

2 July 2012

Mr Charles Collins
Savills
2 Charlotte Place
Southampton
S14 0TB

Our Ref: APP/X0360/A/11/2157754
Your Ref: SNPL 212702

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY CREST NICHOLSON OPERATIONS LTD
AT LAND AT KENTWOOD FARM, WARREN HOUSE ROAD, WOKINGHAM,
BERKSHIRE, RG40 5QA
APPLICATION: REF 0/2011/0699**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Wendy J Burden BA DipTP MRTPI, who held a public local inquiry which opened on 29 November 2011 into your client's appeal against Wokingham Borough Council's failure to determine the following planning application at Kentwood Farm, Warren House Road, Wokingham RG40 5QA in accordance with application number 0/2011/0699, dated 28 March 2011.

A) Outline planning application for development of 274 dwellings, garages, driveways, carports (total 608 parking spaces), internal roads, pathways, sub-stations, gas governor, the construction of a new access from Keephatch Road and two new access points from Warren House Road with associated amenity space, incorporating allotments (Matters for approval: Access and Layout).

B) Full planning application for:

- i) The laying out of an area of Public Open Space (informal) and a Suitable Alternative Natural Green Space (SANG) on land west of Warren House Road (to serve the proposed Phase 1 and future development at Kentwood Farm) including a car park (6 spaces), pathways, associated landscaping and pathway features.
- ii) The construction of a 3.5 metre landform and 2.5 metre fence for a distance of 405 metres on the west side of Warren House Road and 635 metres on the east side of Warren House Road parallel with the A329 (M).

- iii) The erection of a sewage pumping station with interim access from the present access from Warren House Road.
2. On 22 August 2011, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason for this was because the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching this position the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Having had regard to the Inspector's comments at IR1.6-1.8, the Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising after the close of the inquiry

5. Following the close of the Inquiry, the Secretary of State received representations from those listed in Annex A. The Secretary of State has taken account of all these representations in his consideration of the appeal before him, but is satisfied that they did not raise matters which would require him to refer back to parties prior to reaching his decision.
6. Also following the close of the inquiry, the Government published the National Planning Policy Framework (March 2012) (the Framework). This document replaces those Planning Policy Guidance notes and Statements, Circulars and Letters to Chief Planning Officers set out in its Annex 3. Following the publication of the Framework the Secretary of State wrote to interested parties on 19 April 2012 seeking their views on its implications, if any, on the proposal before him. On 9 May 2012 the Secretary of State circulated the responses, inviting final comments. A list of those who submitted comments is set out in Annex B below.
7. The Secretary of State has carefully considered all of the representations received in his determination of this case. He considers that, for the most part, the issues raised in relation to the NPPF cover those already rehearsed at the inquiry. In considering these further representations the Secretary of State also wishes to make it clear that he has not revisited issues which are carried forward

in the NPPF, and which have therefore already been addressed in the IR, unless the approach adopted in the NPPF leads him to give different weight. Notwithstanding that the majority of former national planning guidance has been replaced by the Framework, the Secretary of State considers that the main issues identified by the Inspector essentially remain the same.

8. Copies of the representations referred to in paragraphs 5 and 6 above may be obtained on written request to the address at the foot of the first page of this letter.

Policy considerations

9. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case, the development plan comprises the *Regional Strategy for the South East* (2009) (RS), the *Wokingham Borough Core Strategy* (CS) (2010), and saved policies (2007) of the 2004 *Wokingham Borough Local Plan* (LP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR3.1-3.4.
11. Wokingham Borough Council wrote to the Secretary of State on 15 and 27 June 2012. The Council's letter of 27 June stated that it had agreed on 21 June 2012 to publish its proposed submission Managing Development Delivery Development Plan Document (MDD DPD) including its accompanying Policies Map. Copies of the MDD DPD were provided on 27 June and the accompanying maps were provided on 28 June 2012. The Secretary of State has had regard to paragraph 216 of the Framework. He observes that the Council started its consultation on the MDD DPD on 27 June 2012 and that there are a number of further stages before the document will be capable of adoption in final form by the Council. At the current time the MDD DPD is therefore subject to change. Given this, the Secretary of State attributes very little weight to it. On 27 June the Council also submitted a Strategic Housing Land Availability Assessment (SHLAA) dated June 2012. This document up-dates the SHLAA produced by the Council in May, taking account of the allocation of sites in its proposed submission MDD DPD. Given that the MDD DPD attracts very little weight, the Secretary of State also gives very little weight to the June SHLAA. Having considered these documents and their weighting, the Secretary of State is satisfied that they do not raise matters which would require him to refer back to parties prior to reaching his decision. Copies of the representations may be obtained on written request to the address at the foot of the first page of this letter.
12. Other material considerations which the Secretary of State has taken account of include: Circular 11/1995: *Use of Conditions in Planning Permission*; the Community Infrastructure Levy (CIL) Regulations 2010 and 2011; the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, on *Planning for Growth*, dated 23 March 2011, and the Supplementary Planning Documents (SPDs) listed by the Inspector at IR3.5.

13. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the RS is formally revoked by Order, he has attributed limited weight to the proposed revocation in determining this appeal.
14. In determining this appeal, the Secretary of State has had special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest which they possess, as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Having had regard to the Inspector's comments at IR2.1 - 2.2, the Secretary of State is content that there would be no significant impact on the setting of the Grade II listed Keepers Cottage itself (IR2.2).

