



Appeal Decision

Inquiry opened on 30 October 2012

Site visits made on 8 and 9 November 2012

by Clive Hughes BA (Hons) MA DMS MRTPI

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

Decision date: 8 January 2013

Appeal Ref: APP/X0360/A/12/2179141

Land at The Manor, Shinfield, Reading RG2 9BX and bordered by Brooker's Hill to the north, Hollow Lane to the east and Church Lane to the west

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by the University of Reading against the decision of Wokingham Borough Council.
 - The application Ref O/2011/0204, dated 27 January 2011, was refused by notice dated 8 June 2012.
 - The development proposed is a residential development comprising up to 126 dwellings, a sports pavilion, public open space, landscaping and associated works.
 - The inquiry sat for 5 days on 30 & 31 October and 1, 2 & 9 November 2012.
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Procedural matters

1. The application was submitted as an outline planning application with all matters other than access reserved for future consideration. The statement of Common Ground (SoCG) confirms that it is a hybrid application as it seeks full planning permission for the change of use of part of the site to public open space and outline planning permission for the remainder of the development.
2. By letter dated 16 August 2012 the Council confirmed that the first part of the reason for refusal, relating to the threshold of 100 dwellings being regarded as unacceptably exceeded, no longer formed part of the Council's case. The only remaining part of the reason for refusal relates to the impact of "the absence of proposals and a legal agreement to deliver relevant and necessary infrastructure and affordable housing" upon the amenity and infrastructure of existing and proposed residents.
3. The appellants submitted a Unilateral Undertaking (UU) dated 8 November 2012 that set out various financial contributions. Some of these contributions were agreed between the parties; others were in dispute and form the substance of much of this Decision.

Application for costs

4. At the Inquiry an application for a partial award of costs was made by the University of Reading against Wokingham Borough Council. This application is the subject of a separate Decision.

Decision

5. The appeal is allowed and planning permission (part outline, part full permission) is granted for a residential development comprising up to 126

dwellings, a sports pavilion, public open space, landscaping and associated works at land at The Manor, Shinfield, Reading RG2 9BX and bordered by Brooker's Hill to the north, Hollow Lane to the east and Church Lane to the west in accordance with the terms of the application, Ref O/2011/0204, dated 27 January 2011, subject to the 55 conditions set out in the Schedule at the end of this Decision.

Background

6. The appeal site has an area of around 8.5 ha and is located about 5 km to the south of Reading town centre, from which it is separated by the M4 motorway. It adjoins roads to the north and east with houses opposite that face the site. To the south east are the gardens of dwellings fronting Gloucester Avenue; to the south west are the backs of properties fronting Church Lane and Vicarage Court and the road. To the west, and in the same ownership, is farmland.
7. The eastern part of the site, a little over half its area, lies within the Development Limits of Shinfield as defined in the *Wokingham District Local Plan 2004* and the *Wokingham Borough Core Strategy DPD 2010*. It is occupied by a number of vacant buildings. These were at one time occupied by the National Institute for Research in Dairying but have been disused since the 1980s. They are mostly in a poor condition due to vandalism and some having had asbestos roofs removed for safety reasons. There is a public footpath, part of which is edged on both sides by timber boarding, that crosses the site between Hollow Lane and Church Lane. There are a number of trees within the site that are subject to a Tree Preservation Order (TPO) including an avenue of semi-mature red oaks that flanks the main internal vehicular access drive. The western part of the site, which has an area of about 4 ha, is outside the Development Limits and is laid to rough grassland/ pasture.
8. It is proposed to demolish all the buildings and to redevelop the site by the erection of 126 dwellings (a net increase of 125 dwellings). Vehicular access would be from Brooker's Hill; the public footpath between Hollow Lane and Church Lane would be retained. The remainder of the site, outside the Development Limits, would provide public open space, allotments, equipped open space and a pavilion/ club house. An illustrative masterplan is provided within the *Design and Access Statement*.
9. The site and the surrounding area have a considerable planning history, some of which is highly relevant to this appeal. Of particular relevance are planning permissions, the first of which was in 1992, for not more than 18,766 sq m of B1 floorspace on the appeal site and the land to the south. The permission was renewed before it finally lapsed. The Inspector's Report into the Local Plan in 2001 identified part of the appeal site as being suitable for residential use. Planning permission for 80 dwellings was then granted on the land to the south of the site in 2003; at the same time permission was granted for 18,766 sq m of B1 floorspace on the appeal site. The housing to the south has been built.
10. The 2004 Local Plan identified the appeal site and the land to the south for a mixed use development of 80 dwellings and as a Core Employment Area. The site remains allocated for such uses under saved Policy WEM4 of the Local Plan. Temporary, personal, planning permission was granted in 2007 in respect of part of the hardstanding on the appeal site (identified in Document 22) for the siting of offices, car parking, site vehicle parking and materials store to Balfour Beattie. An informative attached to it stated that the development accorded

with the adopted/ emerging development plan. This permission ended in May 2009; the use has now ceased and the site has been vacated.

11. In the wider area, Policy CP19 of the Core Strategy identifies that the land around Shinfield, including the western part of the appeal site, comprises the South of the M4 Strategic Development Location (the SM4 SDL). Within this area, it is proposed that there will be, amongst other things, the phased delivery of 2,500 dwellings including affordable homes; appropriate employment and retail facilities; schools and physical infrastructure and mitigation measures in respect of the Thames Basin Heaths Special Protection Area (TBHSPA) including the provision of sufficient Suitable Alternative Natural Greenspace (SANG). This development includes the construction of an Eastern Relief Road for Shinfield (SERR). In respect of this wider development the Secretary of State allowed three appeals (8 November 2012) in respect of (i) a residential development of up to 1,200 dwellings, 150 units of specialist housing for elderly persons, a local centre (including a foodstore), the erection of a new primary school and the extension of existing schools; public open space etc; (ii) the construction of the SERR; and (iii) the change of use from agricultural land to SANG. (APP/X0360/A/11/2151409, 2151413 & 2151402)
12. Policy CP16 provides for a Science Park to be developed south of the M4 in Shinfield Parish. Outline planning permission has now been granted for the first phase of a Science and Innovation Park on land to the north east of Cutbush Lane, Shinfield. It is agreed by the appellants and the Council that this scheme will remove the need for business development on the appeal site. It is also agreed that in the light of that proposal, there is unlikely to be a net loss of business space and so the redevelopment of the appeal site for residential purposes would not represent a departure from the Core Strategy.
13. It is further agreed that the residential redevelopment of the eastern part of the appeal site, lying inside the Development Limits of Shinfield but outside the boundary of the SM4 SDL, would be consistent with the character of the adjoining areas of the village and would comprise an appropriate regeneration of this run-down site. I agree with that assessment. It is also agreed by the parties that the use of the western part of the appeal site, outside the Development Limits but within the SM4 SDL, for open space purposes is consistent with its inclusion within the SM4 SDL, although this is not necessary to make acceptable the additional 125 dwellings now proposed.

Main Issues

14. The main issues are: (i) whether the proposals make adequate provision for mitigating any adverse impact they would have upon local services and infrastructure; and (ii) whether the proposed amount of affordable housing would be appropriate in the context of the viability of the development, the National Planning Policy Framework, development plan policy and all other material planning considerations.

Reasons

Whether the proposals make adequate provision for mitigating any adverse impact they would have upon local services and infrastructure

15. The matter of affordable housing is considered in the section below. In respect of the other contributions sought and offered, the headline figures appear to be quite similar with the Council seeking £2,028,920 and the appellants offering

the higher sum of £2,312,569. However, these figures disguise major differences between what is being sought by the Council and what the appellants are offering. Issues relating to highways and sustainable travel modes make up much of the difference, but there are also differences in respect of sports hall provision, swimming pool provision and contributions towards the provision and improvement of country parks. The contributions that are not in dispute are considered in the section on the UU below.

