests of flood prevention, to provide appropriate/adequate facilities and to protect the environment.
120. Overall, therefore, notwithstanding the identified policy conflict and its effect on the location strategy for new development in the Borough, on landscape character and visual amenity and on trees, given the absence of a five-year housing land supply in the terms of the Framework and the status of relevant policies of the development plan for the supply of housing, I find that the

considerations that weigh against the development collectively do not significantly and demonstrably outweigh those matters that are in its favour, particularly the delivery of housing. On this basis the proposals would be sustainable development and, consequently, the appeal is allowed subject to the identified conditions.

*G D Jones*

INSPECTOR

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Saira Kabir Sheikh, of Queens Counsel	Instructed by Laurel Isaacs, Shared Legal Solutions
She called	
Chris Hannington BSc(Hons) MPhil CMLI	Tree and Landscape (Development Management) Team, Wokingham Borough Council
Nick Ireland BA(Hons) MTP MRTPI	Planning Director at GL Hearn
Manpreet Kanda BA(Hons) DipTP RTPI licentiate	Land Use and Transport Team Manager, Wokingham Borough Council
Laura Ashton BA(Hons) MSc MRTPI	Development Management Team Manager, Wokingham Borough Council

### FOR THE APPELLANT:

Gregory Jones of Queens Counsel	Instructed by Cooper Strategic Land Limited
He called	
Dr Ricardo Gomez BA MA PhD	Director, Regeneris Consulting
Jacqueline Mulliner BA(Hons) BTP MRTPI	Director, Terence O'Rourke Ltd
Chris Allder MSc HNDArbA MICFor	Barrell Tree Consultancy
Mark Gibbins BA(Hons) MLI	Director, Indigo Landscape Architects Limited
Paul Watson BA(Hons) MTP MRTPI	Director, Phillips Planning Services Limited

### INTERESTED PERSONS:

Richard Crowe	Local Resident
Andrew Pobjoy	Wellington Court Estate (Shinfield) Ltd and separately as a Local Resident
Jeannie Brice	Local Resident
David Wilford	Wellington Court Estate (Shinfield) Ltd

### DOCUMENTS submitted at the Inquiry/Prior to the Inquiry being closed

- 1 Mr Hannington's replacement Summary Proof
- 2 Draft Section 106 Agreement
- 3 Tree Preservation Order No: 1519/2016
- 4 Written statement as read by Richard Crowe on the first day of the Inquiry
- 5 Building Near Trees - Chapter 4.2, NHBC 2016
- 6 Letter from the Board of Directors of Wellington Court Estate (Shinfield) Ltd
- 7 a) Email from Kevin Dixon of Kier Property dated 11 March 2016  
b) Letter from Chris Easton, Service Manager Highways Development Management of the Borough Council dated 14 March 2016

- c) Letter from Nick Carvell, Development Manager of Network Rail dated 16 June 2015
- d) Email from Andy Evans, Associated Director Planning of Miller Homes dated 15 March 2016
- 8 Email correspondence between Mrs Ashton (2 March 2016) and Mr Watson (4 February 2016)
- 9 Appeal decision reference APP/H1840/A/13/2202364, dated 2 July 2014, and associated Inspector's Report
- 10 Draft, unsent, email and attachments prepared by the Council
- 11 Email from Matthew Jeal of Country Estates Ltd & Darcliffe Homes Ltd dated 19 October 2015
- 12 Suffolk Coastal DC v Hopkins Homes & SSDCLG and Richborough Estates v Cheshire East BC & SSDCLG, Neutral Citation Number: [2016] EWCA Civ 168, 17 March 2016
- 13 Letter from David Wilford for and on behalf of Wellington Court Estate (Shinfield) Ltd
- 14 Superseded S106 Agreement dated 18 March 2016
- 15 'Expert Opinion of Andrew Blackman', March 2016
- 16 S106 Agreement dated 17 October 2013 regarding the SANG land to the west of the appeal site
- 17 Email and note from Mr Watson regarding the S106 Agreement and suggested conditions as contained in the Statement of Common Ground
- 18 The Council's S106 Agreement Note
- 19 Representation from the occupant of South Lodge, Wellington Court
- 20 Extract of the Agenda for the Council's Planning Committee meeting on 30 March 2016, including report in respect to planning application ref 153125 for development at Land Between Wellington Road & Shute End (Elms Field and Paddocks Car Park), Wokingham RG40 2QB
- 21 Final S106 Agreement dated 22 March 2016
- 22 Written statement of Mr Wilford on behalf of Wellington Court Estate (Shinfield) Limited, 22 March 2015
- 23 Truncated letter and attachment letters from the Council concerning conditions attached to planning permission reference nos: O/2014/2280 and 150162
- 24 Statement made by Andrew Blacker on Behalf of Cooper Estates Strategic Land Limited, 29 March 2016, concerning highways matters
- 25 Wychavon District Council v SSDCLG & Crown House Developments Ltd, Neutral Citation Number: [2016] EWHC 592 (Admin), 16 March 2016
- 26 Appeal decision letter - APP/G2245/W/15/3130787, dated 5 April 2016
- 27 Appeal decision letter - APP/T2215/A/13/2195591, dated 14 August 2015