Main issues

15. The Secretary of State considers that the main issues in this case are those listed by the Inspector at IR1.4.

The extent to which the proposal accords with the policies of the Regional Strategy, the Wokingham Borough Core Strategy, the adopted North Wokingham Strategic Development Location SPD and Infrastructure Delivery and Contributions SPD in terms of: a comprehensive developer and landowner infrastructure delivery and funding mechanism; and whether an overarching infrastructure mechanism is necessary.

16. The Secretary of State observes that the site is allocated for housing development in Wokingham's CS and that there is no dispute that the principle of residential development of the appeal site is established (IR9.3). He has also had regard to the fact that it was common ground at the inquiry that there was a shortfall in housing land supply (HLS) in Wokingham. The Secretary of State observes that Wokingham Borough Council's letter of 17 May 2012 confirms that, as at 1 April 2012, the Council still did not have a five year housing land supply and, as set out at paragraph 11 above, the Council's June 2012 SHLAA attracts very little weight. Given the absence of a five year land supply and the Inspector's comments at IR9.13, the Secretary of State shares her view that the need for a start to the development of the Sustainable Development Locations (SDLs) is a matter of considerable weight (IR9.13). Furthermore, having had regard to paragraph 49 of the Framework, the Secretary of State concludes that Wokingham's policies for the supply of housing are not up-to-date and he goes on to consider this further at paragraph 28 below.
17. The Secretary of State agrees with the Inspector that the CS seeks a co-ordinated approach and an infrastructure rich development within the Strategic Development Locations (SDLs), and it does not require a legally binding framework between all landowners and developers as now sought by the Council (IR9.6). For the reasons given by the Inspector at IR9.6 and IR9.8 the Secretary of State concurs with the Inspector that the NWSDL (North West Strategic Development Location) SPD does provide a Development Brief as sought by the CS and that what is missing is the "associated masterplan" and the provision of a roof levy (IR9.8).

18. The Secretary of State has had regard to the Council's concern that, without a binding commitment there is a risk that supporting infrastructure, services and facilities across the NWSDL as a whole would not be properly planned and delivered on a comprehensive basis (IR9.11). However, he shares the Inspector's analysis and agrees with her conclusions that the achievement of the Council's ideal approach is unlikely at an early date (IR9.14) and that even the approach put forward in the CS, with a roof levy, would not necessarily provide the legally binding arrangements which the Council now seeks (IR9.15).
19. In common with the Inspector (IR9.16), the Secretary of State concludes that the test set by the Council is a test too high and that the appropriate test would be that set out by the Inspector at IR9.17. Having had regard to the appellant's evidence that the North Wokingham Consortium Infrastructure Delivery Plan (NWC IDP) has been constructed and agreed with the other consortium members who control 98% of the balance of housing development in the SDL (IR6.29) and to the Inspector's comments at IR9.9 – 9.11 and at 9.18 – 9.19, the Secretary of State agrees with the Inspector that the NWC IDP attracts significant weight (9.19). In conclusion, having taken account of the Inspector's full analysis at IR9.4 – 9.23, the Secretary of State is satisfied that the NWC IDP constitutes "another relevant mechanism" which is capable of delivering the infrastructure rich development of the NWSDL in accordance with the requirements of the Core Strategy and relevant SPDs (IR9.24).

Whether adequate financial contributions are proposed for the provision of a primary school, formal open space, and community centre

20. For the reasons given by the Inspector at IR9.26, the Secretary of State agrees with her that it is appropriate that the appellant relies on the capacity at All Saints rather than agrees to contribute towards a new school at Matthewsgreen which would not be located to serve Kentwood children. Further, for the reasons given by the Inspector at IR9.27, the Secretary of State concurs with the Inspector's view that the provisions put forward for a primary school at Matthewsgreen in the NWC IDP to be adequate and in no way prejudiced by the appeal proposals.
21. Having had regard to the Inspector's analysis at IR9.29-9.31, the Secretary of State agrees with her that, in the absence of any more specific guidance in the form of a Cantley Masterplan, the use of the Planning Advice Note mechanism for calculating a commuted payment in the Unilateral Undertaking is both reasonable and proportionate (IR9.31). Finally, like the Inspector, the Secretary of State is satisfied that an appropriate figure has been proposed for the NWSDL community centre (IR9.32).

Whether the s106 Unilateral Undertaking makes adequate provision for the payment of the Strategic Transport contributions; for Compulsory Purchase Order costs in the sustainable transport contribution, and for the definition of substantial highways improvement works; whether the Travel Plan is adequate; and whether there is adequate provision for Public Transport

22. With regard to the Northern Relief Road, the Secretary of State has given careful consideration to the Inspector's comments at IR9.33 – 9.40. He has taken account of the fact that the Council does not dispute the appellant's cost

estimates and accepts the apportionment between developers (IR9.34). The Secretary of State sees no reason to disagree with the Inspector's analysis at IR9.35 – 9.36 and, like her, he does not find the mechanism for payment set out in the Unilateral Undertaking to be unreasonable (IR9.36). He also agrees with the Inspector, for the reasons given at IR9.38, that it does seem unreasonable for the Council to now seek an indemnity in case the Compulsory Purchase Order provision is not sufficient.