16. Policy CC7 of the *South East Plan – Regional Spatial Strategy for the South East of England 2009* and Policy CP4 of the adopted *Core Strategy* both require the provision of adequate infrastructure in development proposals. Policy CC7, which was adopted when Circular 05/2009 was still extant, refers to consideration being given to the pooling of contributions towards the cost of facilities. Policy CP4 says that planning permission will not be granted unless appropriate arrangements are agreed for the improvement or provision of infrastructure, services, community and other facilities required for the development. It refers to the cumulative impact of development.
17. The Council drew attention to its Planning Advice Note (the PAN) *Infrastructure Impact Mitigation: Contributions for New Development* Revised November 2010. This document sets out the Council's approach, the financial contributions sought and the justification for each contribution. The PAN has had a number of former incarnations having been first adopted by the Council in 2002. It has undergone a number of significant revisions since then, most recently in April and November 2010. While it appears that the original document may have been the subject of public consultation, the most recent version has not been subject to any consultation outside the Council and so can carry only very limited weight.
18. Regulation 122(2) of Part II of *The Community Infrastructure Levy Regulations 2010* (CIL Reg 122) says that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Paragraph 204 of the *National Planning Policy Framework* (the *Framework*) says that planning obligations should only be sought where they meet all of these tests.
19. With regard to off-site works, the appellants are offering to contribute towards the SERR while the Council seeks contributions towards various walking/ cycling/ public transport measures. These involve upgrading walking/ cycling facilities at three points (referred to as the 3 Links) and upgrading 6 bus stops on Hollow Lane (A327). Some of these improvements are agreed.

SERR

20. The appellants' suggested contributions towards the SERR amounted to 3% of the total costs as it had been calculated, and not disputed by the Council, that the proposals would account for 3% of the traffic generated by the new dwellings in and adjoining the SM4 SDL. The SERR is required by Core Strategy Policy CP19(7) as part of the strategic development. While the new dwellings on the appeal site would lie outside the SM4 SDL, in considering the three planning applications for the development of 1350 dwellings, the SERR and Loddon SANG, the Council insisted on the traffic generated by the proposed dwellings at The Manor being included in the traffic assessment.

21. There is no dispute that the traffic generated by the residential development at The Manor could be accommodated on the existing road network without the need for the SERR. However, the SERR has been shown to be necessary to cater for the cumulative impact of the various new developments in the area. These include not just the SM4 SDL but also the proposed dwellings at the Arborfield Garrison SDL, the proposed Science and Innovation Park at Shinfield and the current proposals. Core Strategy Policy CP4 requires that the cumulative impacts of schemes are taken into account. Indeed, in respect of the other contributions sought in respect of the current appeal, the Council based its case to a considerable extent upon the cumulative impact of the various developments proposed and the overall increase of 7,500 dwellings in the Borough by 2026. In these circumstances it is reasonable and necessary to take account of the cumulative impact upon the road network.
22. While there is currently spare road capacity, due to the commitments set out in the adopted development plan; the recent permissions granted by the Secretary of State for development to the west of Shinfield; and the provisions of Core Strategy Policy CP4, there is no doubt that when looked at cumulatively the SERR is necessary to make the development acceptable in planning terms. This road will cost about £24,597,000 and attracts no public funding. I have taken account of the Council's concern about other developments also having to contribute to the SERR. However, there are circumstances that differentiate this site from any others. In particular, although the housing would be outside the SDL, part of these proposals includes open space uses to serve the SDL. The site is also acceptable for housing in part because the commercial land is now to be provided on the Science and Innovation Park inside the SDL.
23. In the Shinfield West decisions the Inspector commented that his understanding was that the SERR was fundamental to ensuring the full delivery of the SM4 SDL and, to a lesser extent, the Arborfield Garrison SDL. He considered that both SDLs should make contributions. Due to the location of the appeal site in relation to the village of Shinfield, it is reasonable for it to contribute to this necessary infrastructure. It is clearly directly related to the development and the contribution of 3% of the total costs would match the proportion of the traffic to be generated by the appeal site so it would also meet criterion (c). The contribution of £747,000 towards the SERR would therefore comply with CIL Reg 122 and with the *Framework* and can constitute a reason for granting planning permission.

Other off-site travel related contributions

24. There are two parts to these contributions sought by the Council. These relate to the measures regarding walking and cycling (Links 1, 2 & 3) and those regarding public transport (Bus stops 1-6). One of the contributions sought by the Council was withdrawn prior to the Inquiry; some of the other contributions sought have been agreed by the appellants and are included within the submitted UU. A very significant part of the total transport related costs (£191,300 out of £293,300) relates to Link 1 and is contested in its entirety. Link 1 relates to the pedestrian/ cycleway crossing over the M4 at the north eastern end of the southern section of Cutbush Lane. The Council is seeking contributions towards upgrading the pedestrian/ cycle facilities including surfacing, lighting, signage, replacement entrance feature and two Toucan crossings and speed limit measures at Lower Earley Way (B3270).

25. I agree that such features could significantly improve this route which links Shinfield with various facilities, including a local shopping centre, at Lower Earley. The road surface and lighting is poor, the entrance "feature" is a reused concrete manhole ring that forms a barrier to prevent vehicle access and traffic is fast on this section of Lower Earley Way. However, the Link is too remote from the appeal site to be reasonably considered necessary or be directly related to the development and there is no certainty that any residents would use it. I am not convinced that this Link complies with either criterion (a) or (b) of CIL Reg 122 or with the *Framework*.
26. Concerning Link 2, the Council has removed its requirement for a Toucan crossing and the appellants will contribute towards upgrading the footbridge over the M4 by providing a cycle wheel trough and upgrading the footpath on the southern side of the motorway. This Link, which I saw to be very well used, is located a short distance to the west of the appeal site off Brooker's Hill. These works satisfy the criteria of CIL Reg 122 and the *Framework*.
27. Link 3 is not disputed. It involves improvements to the cycleway on Hollow Lane between its roundabout junction with Church Lane and the appeal site. These would provide improved width for cyclists and are clearly related to the development. They would also comply with CIL Reg 122 and the *Framework*.
28. The bus stop improvements include the provision of Real Time Passenger Information (RTPI) where not already in place, shelters and Kassel kerbs where necessary and improvements to the geometry of a bus bay. The works to bus stops 3 and 4 are agreed. The appellants consider that as the road will be realigned for the SERR the improvements sought to bus stops 1 and 2 are unnecessary save for a shelter for bus stop 2 which could be reused. Bus stops 5 and 6 are considered to be too remote from the site.
29. I agree that it would not be reasonable to require the provision of RTPI for bus stops 1 and 2 as they will soon need to be relocated as part of the approved SERR. The improvements to bus stops 3 and 4, which are very close to the site are reasonable and CIL Reg 122 and *Framework* compliant. Bus stops 5 and 6 are located some distance to the south of the appeal site. However, they are located close to the centre of Shinfield and to a wide variety of local facilities. I saw that these facilities include a post office, health centre, pharmacy, junior and infant schools, village hall, club, Baptist church, tennis club and sports facilities. While it would be possible for some people to walk from the appeal site to the facilities, I consider that the facilities are sufficiently far away to make walking unrealistic for many people. These bus stops already have RTPI but the other improvements sought would improve their utility. There is a strong likelihood that residents would use the stops when travelling to and from the village facilities and so the requirements can reasonably be regarded as complying with the criterion in CIL Reg 122 and the *Framework*.

Sports halls

30. Sport England's *Active Places Power* identifies that where 140% of demand for a particular type of facility is satisfied, it indicates that all needs in an area are met. On that basis, the Council's *Final Amended Sports Assessment Report* (February 2012) identifies that Wokingham is currently meeting demand in terms of sports halls and will continue to do so until 2026. The removal of some facilities, either closed or not available for the general public, reduces the

current figure from 219.4% to 193.53% and even the 2026 figure remains above 140% at 143.14%.

31. It is only when only halls that are below 4 badminton courts in size, and thus not capable of catering for a wider variety of sports, are excluded that the figure falls below 140% by 2026. However, the smaller sports halls would still be available for use and would continue to meet some of the demand. In such circumstances it has not been shown that they should be completely removed from the calculations as it results in an artificially low outcome. Without the removal of smaller halls from the calculations, the current and projected supply exceeds the 140% standard and so the Council's required contribution to sports halls has not been demonstrated to be necessary to make the development acceptable in planning terms. While the UU makes provision for a contribution towards sports halls, if deemed necessary, this requirement fails the tests in CIL Reg 122 (2) (a) and the *Framework* and so does not need to be included.