SCHEDULE OF CONDITIONS FOR APPEAL REF APP/X0360/W/15/3097721:

1. Details of the appearance, hard and soft landscaping including means of enclosure, layout and scale (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any applications for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall begin no later than two years from the date of the approval of the last reserved matters to be approved.
3. The details submitted pursuant to Condition 1 above shall, among other things, incorporate:
  - Details of the internal and external spaces for the storage and collection of refuse and recyclable materials for all dwellings;
  - Identification of the trees, hedges and shrubs to be retained;
  - Details of existing and proposed levels;
  - A detailed scheme to maintain the ecological permeability of the site;
  - An employment skills plan to show how the development scheme accords opportunities for training, apprenticeships or other vocational initiatives to develop local employability skills; and
  - Other than in respect to the details hereby approved, the full details of accesses, driveways, parking provision and turning areas.
4. The development hereby permitted shall be carried out in accordance with the following approved plans, in so far as those plans relate to matters not reserved for future determination: Location Plan 043023 and Site Access Plan Drawing 4956-SK-001B Rev C.
5. Construction work, including preparatory work prior to building operations, shall only take place between 0730 hours and 1800 hours Mondays to Fridays and 0830 hours and 1300 hours on Saturdays and at no time on Sundays or Bank or National Holidays.
6. Prior to the commencement of development a Construction Management Plan (CMP) shall be submitted to and approved in writing by, the local planning authority. The approved CMP shall be adhered to throughout the construction period. The CMP shall detail matters including:
  - Phasing of construction;
  - The site access junction works, including a timetable for their provision;
  - Lorry routeing and numbers;
  - Types of piling rig and earth moving machinery to be used;
  - Measures to mitigate the impact of construction operations on nearby residential properties;
  - Any temporary lighting;
  - The parking of vehicles of site operatives and visitors;
  - Loading and unloading of plant and materials;
  - Storage of plant and materials used in construction the development;
  - Security fencing where appropriate;
  - Measures to prevent mud from vehicles leaving the site; and
  - Measures to control the emission of dust, dirt and noise during

construction.

7. The development hereby permitted shall not commence unless and until:
  - a) A method statement for site investigation has been submitted to and approved in writing by the local planning authority (LPA) and the approved scheme is implemented;
  - b) The site investigation and associated risk assessment have been undertaken in accordance with the approved details; and
  - c) A method statement and remediation strategy, based on the information obtained from (b) above and including a programme of works, have been submitted to and approved in writing by the LPA.

The development shall be carried out in accordance with the approved method statement and remediation strategy. In the event of any contamination of soil and/or ground or surface water being discovered during excavation or development of the site, the LPA shall be contacted immediately. Site activities in the area affected shall be suspended until such time as a method and procedure for addressing the contamination is approved in writing by the LPA.

8. No development shall commence until a programme of archaeological work (which may comprise more than one phase of work) has been implemented in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the local planning authority.
9. No development or any other operations shall commence until a comprehensive Arboricultural Impact Assessment and a comprehensive Arboricultural Method Statement (including a Scheme of Works) have been submitted to and approved in writing by the local planning authority. All development, works and operations associated with the approved development including site preparation shall be carried out in full accordance with the approved details.
10. The mitigation, contingency and enhancement measures contained within the submitted Ecological Appraisal (Aspect Ecology August 2014) shall be implemented in accordance with a timetable that has first been submitted to and approved in writing by the local planning authority.
11. Prior to the commencement of development a method statement shall be submitted to the local planning authority for approval that deals with the removal and long term management of *Rhododendron Ponticum*, a Schedule 9 species identified within the Wildlife and Countryside Act 1981. The method statement should accord with best practise as outlined in DEFRA Environmental Management Guidance 2013 or subsequent updates and include a timetable for implementation. The approved scheme shall be carried out in accordance with the approved method statement and approved timetable.
12. Prior to the commencement of development a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and/or low carbon sources shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.
13. Prior to the commencement of development a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include a programme of implementation and proposals to promote alternative forms of transport to and from the site, other than by the private car and

provide for periodic review. The Travel Plan shall be fully implemented, maintained and reviewed as so-approved.

14. None of the dwellings shall be occupied until works for surface water drainage, management and disposal have been provided to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the local planning authority.
15. None of the dwellings shall be occupied until works for the disposal of foul and storm water sewage have been provided to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the local planning authority.
16. Prior to occupation of any of the dwellings hereby permitted the approved access junction shall be provided in accordance with the details hereby approved.
17. Prior to the commencement of any works associated with their installation, details of all roads, service runs, paths and parking areas including permeability and any proposed changes to ground levels shall be submitted to and approved in writing by the local planning authority. These works shall only be completed in accordance with the approved details.

Richborough Estates