23. In considering the adequacy of the Travel Plan and provision for Public Transport, the Secretary of State has had regard to the Inspector's comments at IR9.41-43. For the reasons given by the Inspector, he too concludes that the Travel Plan does not prejudice the delivery of later parts of the SDL and that, in the particular circumstances of this case, it is adequate (IR9.41). For the reasons given by the Inspector at IR9.42 – 9.43, the Secretary of State also shares her view that the public transport strategy is acceptable (IR9.43).

Requirements of CIL Regulation 122

24. The Secretary of State has had regard to the Inspector's comments at IR8.22 – 8.24 and IR9.44 – 9.46. He sees no reason to disagree with the Inspector's view that the majority of the provisions meet the tests of the CIL Regulations as necessary and proportionate to the appeal scheme as Phase 1 of the NWSDL (IR9.47). However, having given careful consideration to the Inspector's comments at IR9.48 – 9.49 and to the evidence submitted by the appellant (Document CNO/12) the Secretary of State agrees with the Inspector that the obligation to pay a SEN contribution in this particular case cannot be said to be directly related to the proposed development or fairly and reasonably related in scale and kind to it (IR9.49) and that it would not meet the tests of CIL Regulation 122 (IR11).
25. The Secretary of State also agrees with the Inspector that contributions to highway improvements in connection with the NWSDL will be reasonable and proportionate where they secure improvements to the network which would ensure that traffic conditions are no worse than the position without the development of the NWSDL (IR9.52). He agrees with the Inspector's analysis at IR9.51 – 9.56 and consequently he concludes that the payment required for Option 2 in Schedule 1 paragraph 16.5.1 must be demonstrated to be necessary in order for nil-detriment in terms of traffic generated by the NWSDL or cumulatively by the NWSDL together with one or more other SDLs in order to be compliant with CIL Regulation 122 (IR11).

Other Matters

26. The Secretary of State agrees with the Inspector's analysis at IR9.58 and he too is unable to conclude that an extension to the Brambles Children's Centre to provide a neighbourhood police facility is directly related to the proposal and would be a necessary provision before planning permission could be granted.

Conditions

27. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions as set out at IR.8.1-8.19. The Secretary of State is satisfied that the

proposed conditions set out at Annex C to this letter are reasonable, necessary and comply with Circular 11/95.

Overall Conclusions

28. The Secretary of State agrees with the Inspector's summary of conclusions at IR10-11. As indicated at paragraph 19 above, the Secretary of State is satisfied that the NWC IDP provides a satisfactory mechanism for delivery of the infrastructure rich development of the NWSDL. The Secretary of State also considers that the development would deliver its fair proportion of the necessary and directly related infrastructure. Consequently, like the Inspector (IR10.7), he concludes that the appeal scheme generally meets the requirements set out in Policy CP20 and Appendix 7 of the CS. The Secretary of State has given considerable weight to the need for a start to the development of the SDLs and has concluded that, at the present time, Wokingham's policies for the supply of housing are not up-to-date (paragraph 16 above). He has had regard to paragraph 14 of the Framework which states that where relevant development plan policies are out-of-date permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or (ii) specific policies in the Framework indicate that development should be restricted. The Secretary of State has identified no significant concerns in these respects.
29. The Secretary of State concludes that, overall, the appeal scheme constitutes sustainable development and is in accordance with the development plan and national policy including the NPPF.

Formal Decision

30. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants:

A) outline planning permission for development of 274 dwellings, garages, driveways, carports (total 608 parking spaces), internal roads pathways, substations, gas governor, the construction of a new access from Keeppatch Road and two new access points from Warren House Road with associated amenity space incorporating allotments (Matters for approval: Access and Layout);

and

B) full planning permission for:

- i) the laying out of an area of Public Open Space (informal) and a Suitable Alternative Natural Green Space (SANG) on land west of Warren House Road (to serve the proposed Phase 1 and future development at Kentwood Farm) including a car park (6 spaces) pathways, associated landscaping and pathway features;
- ii) the construction of a 3.5 metre landform and 2.5 metre fence for a distance of 405 metres on the west side of Warren House Road and 635 metres on the east side of Warren House Road parallel with the A329 (M); and

- iii) the erection of a sewage pumping station with interim access from the present access from Warren House Road

at land at Kentwood Farm, Warren House Road, Wokingham RG40 5QA in accordance with application number 0/2011/0699, dated 28 March 2011, subject to the conditions listed at Annex C of this letter.

31. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
32. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
33. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

34. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
35. A copy of this letter has been sent to Wokingham Borough Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Authorised by Secretary of State to sign in that behalf

Annex A

Name	Date
Nicholas Martin	27/01/2012
Dr J C Williams	20/02/2012
Ben Wynne	25/02/2012
Peter Lucey/ Colin Alborough	25/02/2012
John C Fuller	25/02/2012
Pauline Simpson	25/02/2012
Peter Bird	25/02/2012
Nicholas Welch	25/02/2012
John W Bingham	25/02/2012
Jane A Bingham	25/02/2012
Roger Wadlow	25/02/2012
Stephen Ross	25/02/2012
Peter Humphreys	26/02/2012
Malcolm Lewin	26/02/2012
Phiala Mehring	26/02/2012
Jane and Stan Wilkinson	27/02/2012
Georgina Cacicedo	27/02/2012
David and Lynn Mapleston	28/02/2012
Paul Gallagher	29/02/2012
Yvette Kelsall	29/02/2012
Mark Howard	03/03/2012
Carl McKenzie	04/03/2012
Claire Wright	05/03/2012
N J Campbell-White	05/03/2012
Rt Hon John Redwood MP	13/03/2012
Daniel Zini	15/03/2012
Anna Lu	23/03/2012

Annex B

Name / Organisation	Date
Mark Cupit - Wokingham Borough Council (WBC) / Head of Development Management	05/04/2012
Jonathan Steele – Savills / Appellant's agent	04/05/2012
Paul Gallagher – Chairman of Emmbrook Residents Association	04/05/2012
Mark Cupit - Wokingham Borough Council (WBC) / Head of Development Management	17/05/2012

Richborough Estates

Annex C

1. The development hereby permitted shall be carried out in accordance with the details shown on the following submitted plans:

Component Plan	PLAN002	A1001.1	F	February 2011
Overall Site Layout Plan	PLAN004 A	A-1006	N	November 2011
Overall Site Layout Plan	PLAN004 B	A-1007	H	February 2011
Overall Site Layout Plan	PLAN004 C	A-1008	J	February 2011
Overall Site Layout Plan	PLAN004 D	A-1005	S	February 2011
Parking Plan	PLAN004 E	A-1102	J	November 2011
Site Access – Keephatch Road	PLAN005	1955/SK/020	H	March 2011
Site Access Warren House Road Junction 1	PLAN006	1955/SK/019	K	March 2011
Site Access Warren House Road Junction 1 (Initial)	PLAN006 A	1955/SK/018	G	March 2011
Site Access Warren House Road 2	PLAN007	1955/SK/097	A	March 2011
SANG Car Park Plan	PLAN008	1955/SK/095	H	November 2011
Utilities Plan & Sewage Pumping Station	PLAN010	1955/UD/001	C	March 2011
Landform Plan (SANG & Noise Attenuation)	PLAN014	PLAN014	001	March 2011
SANG Detailed Layout and Arrangement	PLAN016	PLAN016	001	March 2011

Reserved Matters and Implementation

2. Details of the appearance, landscaping and scale (hereafter 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.

Reason: In pursuance of s.92 of the Town and Country Planning Act 1990 (as amended by s.51 of the Planning and Compulsory Purchase Act 2004).

3. The first reserved matters application shall be made within three years from the date of this permission and all remaining reserved matters applications for

this development shall be made within five years from the date of this permission.

Reason: By virtue of Sections 91 to 95 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. No development shall be commenced until a strategy for the sub phasing of the development based on the submitted drawing PLAN 009 A-1103 rev B ('the Sub - Phasing Strategy') has been submitted to and approved in writing by the Local Planning Authority. The Sub - Phasing Strategy will define timescales and triggers for commencement of each sub - phase of the development, the arrangements to prevent interruption of delivery across sub - phase boundaries, and details of the coordination of infrastructure and housing delivery within each sub phase. Any variations to the Sub - Phasing Strategy must be approved in writing by the Local Planning Authority.

Thereafter the development shall be implemented in accordance with the Sub Phasing Strategy.

Reason: To ensure the proper and comprehensive planning of the site within the wider North Wokingham Strategic Development Location, to ensure the timely delivery of facilities and services and to protect the amenity of the area in accordance with Wokingham Borough Core Strategy Policies CP2, CP3, CP4, CP5, CP6, CP17 and CP20 and the North Wokingham Strategic Development Location Supplementary Planning Document (October 2011).

5. The development phases, as identified within the Sub - Phasing Strategy to be approved under condition 4, shall begin no later than two years from the date of the approval of the last of the reserved matters for that sub-phase.

Reason: By virtue of Sections 91 to 95 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Lighting

6. Before the commencement of the development, a strategy including details of implementation for lighting for all principle highways, cycleways and public/other footpaths shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved Strategy prior to the relevant highways / cycleway and public/other footpaths being brought into use.

Reason: To ensure the proper planning of the development as required by Core Strategy policies CP1, CP3 and CP20

Waste Management

7. Before the commencement of the development a Waste Management Strategy based on the principles outlined by the submitted Kentwood Farm

Waste Implementation Plan (SLR Ref. 404.00404.00037 – March 2010) 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 implemented in accordance with the timescales set out in the approved Strategy.