Swimming pools

32. Using the same considerations as for sports halls, the *Final Amended Sports Assessment Report* identifies that without taking accessibility into account, Wokingham is over provided for in terms of swimming pools, both now (292.4% of demand met) and in 2026 (216.27%). Even if pools that are not publicly accessible, such as schools and a fitness club, are removed from the calculations Wokingham will still meet 158.87% of demand by 2026. It is only when all non-local authority type provision is excluded that the figure for 2026 comes down below 140% (to 111.6%). However, non-public authority pools continue to cater for some demand and it has not been fully explained why so many pools identified in the report should be omitted from the calculations.
33. Reference is made to an Amateur Swimming Association recommendation, but there is no evidence to show that this recommendation needs to be adhered to or that private and school provision should not be included in the calculations. Such pools clearly continue to cater for some of the demand; the Council's *Open Space, Sport & Recreation Study; Revised Standards Paper* (May 2012) identifies that the private sector provides a valuable pool resource. It has not been demonstrated that a contribution towards swimming pools is necessary to make the development acceptable in planning terms. While the UU makes provision for a contribution towards swimming pools, if deemed necessary, this requirement therefore also fails the tests in CIL Reg 122 (2) (a) and the *Framework* and so does not need to be included.

Country parks

34. The Council seeks a contribution towards country parks where such facilities cannot be provided on application sites. This accords with advice in the PAN. The appellants argue that a contribution towards country parks is not necessary as they are making a contribution towards a SANG and that there will be ready access to other SANGs as set out in the masterplan for the SM4 SDL. I was invited to visit both the Rooks Nest Wood SANG and the Dinton Pastures Country Park. While the former is relatively recent and therefore not yet mature, it is not envisaged that it will ever fulfil the same function as a country park. When visited on an early November afternoon in midweek during term-time the substantial Dinton Pastures Country Park car park was nearly full; there is a wide range of activities and facilities available there. In contrast the small car park at the SANG was deserted save for the van of somebody

working nearby. There are no formal activities or facilities; none are intended. While there would be some overlap in their use, in particular for country walks and exercising pets, their core functions are clearly very different.

35. The Council has identified a range of facilities that are needed to be improved or provided in its country parks. While this inevitably takes the form of a shopping list, that does not mean that they are not necessary or related to the increased demand for such facilities that the planned additional population in the Borough will generate. The country parks fulfil a necessary function and the Council has demonstrated that they are used by a large proportion of the local population. It is highly probable that residents at the appeal site will use the established country parks, increasing demand for parking and other facilities as well as increasing the use of existing paths and facilities. In these circumstances I consider that the Council is justified in its requirement for a contribution towards their improvement to cater for the planned increase in the population in the Borough. The UU makes provision for the appropriate payments, subject to their being necessary. I am satisfied that the contributions meet the criteria of CIL Reg 122 and the *Framework*.
36. I conclude on the first issue that subject to the provisions of the UU, the proposals would make adequate provision for mitigating any adverse impact they would have upon local services and infrastructure. In respect of the matters in dispute, I conclude that the development may legitimately contribute to the SERR and that some of the contributions to support sustainable modes of transport also comply with the provisions of CIL Reg 122 and the *Framework*. In respect of the other three matters in dispute, I conclude that contributions are not necessary in respect of swimming pools or sports halls, but that contributions are necessary in respect of country parks.

Whether the proposed amount of affordable housing would be appropriate in the context of the viability of the development, the National Planning Policy Framework, development plan policy and all other material planning considerations

37. Core Strategy Policy CP5 says that all residential developments of at least 5 dwellings (net) will provide up to 50% of the net additional units proposed as affordable units, where viable. The policy includes a table which identifies the appeal site as previously developed land within a modest or limited development location where the minimum percentage of affordable housing sought is 40% **subject to viability** [my emphasis]. It is the viability, or otherwise, of the amount of affordable housing now sought that is at issue. The Council is seeking 40% of the net additional units to be affordable housing in accordance with that policy; the appellants assert that the maximum amount that would be viable is 2%. In coming to these conclusions the Council and the appellants have also come to very different conclusions concerning what represents a competitive return.
38. Paragraph 173 of the *Framework* advises that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. The *Framework* provides no advice as to what constitutes a competitive return; the interpretation of that term lies at the heart of a fundamental difference

between the parties in this case. The glossary of terms appended to the very recent RICS guidance note *Financial viability in planning* (RICS GN) says that a competitive return in the context of land and/ or premises equates to the Site Value (SV), that is to say the Market Value subject to the assumption that the value has regard to development plan policies and all other material considerations and disregards that which is contrary to the development plan. It is also the case that despite much negotiated agreement, in respect of calculating the viability of the development, other significant areas of disagreement remain.

39. In terms of the development plan, the Council has made it clear that it no longer has any objections to residential development on this site. It formally withdrew that part of the original reason for refusal. The development would also accord with the *Core Strategy* policy concerning affordable housing if the amount of affordable housing to be provided is consistent with the evidence concerning viability. With regard to development viability there was a significant level of agreement between the parties in respect of many inputs. Some aspects were disputed, however, and these are broadly set out in the *Supplementary SoCG relating to Development Viability*. Since that document was signed, however, the remediation costs associated with the contamination of the site have been agreed. Once the professional fees had been removed from the calculations, the costs were agreed at £1.14m for the remediation works alone. The other principal issues in dispute are set out below.

s106 contributions

40. The disputed contributions are considered above. The overall contributions are particularly important as any changes to either the contributions sought and or those offered will affect the overall equation. As set out above, the gap between the contributions considered necessary by the respective parties is only about 10%. I have concluded that the appellants' arguments are to be preferred in some of the issues in dispute, but not in every instance. These conclusions result in an increase in the final figure to £2,365,569.

Professional fees

41. The professional fees can be broken down into two parts; the professional fees going forward from the valuation date and the historic fees. In respect of the former, the Council has relied on a figure of 8% whereas the appellants rely on 10%. This results in a difference of around £116,250. The independent evidence to the Inquiry is in the *Affordable Housing Viability Study* carried out for the Council by Levvel (2008). Concerning professional fees it says that within residual valuation modelling these are normally assumed to be in the range of 8% to 12%; the *Study* assumed a figure of 8%. The Council acknowledged that the appeal site is not a simple or straightforward site to develop due to the existing development on site and the known contamination. I would add that the potential presence of protected species, the protected trees and the proximity of existing housing together with complying with the numerous conditions the Council wishes to see imposed means that a figure of 8% seems overly optimistic. I consider that 10% seems more realistic.
42. Concerning the historic fees, these relate to the period from 2009. During the Inquiry a list of the numerous meetings that took place within this period was produced. The Council's witness was afforded sight of all the receipts and accepted that the costs were genuine; he only contested the need for the

number of meetings. The Council's evidence was based upon there being a need for only a minimal number of meetings, but due to the wide range of issues, this seems unrealistic. The appellants' case was based upon the actual meetings that took place over the 3 year period; there is no evidence to show that any of these were unnecessary or evidence to support the Council's estimation. In these circumstances the appellants' evidence is sound.

Developer's profit

43. The parties were agreed that costs should be assessed at 25% of costs or 20% of gross development value (GDV). The parties disagreed in respect of the profit required in respect of the affordable housing element of the development with the Council suggesting that the figure for this should be reduced to 6%. This does not greatly affect the appellants' costs, as the affordable housing element is 2%, but it does impact rather more upon the Council's calculations.
44. The appellants supported their calculations by providing letters and emails from six national housebuilders who set out their net profit margin targets for residential developments. The figures ranged from a minimum of 17% to 28%, with the usual target being in the range 20-25%. Those that differentiated between market and affordable housing in their correspondence did not set different profit margins. Due to the level and nature of the supporting evidence, I give great weight to it. I conclude that the national housebuilders' figures are to be preferred and that a figure of 20% of GDV, which is at the lower end of the range, is reasonable.

Private housing gross development value

45. There is a fundamental dispute between the parties concerning appropriate sales values; this constitutes the majority of the difference between the figures produced by the parties. This is a vital consideration as sales values determine the GDV. The RICS GN confirms that comparison with other sites is an acceptable method of valuation and the appellants produced evidence concerning six "comparable" housing sites. This comparison exercise must be prefaced with the caveat that there are difficulties with a village location like Shinfield insofar as direct comparisons are almost impossible to achieve. The housing site to the south of the appeal site, for example, is too old to be of use for comparison purposes. None of the six sites selected is in this village so their individual characteristics and their differences with the appeal site need to be taken into account. This inevitably reduces the usefulness of the figures as the calculations involve subjective assessments, albeit that these assessments were carried out by competent professionals. Four of these comparison sites have been completed and occupied; two are under construction with dwellings being advertised for sale.
46. I visited each of the six sites as well as both of the motorways (A329M and M4) and the established housing areas within Wokingham, Shinfield and Reading. In terms of the impact of the motorways, and in particular the relative volumes of traffic and resultant noise, it was clear that the M4 generates significantly higher background noise levels than the A329M. At the appeal site this noise was particularly intrusive at the northern end; further into the site a combination of changes in ground level, buildings and fencing all served to reduce the impact.

47. The appellants, using all six comparison sites, calculated the sales values at the appeal site to be between £266 and £269 per square foot (psf). Blended average figures are used throughout this comparison. The variation in the figures is based upon differences in the amount of affordable housing in the various calculations; more affordable housing means that a lesser proportion of the smaller units, which have higher sales values in £/psf, are available for market housing. The Council's figure was significantly higher at £294.75 psf; this figure was based upon only three of the comparison sites (The Carillons, The Pavillions and Mitford Fields) as the others were not considered to offer directly comparable sales values.
48. Based upon the evidence to the Inquiry and my own observations on the sites I agree with the parties that the sales values that have been achieved at The Carillons on the eastern outskirts of Wokingham (a blended average of £310 psf) are likely to be considerably higher than those likely to be achieved at the appeal site. This is due to a number of factors including the uncontested contention that a Wokingham postal address attracts a higher value than a Reading RG2 postcode address; road traffic noise at the site (close to the A329M) is lower than at the appeal site (which is close to the much busier M4); and there was little competition in the way of other new dwellings in the area to drive down prices.
49. I agree with the parties that the sales values achieved at The Carillons need to be reduced to achieve a meaningful comparison with the appeal site. The appellants' suggested a discount of 12.5%; the Council a discount of 5%. However, I am not convinced by the Council's claim that Wokingham can reasonably be considered to be part of "Greater Reading" as it has a distinct and significantly different character. The appellants produced evidence to show that house prices in Wokingham are significantly higher than in Reading; with flats the difference is even greater. While I consider it unreasonable to liken the character of the appeal site and its surroundings to the bulk of the RG2 postcode, I have no reason to doubt the local knowledge that this post code acts as a depressant on sales values.
50. The Council's suggested discounted sales value of £295 psf is significantly higher than the appellants' figure of £271 pfs. For the reasons set out above, I consider that the appellants' figure is likely to more closely reflect sales values at the appeal site.
51. Jennetts Park, is a very substantial residential development located to the east of Wokingham and close to the A329 (south of where this road becomes a motorway). It is in Bracknell rather than Wokingham. For the purpose of this comparison exercise it has the benefit of being of similar scale to the combined developments currently proposed at Shinfield. It is agreed that the sales values achieved are in the range of £206 - £268 pfs, with the higher prices being the more recent. Geographically it is not located far from The Carillons, but, being within Bracknell; having a significantly larger scale; having a significantly higher density; and having direct competition are all factors that are likely to have depressed sales values. These factors make it more comparable to the appeal site than The Carillons. While the appeal site is relatively small, the outline planning permission for the West of Shinfield development means that there is likely to be competition in the foreseeable future. I consider that it is a relevant comparator and accept that the appeal

site is likely to achieve slightly higher sales values than those achieved at Jennetts Park.

52. The comparison sites at Kennet Island and West Village are significantly different to Shinfield in that they are both urban sites within Reading with substantially higher densities than proposed on the appeal site. Indeed, the density at West Village is about three times that now proposed. While these sites offer some advantages over the appeal site, particularly their relative proximity to Reading town centre and the main railway station and the absence of significant road traffic noise, there is no doubt that they are likely to produce inferior sales values in £/psf terms. Kennet Island also has an industrial context. The achieved figures of £232-273 psf at Kennet Island and £242 psf at West Village reflect these inferior locations and higher densities. In these circumstances it is not unreasonable to add a premium to the likely sales values at the appeal site due to the superiority of the location.
53. The comparisons of sales values in respect of The Pavillions, close to the station in Wokingham and Mitford Fields, in a rural location to the west of the appeal site at Three Mile Cross are more problematical in that the sites are not completed and so the figures relate to asking prices rather than values that have been achieved. These figures need to be treated with a much greater degree of caution, especially in a depressed housing market in which buyers are more likely to be able to negotiate price reductions. The asking prices are, respectively £270-350 psf at The Pavillions and £271-334 psf at Mitford Fields.
54. I agree that a discount needs to be applied to The Pavillions due to its superior location in Wokingham; its proximity to the station; the lack of motorway noise; and the fact that the figures are not achieved sale prices. Mitford Fields has many of the characteristics of the appeal site but may benefit from not having a RG2 postcode. It is located further from the M4 than the appeal site but this advantage is reduced by its proximity to the A33 and so road traffic noise is still an issue, although not as significant as at the appeal site.
55. Overall, it is clear that direct comparisons are not achievable in respect of likely sales values at the appeal site. All of the six comparison sites involve different circumstances which affect their sales values. The appellants put forward a figure of £266-269, giving a GDV £27,365,000 based upon 40% affordable housing. The Council's figures, using the higher sales values but again based upon 40% affordable housing, gives a GDV of £30,344,512. I am not convinced by the Council's reasons for excluding three of the comparable sites as all six comparison sites have differences and the figures need to be adjusted to reflect the positive and negative factors that cause the differences. Provided discounts or premiums are applied to each site's figures to reflect their inferior or superior locations, I am satisfied that all six sites may reasonably be used. The discounts and premiums used by the appellants seem fair as no evidence has been put forward that is sufficient to discredit them. I therefore conclude that the appellants' GDV figure using these comparables is reasonable.

Finance costs

56. The parties' residual appraisals reflect the agreed debit rate of 7% on finance costs and a credit rate, which is likely to accrue towards the end of the development when the developer is in profit, of 0.5%. These figures are in line with current financial market conditions. It was not clear at the Inquiry as to why the Council's calculations arrived at a higher figure than the appellants.

This higher figure would have helped the appellants' case. While it is probably due to the time periods for the inputs, the parties were unable to provide a clear explanation for the difference.

Benchmark land value/ site value

57. There is a significant difference in the figures produced by the parties. The Council calculated a Benchmark Land Value of £1,984,000 (reduced to about £1,865,000 when decontamination costs were agreed); the appellants calculate it to be £2,325,000. During the Inquiry reference was made to Current Use Value (CUV) and Existing Use Value (EUV) but it was agreed that these definitions are interchangeable in respect of the calculations used for this site.
58. Since the use of the land by the National Institute for Research in Dairying ceased, the site was used for a couple of years for open storage with the benefit of temporary planning permission. While that permission was personal and time limited, advice on the Decision Notice said that the development accorded with the adopted and emerging development plan. This is not surprising as the site is still allocated for employment uses. The appellants use open storage on the site as a starting point.
59. The appellants again made use of a comparator site, an open storage site at Paddock Road, Caversham having recently been sold. This site has the benefit, in valuation terms, of having no hope value for residential use due to potential flood risk in the access roads. That use was dismissed at appeal. I visited the site and saw that it has an awkward access (parked cars make The Causeway effectively a single track road) but otherwise is a straightforward urban site, although any use would have to take account of its proximity to housing. The site has the benefit over the appeal site of being within the built confines of Reading, but has the disadvantages of a narrow access through a residential area, its proximity to housing and the potential for the access road to flood.
60. In respect of the appeal site, this has the benefit of the existing buildings. While no condition survey has been carried out, superficially it appears that these buildings could be reused with only a limited amount of work. New roof coverings are required (the former roofs have been removed due to their asbestos content and for safety as children have entered the site) but the concrete roof supports are still in place. The site has a substantial area of hard surfaced open space that could be used for storage purposes without the need for much preliminary work. The appellants' CUV is based upon no remediation of contamination or refurbishing the buildings; it is based upon the current value of the site as it stands. This seems a reasonable approach given the development plan allocation; the fact that much of the site could be used without any need for decontamination; and the recent temporary use.
61. The appellants' valuation of the site is £2,325,000 based upon 8 acres of commercial open storage/ industrial land and buildings at £250,000 per acre and 13 acres of settlement fringe at £25,000 per acre. The figure of £250,000 per acre seems reasonable in the light of the recent sale value achieved at the smaller site at Paddock Road (£330,000 per acre).
62. The Council did not use comparators; instead it relied upon a valuation based upon a substantial office scheme on the appeal site. This was based upon the outline planning permission for offices on the site in 2003 that was renewed in 2006 but which has since lapsed. This development provided a value of

£2.75m; from this it is necessary to subtract the cost of decontaminating the land. This gives a benchmark SV of £1.865m, a figure revised from the Council's original evidence to take account of the agreed costs of decontamination. I am concerned about this approach in that the Council has failed to demonstrate that there is any market for such a substantial office development here. Indeed, the only recently completed (2009) office development of comparable scale, The Blade in Reading, is still largely vacant.