Reason: To ensure sustainable development in operation as required by Core Strategy policy CP1

Design Codes

8. As part of the first reserved matters application, a detailed design code for the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed design code shall demonstrate how the objectives of the DAS will be met. No more than 100 of the dwellings hereby permitted shall be occupied until a review of the approved design code has been submitted to and approved in writing by the Local Planning Authority to take account of changing circumstances and technologies. The development hereby permitted shall be carried out in accordance with the approved design code. The design code shall include the following:

- sustainable design and construction, in order to achieve a minimum Code for Sustainable Homes Level 3 (or other such equivalent sustainability standard as may be agreed in writing by the Local Planning Authority) for residential buildings;
- measures which show how energy efficiency is being addressed to reflect policy and climate change, and show the on-site measures to be taken to produce at least 10% of the total energy requirements of the development hereby permitted by means of renewable energy sources;
- built-form strategies to include density, height and massing, and active frontages, type and form of buildings including relationship to plot and landmarks and vistas;
- design of the public realm, including layout and design of squares, areas of public open space, areas for play and allotments including any structures;
- open space needs including sustainable urban drainage;
- conservation of flora and fauna interests;
- provision to be made for art;
- surface materials (quality, colour and texture) proposed for all footways, cycle ways, bridleways, roads, car parks and vehicular accesses to and within the site (where relevant) and individual properties;
- cycle parking and storage;
- means to discourage casual parking and to encourage parking only in designated spaces;
- provision to be made for domestic refuse and recycling facilities.

Reason: To secure the good design of the development and to be in accordance with CP17, CP20 and the North Wokingham Strategic Development Location Supplementary Planning Document (October 2011).

Construction management

9. Before the development hereby permitted is commenced a Construction Management Plan (drafted with regard to the submitted Site Waste Management Plan SLR Ref 404.0404.00037 – March 2011) shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved construction management plan. The Construction 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) details of proposed means of dust suppression and noise mitigation;
- j) details of measures to prevent mud from vehicles leaving the site during construction;
- k) haul routes for construction traffic on the highway network; and
- l) monitoring and review mechanisms.

10. No works in respect of the construction of the development hereby permitted and no deliveries to the site during construction shall be undertaken at the following times:

- Outside the hours of 0800 - 1800 on Mondays to Fridays (inclusive);
- Outside the hours of 0800 - 1300 on Saturdays;
- On Sundays and on public holidays.

Reason: To protect occupants of nearby dwellings from noise and disturbance outside the permitted hours during the construction period in accordance with Core Strategy Policy CP3 and to accord with the submitted Environmental Statement.

Affordable Housing provision

11. No development in relation to the dwellings shall begin until a scheme for the provision of affordable housing across the whole site has been submitted to and approved 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 B of PPS3 or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 35% of housing units;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v. the occupancy criteria to be used for determining the identity of the occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To comply with Core Strategy policy CP5.

Landscape, Ecology and Open Space Strategy

11. Before the development hereby permitted is commenced a Landscape, Ecology and Open Space Strategy (covering a period of 20 years or until completion of the development hereby permitted, whichever is the later), in respect of all the land within the red line, shall have been submitted to and approved in writing by the Local Planning Authority. The Strategy shall comply with details submitted as part of the application (reference O/2011/0699). The development shall be carried out in accordance with the approved Landscape, Ecology and Open Space Strategy. The Landscape, Ecology and Open Space Strategy shall include:

- a) a detailed specification for the laying out of the SANG and the adjacent informal open space in accordance with the submitted plan (PLAN016 rev 001 – March 2011)
- b) a programme for implementation;
- c) long-term management responsibilities and proposals (5, 10 and 15 years) including budgetary costings for all landscaping works within each Sub Phase, method statements and programmes of work;
- d) ecological management plan (to include guidance for habitat creation, enhancement or restoration including a description and evaluation of proposals; to demonstrate accordance with the Environmental Statement); and;
- e) annual maintenance schedules for the SANG, all hard and soft landscape areas and open spaces (other than privately owned domestic gardens), and any associated features.

Reason: To assimilate the development into its surroundings, and to protect the biodiversity resource of the area in accordance with Core Strategy Policy CP3 and CP20, Wokingham District Local Plan saved policies WLL4, WBE4, WBE5 and the recommendations in section 12.5.12 of the Environmental Statement.

Tree protection

12. No development shall commence without first having submitted for approval to and had approved in writing by the Local Planning Authority a method statement for the protection of trees, hedgerows shrubs to BS5837:2005 and water features (including but not limited to ponds) within that sub-phase of development, based on the Arboricultural Survey submitted (ref 404-00404-00037, March 2011). The statement will cover matters relating to the protection of retained trees and hedgerows, and remedial works that shall be in accordance with BS 3998/1989. Any works within the root protection areas of trees or hedgerows to be retained shall be monitored in accordance with the protective measures specified, by an appropriately qualified arboricultural consultant to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development. Provision shall be made for the reporting of continued compliance or any departure there from to the Local Planning Authority. The relevant phase of development shall then be implemented and maintained in accordance with the approved method statement.

Reason: To assimilate the development into its surroundings, and to protect the biodiversity resource of the area in accordance with Core Strategy Policy CP3; Wokingham District Local Plan (WDLP) saved policies WLL4, WBE4, WBE5.

13. No sub - phase of development shall commence until a detailed scheme of landscaping and external works for that phase of development have been submitted for approval in writing by the Local Planning Authority. The scheme shall thereafter accord with the approved scheme of landscaping. The details shall be provided on drawings to a scale of 1:1250 and 1:500 and shall include:

- a) existing trees, hedgerows, orchard, grassland and other landscape features to be retained, restored or reinforced;
- b) schedules of proposed trees and plants, location, species, sizes, numbers and densities;
- c) details of construction methods in the vicinity of retained trees and details of pit design for tree planting within streets or areas of hard landscaping.
- d) existing and proposed levels comprising spot heights, gradients and contours, grading, ground modelling, and earth works;
- e) details including locations and specifications and product literature relating to materials for pedestrian and vehicular areas, artefacts and street furniture including signs, seats, bollards, cycle racks, bus shelters, lighting columns; planters, refuse bins, play areas and equipment;
- f) existing and proposed services above and below ground;
- g) boundary treatments and means of enclosure with particulars of height, materials, brick bonds and fencing styles; The particular phase of development shall then be implemented in strict accordance with the approved scheme.