63. Overall, therefore, there is a difference between the parties of about £500,000 (£2.3m compared to £1.8m) in the benchmark land value. Neither figure is wholly watertight. The appellants' calculations are partly based upon a comparable site which differs from the appeal site in a number of important respects (location, access, scale) resulting in a need for subjective adjustments to the achieved sale figure. The Council's valuation is based upon an office development for which there is no proven demand. Overall, however, as the appellants have significantly reduced their site value to take account of the various differences between the sites, this seems a more reasonable approach than using an office development for which there appears to be little or no demand.

Competitive return

64. Determining what constitutes a competitive return inevitably involves making a subjective judgement based upon the evidence. Two very different viewpoints were put forward at the Inquiry with the appellants seeking a land value of £4,750,000 which is roughly the mid-point between the EUV/CUV and the RLV with planning permission for housing and no obligations. This ties in with the 50:50 split between the community and the landowner sought by the appellants. The Council considered that a sum of £1.865m would ensure a competitive return; that is to say the Council's calculation of the EUV/CUV.
65. Paragraph 173 of the *Framework* says that the costs of any requirements should provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable. The paragraph heading is "Ensuring viability and deliverability"; it is clear that its objective is to ensure that land comes forward for development. I am not convinced that a land value that equates to the EUV/CUV would provide any incentive to the landowner to sell the site. Due to the particular circumstances of this site, including the need to remediate the highly significant level of contamination, such a conclusion would not provide any incentive to the landowner to carry out any remediation work. There would be no incentive to sell the land and so such a low return would fail to achieve the delivery of this site for housing development. In these circumstances, and given the fact that in this case only two very different viewpoints on what constitutes a competitive return have been put forward, the appellants' conclusions are to be preferred. In the scenario preferred by the Council, I do not consider that the appellants would be a willing vendor.

Viable amount of Affordable Housing

66. The RICS GN says that any planning obligations imposed on a development will need to be paid out of the uplift in the value of the land but it cannot use up the whole of the difference, other than in exceptional circumstances, as that would remove the likelihood of land being released for development. That is exactly what is at issue here in that the Council's valuation witness, in cross

examination, stated that a landowner should be content to receive what the land is worth, that is to say the SV. In his opinion this stands at £1.865m. I accept that, if this figure was agreed (and it is not), it would mean that the development would be viable. However, it would not result in the land being released for development. Not only is this SV well below that calculated by the appellants, there is no incentive to sell. In short, the appellants would not be willing landowners. If a site is not willingly delivered, development will not take place. The appellants, rightly in my opinion, say that this would not represent a competitive return. They argue that the uplift in value should be split 50:50 between the landowner and the Council. This would, in this instance, represent the identified s106 requirements being paid as well as a contribution of 2% of the dwellings as affordable housing.

Unilateral Undertaking

67. The appellants submitted the UU at the Inquiry having failed to come to an agreement on a bi-lateral Undertaking with the Council. The Council stated that its reason for not signing a bi-lateral agreement was due to the fact that the Undertaking does not make provision for all of the disputed off site highway matters relating to sustainable modes of transport. I have taken account of the Council's concerns regarding the UU; the Council has not suggested that any of these concerns invalidate it.
68. As set out above, not all the provisions are necessary or compliant with CIL Reg 122 or with the provisions of paragraph 205 of the *Framework*. Of the matters in dispute I have concluded that the contribution towards the provision of £747,000 towards the construction of the SERR complies with CIL Reg 122 and the *Framework*. Concerning the sustainable travel modes contribution I have concluded that Link 1 is not necessary but that Links 2 and 3 are necessary and so also compliant. Only part of the bus stop improvement contribution is justified and needs to be included. This is partly covered by a condition as the UU makes no provision towards bus stops 5 or 6. I have found that contributions towards sports halls and swimming pools are not necessary but that the contribution of £348 per dwelling (less one dwelling) towards country park provision and improvement is necessary.
69. Concerning the other elements of the UU which are not in dispute, the submitted evidence justifies the amenity open space, the children's play area contribution, the junior, infant and primary education contributions, the secondary school and secondary school sixth form contributions, the library contribution, the pitches and recreation ground contribution and the need for a travel plan. With regard to the Special Protection Area SAMM contribution, in the light of the conclusions of the Secretary of State in the Shinfield West decision dated 8 November 2012 I conclude that a contribution is necessary and compliant with CIL Reg 122 and the *Framework*.
70. I conclude on this issue that, allowing the landowner a competitive return of 50% of the uplift in value, the calculations in the development appraisal allowing for 2% affordable housing are reasonable and demonstrate that at this level of affordable housing the development would be viable (Document 26). The only alterations to these calculations are the relatively minor change to the s106 contribution to allow for a contribution to country parks and additions to the contributions to support sustainable modes of travel. These changes would have only a limited impact on the return to the landowner. The development would remain viable and I am satisfied that the return would remain sufficiently

competitive to enable the land to come forward for development. Overall, therefore I conclude that the proposed amount of affordable housing (2%) would be appropriate in the context of the viability of the development, the *Framework*, development plan policy and all other material planning considerations.

Conditions

71. During the Inquiry, the parties submitted a revised list of suggested conditions (Document 28). The majority of these were agreed. Concerning the conditions in dispute, two versions of condition 1 were put forward. The appellants sought the "standard" outline conditions with the need to submit details within 3 years while the Council sought a shorter period of 18 months to allow for a re-consideration of the quantum of affordable housing if market conditions improve. In this case, however, due to the level of contamination on the site, it is unlikely that the appellants would be able to de-contaminate the site, sell a "clean" site and for a developer to submit details within the shorter period. These considerations outweigh the possibility of the market improving to a significant extent within 3 years.
72. I have imposed the suggested condition 4, relating to the phasing of the construction of the public open space on the western part of the appeal site, although the appellants have said this is unnecessary and impractical to comply with. However, it is likely that some of the landscaping within this area will be needed at the outset to mitigate the visual impact of the development. The condition only seeks details of phasing; this does not have to include a precise timetable for its full implementation. I am not convinced that the suggested condition 5, concerning mitigation measures set out in the Environmental Statement is necessary as the matters are covered by other conditions.
73. The Loddon SANG needs to be provided prior to the occupation of any of the permitted dwellings to minimise the impact of the development on the TBHSPA. Concerning the highway improvements, for the reasons set out above I have concluded that Links 2 (as amended) and 3 are necessary. I have also concluded that the improvements to bus stops 3, 4, 5 and 6 are necessary and that a bus shelter is needed for bus stop 2. These conclusions are reflected in the condition as set out. With regard to affordable housing, and as set out above, I have imposed a condition requiring that 2% of the dwellings should be affordable housing. The implementation of the affordable housing is as set out in the UU.
74. With regard to the agreed conditions, I have imposed conditions in respect of the phasing of the demolition of buildings; the remediation of the contamination; and proposed development to ensure that it is carried out in accordance with the approved details and to ensure the proper delivery of the site. A demolition method statement is necessary in the interests of public safety and to protect the living conditions of nearby residents. Details of the dwelling mix need to comply with the Council's policies relevant at the time of construction to ensure that there is a balanced mix of dwellings on this site and taking account of the wider area. The approved plans are identified for the avoidance of doubt and in the interests of the proper planning of the area.
75. Conditions concerning levels and ground remodelling are necessary due to the undulating nature of the site and the proximity of existing houses. Details of external materials, landscaping, tree protection measures, lighting, boundary

treatments are necessary in the interests of the appearance of the area and to ensure that the trees are protected during the course of construction. Restrictions on the timing of demolition, details of tree surveys and the undertaking of a pre-works bat emergence survey, together with details of the provision of replacement roosts for bats are all necessary to ensure appropriate protection for protected species and their habitats.

76. A waste management strategy is necessary in order to minimise waste at source; details of refuse storage are needed to ensure that adequate space is available within the dwellings or their curtilages for the storage of refuse and recyclable materials. A construction and environmental management plan is necessary to protect the living conditions of nearby residents, in the interests of highway safety and to avoid harm to the environment. Due to the potential for noise nuisance from traffic on the M4, details of noise attenuation measures to protect future residents from noise need to be submitted to and approved by the local planning authority. The site is known to suffer from contamination and a remediation scheme needs to be submitted and carried out in the interests of the health of future residents. Details of measures in respect of flooding and drainage are necessary to prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity.
77. A programme of archaeological work is needed to ensure that any archaeological remains within the site are adequately investigated, recorded or preserved in situ. The sports pitches and allotments need to be laid out, provided and managed in accordance with an approved timetable to ensure the provision of such facilities. The dwellings and the sports pavilion need to contribute to sustainable development in the interests of the environment and to accord with adopted policy.
78. Details of the public footpath, emergency access to the site, visibility splays and the site access from Brooker's Hill are necessary in the interests of highway safety. Details of car parking and manoeuvring, cycle parking, bus and cycle facilities and travel plans are required in the interests of highway safety and to encourage the use of alternative means of transport to reduce reliance on the use of the private motor car. Details of emergency water supplies are necessary to ensure that an adequate level of infrastructure is provided on the site.
79. I have not imposed the suggested condition removing permitted development rights as these can be removed from individual dwellings, as and when considered necessary, at the detailed stage where they flow from the reserved matter. The suggested condition concerning ducting is not imposed as it is imprecise and unnecessary.

Conclusions

80. I have taken into account all the other matters raised at the Inquiry and in the written representations. In particular I have had regard to the need for housing land in the area. I agree that this is a sustainable location for housing; that there would be benefits from the re-use of this previously developed land; and that there would be benefits from the remediation of this contaminated land. The development would improve the appearance of a site that is, in part, visually harmful to the immediate area. Concerning the mix of dwellings to be provided, the illustrative Masterplan indicates a range of sizes of flats and houses. While the number of affordable homes would be limited, providing a

poor mix of tenure, this is due to the viability of the site and the need to deliver land for housing.

81. Overall I conclude that subject to the provisions of the UU and the conditions set out in the Schedule to this decision, the proposals would make adequate provision for mitigating any adverse impact they would have upon local services and infrastructure. The amount of affordable housing is limited but this is due to the particular circumstances of the site. The amount to be provided would be appropriate in the context of the viability of the development, the National Planning Policy Framework, development plan policy and all other material planning considerations.

Clive Hughes

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mary Cook	Of Counsel; instructed by Sandra Fryer, Head of Development Delivery, Wokingham BC
She called	
Andy Glencross BSc BTec HND	Ecological advisor, Wokingham BC
Lynn Basford BA(Hons) MA MIHT MRTPI	Director of Transport Planning, JMP Consultants Ltd
Peter Barefoot FRICS FBE	Partner, Alder King LLP
Robert Gillespie BA(Hons) MRTPI	Director, Impact Planning Services Ltd
Jeremy Flawn	Impact Planning Services Ltd

FOR THE APPELLANT:

Christopher Young	Of Counsel; instructed by Simon Dimmock, Solicitor and Chairman, Blandy and Blandy LLP
He called	
Ian Tant BSc (Hons) BTP MRTPI	Senior Partner, Barton Willmore
Michael Knowles BSc (Hons) CEng DipTP ACGI MICE MCIHT	Consultant, RPS
Christopher Newman BSc (Hons) MRICS	Partner, Haslams Surveyors LLP
Nigel Jones BSc (Hons) FRICS ACIArb	Director, Chesterton Humberts
Simon Dimmock	Solicitor, Blandy & Blandy

INTERESTED PERSONS:

Peter Hughes	Shinfield Parish Council
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DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Council's notification letter and list of persons notified
- 2 Opening submissions on behalf of the appellants
- 3 Letter dated 22 October 2012 from Secretary of State and Inspector's Report concerning Appeals APP/X0360/A/11/2151409, 2151413 & 2151402 – Land west of Shinfield, west of Hyde End Road and Hollow Lane and south of Church Lane, Shinfield
- 4 Council's putative reasons for refusal in respect of above appeal (2151409)
- 5 Letter dated 29 October 2012 from Barton Willmore to Wokingham BC and documents referred to therein
- 6 Draft copies of Bilateral Undertaking under section 106 of the Act
- 7 Draft conditions
- 8 Sensitivity Model at 17% Affordable Housing
- 9 Comparator Sheet A at 40% Affordable Housing and differing GDVs
- 10 Comparator Sheet B at 40% Affordable Housing and differing GDVs
- 11 Peter Barefoot Appendix A Vol 3
- 12 Peter Barefoot – rebuttal proof of evidence Appendix R1a (i) and (ii)
- 13 Peter Barefoot – post rebuttal bar chart
- 14 Draft Unilateral Undertaking
- 15 Secretary of State decision letter and Inspector's Report – land off Lydney bypass and Highfield Road, Lydney APP/P1615/A/08/2182407
- 16 *Robert Hitchins Ltd v SoS and Forest of Dean* [2010] EWHC 1157 (admin) dated 27 May 2010
- 17 Email dated 22 October 2012 concerning education matters
- 18 Letter dated 29 October 2012 from Barton Willmore to Wokingham BC
- 19 List of meetings December 2008 to 25 October 2012
- 20 ODPM Circular 05/2005 pp13-14
- 21 Statement by Peter Hughes on behalf of Shinfield Parish Council
- 22 Plans showing extent and layout of planning permission for storage on appeal site
- 23 Paddock Road, Caversham – sales particulars and extract from Flood Risk Assessment
- 24 Letter dated 2 November 2012 from University of Reading to Barton Willmore concerning past uses of part of appeal site
- 25 Development Appraisal 13% Affordable Housing – 1 November 2012
- 26 Development Appraisal 2% Affordable Housing – 1 November 2012
- 27 Ordnance Survey map showing locations of various sites referred to
- 28 Revised list of suggested conditions
- 29 Email dated 8 November 2012 from appellants to council clarifying changes to suggested conditions
- 30 Unilateral Undertaking under s106 of the Act dated 8 November 2012
- 31 Note from Blandy & Blandy concerning Unilateral Undertaking
- 32 List of Council's comments on Unilateral Undertaking
- 33 Secretary of State decision in respect of document 3 (above) dated 8 November 2012
- 34 Closing submissions on behalf of the Council
- 35 Closing submissions on behalf of the University of Reading
- 36 Application for a partial award of costs on behalf of the University of Reading
- 37 Response to costs application by the Council

PLANS

- A Drawing No DW-411-101 Rev 00 – site location plan
- B Drawing No DW-411-102 Rev 00 – parameter plan (land use)
- C Drawing No DW-411-103 Rev 00 – parameter plan (heights)
- D Drawing No DW-411-107 Rev 00 – topographic survey
- E Drawing No JNY5203/RSA3/001 Rev C – proposed signalised junction stage 3 road safety audit additional works

Schedule of conditions (55):

- 1)
 - a) Details of the appearance, landscaping, 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.
 - b) Application 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.
 - c) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with the application and the following drawings [Drawing Nos DW-411-101 Rev 00, 102 Rev 00, 103 Rev 00 and JNY5203/RSA3/001 Rev C] and the scale parameters set out in paragraphs 4.6.55-59 and the accompanying table/explanatory diagrams on page 66 of the Design and Access Statement (January 2011) received by the Local Planning Authority on 1 February 2011.
- 3) The first phase of works will comprise demolition of existing buildings and remediation of contamination across the whole site. No other development shall commence until a scheme of phasing of construction for the housing and associated works hereby approved has been submitted to and approved in writing by the Local Planning Authority and development shall be carried out in accordance with the agreed scheme of phasing.
- 4) No development other than works of demolition and remediation shall commence until a scheme of phasing of construction of the public open space on the western part of the appeal site, including sports pitches, equipped play area, pavilion, allotments and associated works has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme of phasing. The land which is to form the open space shall be fenced prior to first occupation of the approved dwellings and secured until such time as the public open space is brought into use.

Levels

- 5) No development other than works of demolition and remediation shall take place within any phase until a measured survey of that part of the site and a plan showing details of existing and proposed finished ground

levels (in relation to a fixed datum point) and finished floor levels for that part of the site and its relationship with adjoining buildings and land has been submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented before first occupation of the buildings within that phase.

Materials

- 6) Before any phase of the development hereby permitted is commenced other than in relation to works of demolition and remediation, samples and details of the materials to be used in construction of the external surfaces of the building(s) within that phase shall first be submitted to and approved in writing by the Local Planning Authority. Development of that phase shall be carried out in accordance with the approved details.

Dwelling mix

- 7) The reserved matters to comply with Condition 1 shall include a mix of dwellings taking account of the Council's housing mix policies at the time, the character of the development and the way in which it assimilates to the wider area.