Reason: To help assimilate the development into its surroundings, protect existing features and enable high quality design, in accordance with Core

Strategy Policy CP3; Wokingham District Local Plan (WDLP) saved policies WLL4, WBE4 and WBE5.

14. Any trees, shrubs or grass areas that are planted or retained as part of the development that die, become seriously damaged or destroyed within 5 years from completion of the relevant sub-phase of development shall be replaced with a specimen of the same species and of a similar size (in which case the five year period shall recommence for that particular plant) at the earliest appropriate planting season. The particulars (including species and location) of the replacement trees, shrubs or grass areas shall be submitted to the Local Planning Authority for written approval prior to planting.

Reason: To help integrate the development into its surroundings and enable high quality design in accordance with Core Strategy Policy CP3; Wokingham District Local Plan (WDLP) saved policies WLL4, WBE4

Noise

15. The noise bund and fence shall be completed in accordance with the approved specification and details set out on PLAN014 Rev 001 prior to completion of the SANG and/or before any dwelling affected by NEC B hereby approved is occupied (Plans ref 10.4 Day-Time PPG24 NEC Contour Plot – Completed Development & 10.5 Night-time PPG24 Contour Plot - Completed Development as provided in Vol 1 of the submitted Environmental Statement). The approved scheme shall be retained and maintained thereafter in accordance with the approved details.

Reason: To protect the amenity of the area and to ensure that premises are protected from noise nuisance and disturbance in accordance with South East Plan Policy NRM11 and Wokingham Borough Core Strategy Policy CP3 and the recommendations in section 10.6, notably 10.6.10 to 10.6.13 and Tables 10.17/10.18 of the Environmental Statement.

16. The approved dwellings shall be designed and/or insulated so as to provide attenuation against externally generated noise in accordance with a mitigation scheme to be submitted to and approved in writing by the Local Planning Authority, such scheme to ensure that all noise implications, but specifically including future potential noise implications of the Full Northern Relief Road (FNRR) within the site and noise from the A329(M) are mitigated so that internal ambient noise levels for dwellings shall not exceed 35 dB LAeq (16 hour) 07:00-23:00 during the daytime and 30 dB LAeq (8 hour) 23:00-07:00 during the night assuming full FNRR traffic flows at the outset. The design and/or insulation measures to be identified in the scheme shall ensure that ambient internal noise levels for the dwellings meet the BS8233/1999 design range 'good' for living accommodation. Prior to occupation the approved mitigation measures shall be implemented and retained thereafter.

Reason: To protect the amenity of the area and to ensure that premises are protected from noise nuisance and disturbance including for the future potential route of the Full Northern Relief Road, in accordance with South

East Plan Policy NRM11 and Wokingham Borough Core Strategy Policy CP3 and the recommendations in Table 10.18 of the Environmental Statement

17. Details of the technical specifications of the sub stations, and gas governor (as shown on submitted PLAN010 rev C), to include a noise assessment and mitigation report identifying attenuation measures to ensure that these buildings are 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.

Reason: To protect the amenity of the area and to ensure that the development is not unneighbourly in accordance with South East Plan Policy NRM10 and Wokingham Borough Core Strategy Policy CP3.

Contamination

18. No development of each sub-phase shall commence until the following measures (a-c) to investigate site contamination within each sub-phase have first been carried out. Each stage is to be approved in writing by the Local Planning Authority and shall be in accordance with BS10175 and BS5930. The stages comprise:

- a) a desk study including a walkover, identification of all potential sources of contamination and an initial conceptual model (as included in the submitted ES (see Phase 1 & 2 Geotechnical Site Investigation Report, November 2009 Ref: 403.0404.00028 as included in the submitted Environmental Statement Vol 2)
- b) an intrusive site investigation using a refined conceptual model and appropriate laboratory accreditation in the event that potential contamination is found; and
- c) a remediation scheme in the event that levels of unacceptable contamination are identified.

Reason: To ensure safe occupation and use of the site and to prevent pollution of the environment in accordance with Policies CP1 and CP3 of the Core Strategy.

19. Where levels of unacceptable contamination are present, no development shall be occupied within a sub phase until all the measures for that sub phase identified in the remediation scheme approved under Condition 18 have been completed. The approved measures shall be retained and maintained thereafter.

Reason: To ensure safe occupation and use of the site in accordance with Wokingham Borough Core Strategy Policy CP1 and CP3.

Archaeology

20. No development of any sub-phase shall take place within the site, including any works of demolition or ground preparation until the archaeological programme as outlined by the Archaeological Written Scheme of Investigation (ref. 403.00404.00028 – May 2011) have been completed, the findings of which submitted in writing to the Local Planning Authority.

Reason: As the site is potentially of archaeological importance and to safeguard the identification and recording of features of historic and/or archaeological interest associated with the site and in accordance with Wokingham Borough Core Strategy Policy CP3 and Wokingham District Local Plan saved Policies WHE10 and WHE12 and the recommendations in sections 14.6.1 to 14.6.4 of the Environmental Statement.

Drainage and flooding

21. The development hereby permitted shall not be carried out otherwise than in accordance with the submitted Flood Risk Assessment (See 11.2 of Vol 2 of the submitted Environmental Statement)

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

22. No development shall commence until full details of the surface and foul water drainage scheme for the development 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 subsequently be implemented in accordance with the approved details before the development is complete. The scheme shall include:

- Demonstration that SUDs have been considered for the site and the SUDs hierarchy has been clearly followed

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1 and in accordance with the recommendations in sections 11.6.8 to 11.6.22 of the Environmental Statement.

23. Prior to commencement of development details of the measurements of the flows of watercourses in and around the site and monitoring of groundwater levels shall be submitted for approval in writing by the Local Planning Authority. The measurements and monitoring shall be continued thereafter and carried out in accordance with the approved details and reports to be submitted annually to the Local Planning Authority until all the surface water drainage on the site has been implemented.

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1 and in accordance with the recommendations in section 11.6.7 of the Environmental Statement.

24. No development approved by this planning permission shall take place until detailed plans and specifications for culverts, water crossings and their clear span nature shown within the site plans have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

25. No development of any dwellings approved by this planning permission shall take place until a buffer zone scheme alongside the Ashridge Stream has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone
- details of the planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

26. Prior to the commencement of development, a working method statement and detailed design to cover all channel and bank works on the Ashridge Stream shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason: In accordance with Wokingham Borough Core Strategy Policy CP7.

Sustainable Drainage

27. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version) and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from

- the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) include a timetable for its implementation;
 - c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime; and
 - d) include detailed designs for any wetland features on the site (e.g. ponds, swales and balancing features).

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

28. No soakaways shall be constructed more than 2 metres below existing ground level and shall not penetrate the water table or be constructed through contaminated material.

Reason: To prevent pollution of groundwater in accordance with Wokingham Borough Core Strategy Policy CP1.

Access and Movement

29. No road or footway shall be constructed as part of the development that is to be public highway without first having entered into an agreement with the Local Highway Authority pursuant to section 38 and/or section 278 of the Highways Act 1980 in respect of that road or footway.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1 and CP6.

30. Details of any construction access(es) to be provided shall be submitted to, and approved by the Local Planning Authority, prior to commencement of development.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1 and CP6.

31. The implementation of the permanent access from Warren House Road (given by submitted plan ref PLAN006A1955/SK/019 rev K) shall be undertaken prior to the commencement of any development at phase 2 of Kentwood Farm as indicated by the blue line on PLAN001, A-1002, rev D February 2011. On construction of the permanent access details shall be submitted to the Local Planning Authority to include arrangements for the provision and implementation of an alternative access to the SANG car park and the maintenance of the access to the pumping station. Works to form the alternative access to the SANG car park and the maintenance of the access to the pumping station shall be undertaken at the same time as the permanent access is implemented and all works shall be retained thereafter.

Reason: In the interests of coordinated planning and phasing of the development.

32. The means of access shall be formed between the site and the highway in accordance with the submitted detailed access design (including but not limited to construction drainage and vision splay).

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1 and CP6.

33. No residential accommodation shall be occupied within a sub phase of development until all links to existing on and off site infrastructure estate roads and footpaths within that phase have been constructed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1, CP4 and CP6.

34. No residential unit shall be occupied within a sub phase of Development until the relevant vehicular accesses, driveways, parking and turning areas serving that residential unit have been constructed in accordance with details hereby approved

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policy CP6.

35. No more than 100 dwellings in the development hereby approved shall be occupied until a scheme for the implementation of the following junctions has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out pursuant to a S.278 and/or S.38 agreement under the Highways Act (1980), and shall be undertaken no later than the occupation of the 250th dwelling or implementation of the commencement of development at phase 2 of Kentwood Farm as indicated by the blue line on submitted plan ref. PLAN001, A-1002, rev D February 2011 or any phase of residential development at 'Matthewsgreen' (Area B as defined by Figure 3.1 of the NWSDL Supplementary Planning Document, October 2011), whichever is sooner.

The submitted details shall demonstrate how the potential upgrades to the following junctions shall be implemented:

- Junction 2: A329 London Road / Binfield Road
- Junction 3: Warren House Road / Wiltshire Road / Bell Foundry Lane
- Junction 5: A329 Reading Road / Old Forest Road
- Junction 8: A329 Reading Road / Holt Lane
- Junction 9: Milton Road / Jubilee Avenue / Twyford Road
- Junction 15: Matthewsgreen Road / A321 Twyford Road/ A321 Milton Road
- Junction 24: Forest Road / Twyford Road
- Junction 25: Forest Road / Warren House Road

The off-site works shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policy CP6.