Hard and soft landscaping and boundary treatments

- 8) Before any phase of the development hereby permitted other than works of demolition and remediation is commenced a comprehensive scheme detailing all boundary treatment(s) within that phase shall first be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented insofar as it relates to that phase prior to the first use of land or occupation of buildings within that phase or phased as agreed in writing by the Local Planning Authority. The boundary treatments required by the scheme shall be retained in the approved form thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 9) Prior to the commencement of development (other than works of development and remediation) full details of the Structural Landscaping for the entire site shall be submitted to and approved in writing by the planning authority. The approved scheme shall be implemented prior to the first use of land or occupation of buildings as agreed in writing by the Local Planning Authority. The approved Structural Landscaping shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 10) The development of each phase hereby permitted, other than works of demolition and remediation shall not commence until full details of both hard and soft landscape proposals for that phase have been submitted to and approved in writing by the local planning authority. These details shall include, as appropriate, proposed site levels or contours, means of enclosure, pedestrian and cycle access and circulation areas, hard surfacing materials, water features and minor artefacts and structures (e.g. furniture, boardwalks, signs, street lighting, external services, etc).
- 11) Soft landscaping details shall include planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetable.

- 12) All hard and soft landscape works shall be carried out in accordance with the approved details. The details will include the phasing of planting, soft and hard works within each part of the development, so as to ensure that works related to each development phase are completed in conjunction with that phase. The works shall be carried out in accordance with a programme submitted to and agreed in writing with the local planning authority.
- 13) A landscape management plan for each phase of the development, including a programme for implementation, long term design objectives, long term management responsibilities, proposals for structural planting, green space linkages, timescales and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the local planning authority prior to the development of each phase, other than works of demolition and remediation. The landscape management plan shall be carried out as approved.
- 14) The plans and particulars submitted in accordance with condition 10 above shall include:
 - (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - (d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree; and
 - (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

- 15) The plans and particulars submitted in accordance with condition 10 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.
- 16) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of commencement of the site for its permitted development.

- (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - (b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - (c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written consent of the local planning authority.
- 17) a) Before any phase of the development hereby permitted is commenced a scheme (herein called the Approved Method statement for Arboricultural Works scheme) which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to land within that phase of the development has been submitted to and approved in writing by the Local Planning Authority; no development or other operations shall take place except in complete accordance with the approved protection scheme.
- b) The scheme shall also provide for retention and protection of trees which are confirmed bat roosts and a network of corridors across the site to maintain bat commuting.
- c) No operations shall commence on site in connection with development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any other operation involving use of motorised vehicles or construction machinery) until the tree protection works required by the approved scheme are in place on site.
- d) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the approved scheme.
- e) The fencing or other works which are part of the approved scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

Ecology

- 18) The details submitted in relation to condition 1 shall where relevant be in accordance with the Design Guide and Management Strategy for veteran

and mature trees (FLAC reference CC29- 1041 submitted on 27 January 2011).

- 19) Demolition of existing buildings shall be outside the bat maternity (mid-May to August) and hibernation (November to March) periods, unless otherwise agreed in writing by the Local Planning Authority. Before demolition of any building takes place it shall be subject to building checks by a licensed bat worker, a pre-demolition emergence survey and a destructive search by hand of sensitive areas such as the roofs. The building shall then be left exposed for at least 24 hours in order for bats to disperse.
- 20) Before demolition of existing buildings a scheme to provide short-term and long-term replacement roosts, including details of the type and location of bat boxes, the construction of buildings intended to serve as roosts and a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the approved details.
- 21) Before any works to trees which have been identified as having the potential to support bats or confirmed as bat roosts they shall be climbed and checked for the presence of bats using an endoscope, and a pre-works bat emergence survey will also be undertaken.

Lighting

- 22) Before the commencement of the development other than works of demolition and remediation, a Lighting Strategy incorporating the principles set out in paragraph 9.126 Ecology and Nature Conservation chapter in the of the Environmental Statement (University of Reading, January 2011) shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matters application shall provide details of implementation for lighting within that phase for all principal highways, cycleways and public and other footpaths. The development shall be carried out in accordance with the approved details. The development shall be implemented in accordance with the approved Lighting Strategy before the relevant highways, cycleways and footpaths are brought into use and retained thereafter.

Waste management strategy

- 23) Before the commencement of the development a Waste Management Strategy including principles of minimisation of waste at source (reuse and recycling) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Strategy.

Demolition and remediation

- 24) No works of demolition and remediation shall commence, until a Demolition and Remediation Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the demolition and remediation period. The Statement shall provide for:
 1. the parking of vehicles of site operatives and visitors
 2. loading and unloading of plant and materials
 3. storage of plant and materials used in the demolition / remediation
 4. the erection and maintenance of security hoarding

5. wheel washing facilities
6. measures to control the emission of dust and dirt during demolition / remediation works
7. a scheme for recycling/disposing of waste resulting from demolition / remediation works
8. measures to control surface water run-off and prevention of contamination of surface water
9. measures for the retention and protection of trees which are confirmed bat roosts and a network of wildlife corridors across the site to maintain bat commuting
10. the tree protection works required by the approved Method statement for Arboricultural Works scheme for that part of the site.

Construction and environmental management

- 25) Before any phase of the development hereby permitted is commenced other than works of demolition and remediation a Construction Environmental Management Plan for that phase shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall be in accordance with the approved Construction Environmental Management Plan unless otherwise agreed in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include the following matters:
- (a) parking and turning for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) piling techniques;
 - (d) storage of plant and materials;
 - (e) programme of works (including measures for traffic management and operating hours);
 - (f) provision of boundary hoarding and lighting;
 - (g) protection of important trees, hedgerows and other natural features;
 - (h) protection of the aquatic environment in terms of water quantity and quality;
 - (i) measures to control discharge of surface water and prevent increased localised risk of flooding;
 - (j) details of proposed means of dust suppression and noise mitigation;
 - (k) details of measures to prevent mud from vehicles leaving the site during construction;
 - (l) haul routes for construction traffic on the highway network; and
 - (m) monitoring and review mechanisms.
- 26) No works in respect of the construction of the development hereby permitted and no deliveries to the site during construction shall be undertaken:
- Outside the hours of 0800 - 1800 on Mondays to Fridays (inclusive);
 - Outside the hours of 0800 - 1300 on Saturdays; and
 - On Sundays and on public holidays.

Noise

- 27) Before any phase of the development commences a scheme for protecting the proposed dwellings and gardens/private amenity areas within that phase from road traffic noise shall be submitted to and approved by the Local Planning Authority. All works which form part of the approved scheme shall be completed before any affected dwelling is occupied and retained and maintained for the duration of the use.
- 28) Before construction of the sub-station commences, details of the technical specifications for it, to include a noise assessment and mitigation report identifying attenuation measures to ensure that this building is designed and insulated to mitigate against the noise produced from the development (whether directly or indirectly), shall be submitted to and approved in writing by the Local Planning Authority. The agreed attenuation measures shall be implemented maintained and retained thereafter in accordance the approved details.

Contamination

- 29) No development shall take place until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk when the site is developed.

The contamination scheme shall include the following details:

A. Site Characterisation

An appraisal of remedial options, and proposal of the preferred option(s), conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme (other than supplementary remediation schemes for unexpected contamination or measures which comprise part of the construction process) must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that

demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. Investigation works must be implemented to define the extent and severity of the newly identified contamination. Where it is confirmed by the local planning authority that the currently approved remedial criteria do not adequately allow screening of the newly identified contaminants, further risk assessment must be undertaken in accordance with a scope and methodology which has been submitted to and approved in writing of the Local Planning Authority. Where a remedial requirement is identified and it is confirmed by the local planning authority that the currently approved remediation scheme does not detail remedial methods suitable to address the newly identified contamination a supplementary remediation scheme must be prepared in accordance with the requirements of part B of condition 31, which is subject to the approval in writing of the Local Planning Authority. The unexpected contamination must be remediated in accordance with the supplementary remediation scheme within timescales previously agreed with the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared; which is subject to the approval in writing of the Local Planning Authority in accordance with part C of condition 31.

No building hereby permitted shall be occupied until the written approval of the verification report has been issued by the Local Planning Authority.

Flooding and drainage

- 30) The development shall be carried out in accordance with the proposals set out in Section 6: Conclusions of the Flood Risk Assessment Reference BES0299, Revision: FINAL dated December 2010 and received by the Local Planning Authority on 1 February 2011.
- 31) No development other than works of demolition and remediation shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- A detailed plan showing the drainage network on the site;
- details of use of SUDS features as proposed in the submitted FRA, to include Swales, permeable paving and consideration of other features appropriate to the site;
- demonstration that the site can be kept flood free up to the 1 in 100 (plus 30% allowance for climate change) storm event and will not result in overland run-off leaving the site;

- details of on-site attenuation and storage;
 - proposals to secure a 20% reduction to the existing maximum rate of discharge from the site;
 - details of interceptors where proposed; and
 - maintenance details for the proposed drainage scheme (the Maintenance Plan).
- 32) No building shall be occupied until works for the disposal of foul and storm water sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.

Archaeology

- 33) 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. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition.

Public open space (sports pitches and recreation)

- 34) The sports pitches shall be laid out in accordance with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, March 2000) or its successor publication.
- 35) Before the commencement of the development of the public open space a scheme for the layout, detailed design and on-going maintenance and management of the sports pitches, pavilion, car parking, children's play area and related cycle and footways shall be submitted to and approved in writing by the Local Planning applications. The development of the sports pitches, pavilion, car parking, children's play area and related cycle and footways shall be implemented and managed in accordance with the approved scheme. The scheme shall set out measures to secure public access to the facilities in perpetuity.

Public open space (allotments)

- 36) Before the commencement of the development of the allotments a scheme for the layout, specification and on-going maintenance, letting and management of the allotments shall be submitted to and approved in writing by the Local Planning applications. The development of the allotments shall be implemented, let and managed in accordance with the approved scheme.

Sustainability measures

- 37) The dwellings shall achieve the Code for Sustainable Homes level applicable at the time, subject to achieving a minimum of Code for Sustainable Homes level 3. No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that at least Code Level 3 has been achieved.
- 38) The sports pavilion shall be designed to achieve BREEAM 'very good' certification or such equivalent scheme and standard that shall operate at the time of construction of the sports pavilion.
- 39) The reserved matters to comply with Condition 1 shall include measures to secure at least 10% of reduction in carbon emissions from the

development. The development shall be carried out in accordance with the approved details and the approved measures shall be retained thereafter.

Access and emergency access

- 40) The reserved matters to comply with Condition 1 and the phasing to comply with Condition 3 shall make provision for retention of the Public Right of Way during construction and once the development is complete and include details of its surfacing and path furniture.
- 41) The first reserved matters to comply with Condition 1 shall include suitable provision for emergency access, pedestrian and cycle access in the vicinity of the intersection of Footpath 10 and Hollow Lane with appropriate visibility splays. No building shall be occupied until the emergency access has been constructed in accordance with the approved details. Furthermore, the land within all approved visibility splays shall be cleared of any obstruction exceeding 0.6 metres in height and maintained clear of any obstruction exceeding 0.6 metres in height at all times.
- 42) No building shall be occupied or land brought into beneficial use until the access from Brooker's Hill has been constructed in accordance with Drawing No JNY5203/RSA3/001 Rev C in Appendix 10.1 of the Environmental Impact Assessment or other details which have first been submitted to and approved in writing by the Local Planning Authority.

Cycle parking

- 43) The reserved matters submissions to comply with Condition 1 shall include details of secure covered bicycle parking for each dwelling and secure cycle parking for the allotments and sports pitch(es). Cycle parking for each dwelling shall be provided in accordance with the approved details before occupation and the cycle parking for the sports pitch(es) and allotments shall be provided before their use commences. The approved cycle parking shall be retained thereafter.

Parking

- 44) The reserved matters to comply with Condition 1 shall include details of residential car and motorcycle parking in accordance with the Council's policies at the time of the reserved matters application. No dwelling shall be occupied until the access(es), driveways, parking and turning areas to serve it including any unallocated parking spaces have been provided in accordance with the approved details and the provision shall be retained thereafter. The vehicle parking shall not be used for any other purpose other than parking and the turning areas shall not be used for any other purpose other than turning.
- 45) The reserved matters to comply with Condition 1 shall include details of parking, access and turning for the proposed sports pitch(es) and pavilion, including provision for coaches in accordance with the agreed Travel Plan in relation to the pavilion. Provision shall be made, in accordance with the approved details prior to occupation of the pavilion or use of the pitches commencing and retained thereafter. The vehicle parking shall not be used for any other purpose other than parking and the turning areas shall not be used for any other purpose other than turning.

- 46) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any Order revoking and re-enacting that Order within or without modification), any garage or carport accommodation on the site shall be kept available for the parking of vehicles ancillary to the residential use of the site at all times. Carports shall be erected in accordance with the approved reserved matters and shall not be enclosed beyond any enclosure shown on the approved drawings without the prior written approval of the Local Planning Authority. Garages and carports shall not be used for any business use nor as habitable space.

Visibility splays

- 47) The dwellings hereby approved shall not be occupied until visibility splays of 2.0 metres by 2.0 metres have been provided at the intersection of the driveway and the adjacent footway. (Dimensions to be measured along the edge of the drive and the back of the footway from their point of intersection). The visibility splays shall thereafter be kept free of all obstructions to visibility above a height of 0.6 metres.

Travel plans

- 48) Other than works of demolition and remediation development shall not be commenced until a travel plan for the residential development has been submitted to, and approved in writing by the Local Planning Authority. The travel plan shall be generally in accordance with the agreed Framework Travel Plan (dated 6th October 2011) and include a programme of implementation, including funding arrangements, proposals to promote alternative forms of transport to and from the site, other than by the private car and provide for periodic review. Such measures shall include personalised travel planning, provision of public transport vouchers, provision of bike vouchers and the provision of a travel plan co-ordinator. The travel plan shall be permanently implemented as agreed, unless otherwise agreed in writing by the Local Planning Authority.
- 49) The development of the pavilion shall not commence until a leisure based travel plan has been submitted to, and approved in writing by the Local Planning Authority. The travel plan shall include a programme of implementation, including funding arrangements, 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 permanently implemented as agreed, unless otherwise agreed in writing by the Local Planning Authority.

Bus, cycle and pedestrian facilities

- 50) No dwelling shall be occupied until the cycle facilities and improved pedestrian facilities as identified as Links 2 and 3 on Figure 2.2 (Lynn Basford's rebuttal proof of evidence) have been provided. Prior to the commencement of the development, schemes for bus stops improvements as identified as bus stops 3, 4, 5 and 6 and a bus stop shelter at bus stop 2 as identified on Figure 2.3 (Lynn Basford's rebuttal proof of evidence) shall be submitted to and approved in writing by the local planning authority. The approved bus stop improvements shall be implemented prior to occupation of the first dwelling.

Emergency water supply

- 51) Prior to first occupation of any relevant phase of development fire hydrants, or other suitable emergency water supplies, shall be provided in accordance with a scheme including details of their location, specification and a programme for their provision which has first been submitted to and approved in writing by the Local Planning Authority.

Refuse storage

- 52) The reserved matters to comply with Condition 1 shall incorporate internal and external spaces for the storage of refuse and recyclable materials storage for all dwellings, the sports pitches/pavilion and allotments and provision shall be made in accordance with the approved details prior to occupation of any building or commencement of any use and retained thereafter.

Affordable housing

- 53) The development shall not commence until an Affordable Housing Strategy for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The strategy shall provide 2% affordable housing up to a maximum of 3 dwellings unless otherwise agreed in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of Affordable Housing in Annex 2 to the National Planning Policy Framework. The Strategy shall provide:-

- The numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of a minimum of 2% of housing units
- The respective proportions of each tenure of dwellings are to be approved by the Local Planning Authority as part of the strategy set out above the affordable housing dwelling mix will be 20% one-bedroom apartments and houses 15% two bedroom apartments 30% two bedroom houses 20% three bedroom houses and 15% four bedroom houses unless otherwise agreed in writing by the council
- The standard of construction of the affordable dwellings
- Details of the shared ownership model including the equity share and capped rent of unsold equity
- The arrangements for the transfer of the affordable housing to an affordable housing provider approved by the council
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
- The timing of the delivery of the affordable housing; and

- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The Loddon SANG

- 54) None of the approved dwellings shall be occupied until the Loddon Suitable Alternative Natural Greenspace (SANG) has been provided and made available for public use.

Ground remodelling

- 55) No development shall commence until a scheme for the earth remodelling of the public open space and residential areas has been submitted to and approved in writing by the planning authority. The scheme shall include plans, sections and details of soil importation and exportation associated with the proposed development. The development shall be implemented in accordance with the approved scheme.

Richborough Estates