Richborough Estates

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Report to the Secretary of State for Communities and Local Government

by Wendy J Burden BA DipTP MRTPI

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

Date: 1 March 2012

Town and Country Planning Act 1990

Appeal by Crest Nicholson Operations Ltd

Wokingham Borough Council

Richborough Estates

Inquiry held on 29 November - 2 December; 6-9, 13,14 December 2011;

Land at Kentwood Farm, Warren House Road, Wokingham RG40 5QA

File Ref(s): APP/X0360/A/11/2157754

CONTENTS

Section

- 1 Preliminary Matters**
- 2 The Site and Surroundings**
- 3 Planning Policy Background**
- 4 The Appeal Proposals**
- 5 The Case for Wokingham Borough Council**
- 6 The Case for Crest Nicholson Operations Ltd**
- 7 Written Representations**
- 8 Conditions and Obligations**
- 9 Inspector's Conclusions**
- 10 Summary of Conclusions**
- 11 Recommendation**

Annex

- A Conditions**
- B Documents**
- C Glossary**

File Ref: APP/X0360/A/11/2157754

Land at Kentwood Farm, Warren House Road, Wokingham RG40 5QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Crest Nicholson Operations Ltd against Wokingham Borough Council.
- The application Ref 0/2011/0699 is dated 28 03 2011.
- The development proposed is:
 - A) an outline planning application for development of 274 dwellings garages driveways carports (total 608 parking spaces) internal roads pathways, sub-stations, gas governor, the construction of a new access from Keephatch Road and two new access points from Warren House Road with associated amenity space incorporating allotments (Matters for approval: Access and Layout)
 - B) a full planning application for:
 - i) the laying out of an area of Public Open Space (informal) and a Suitable Alternative Natural Green Space (SANG) on land west of Warren House Road (to serve the proposed Phase 1 and future development at Kentwood Farm) including a car park (6 spaces) pathways, associated landscaping and pathway features.
 - ii) The construction of a 3.5 metre landform and 2.5 metre fence for a distance of 405 metres on the west side of Warren House Road and 635 metres on the east side of Warren House Road parallel with the A329 (M).
 - iii) The erection of a sewage pumping station with interim access from the present access from Warren House Road.

Summary of Recommendation: that the appeal be allowed and planning permission be granted.

1. Preliminary Matters

- 1.1 The application as submitted is partly in outline and partly a full application, as set out above in the description of the proposal. That part of the application which is in outline includes matters of access and layout for approval at this stage. The application has been subject to some minor amendments, and all the plans submitted with the application, including those which have been amended, are listed in the Drawing Register¹. Statements of Common Ground (SoCG) have been produced on Planning, Highways and Education. The application is subject to a bilateral agreement under s106 which governs the provision of the SANG, and a Unilateral Undertaking (UU) which makes provision for infrastructure associated with the development. I return to the detail of these documents later in my report.
- 1.2 Wokingham Borough Council (WBC) was due to determine the application by mid July (16 weeks from submission), but failed to do so. The appeal was registered on the 22 August 2011, and WBC identified its putative reasons for refusal of the application on the 21 September 2011. At that stage, 18 reasons for refusal were identified, and these are set out in the Statement of Common Ground dated 10 October 2011² (SoCG). Following amendments and clarification to the application deemed reasons for refusal relating to refuse

¹ CNO 10.10

² CD 9.1

vehicles (No14), servicing/car parking (No16)³ and in relation to allotments only (No18) have been overcome.

- 1.3 The site is within 7 km of the Thames Basin Heath Special Protection Area (TBHSPA) which is protected under the Conservation of Habitats and Species Regulations 2010. For development in excess of 50 dwellings, a bespoke provision to avoid and mitigate any significant harmful impact on the TBHSPA is required. Provision is made through the S106 Agreement for the provision of a SANG and contributions for strategic monitoring. As a result Natural England has withdrawn its objection to the development⁴, and deemed reason for refusal No 7 is met. A condition has been agreed which would meet deemed reason for refusal No 8 relating to car parking for the SANG, and contributions identified in deemed reason for refusal No10 are no longer sought. Reasons for refusal Nos 17 relating to affordable housing, and 12, in relation to local highways only, would be met through conditions.
- 1.4 The appeal was recovered by the Secretary of State for his own determination because it "involves proposals for residential development of over 150 units --- which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities." I held a Pre Inquiry Meeting on 12 October 2011 at Wokingham. At that meeting I identified the matters likely to be the main issues for discussion at the Inquiry. Through the changes made to the proposal and agreed with WBC up to and during the Inquiry, a number of those issues have been resolved. The following main issues remain in dispute:
- i) the extent to which the proposal accords with the policies of Regional Strategy, the Wokingham Borough Core Strategy, the adopted North Wokingham Strategic Development Location SPD and Infrastructure Delivery and Contributions SPD in terms of: a comprehensive developer and landowner infrastructure delivery and funding mechanism;
 - ii) whether an overarching infrastructure application for the whole SDL is necessary;
 - iii) whether adequate financial contributions are proposed for the provision of a primary school, formal open space, and community centre;
 - iv) whether the s106 Unilateral Undertaking makes adequate provision for the payment of the Strategic Transport contributions; for Compulsory Purchase Order costs in the sustainable transport contribution, and for the definition of substantial highways improvement works; whether the Travel Plan is adequate; and whether there is adequate provision for Public Transport.
- 1.5 In relation to the Community Centre, the Council presented no evidence in its witnesses' proofs or whilst those witnesses were presenting the Council's case at the Inquiry. However, after it had completed its case, the Council sought to produce a document to be used in cross examination of the appellant's witness. The appellant had not had any opportunity to consider the document or to ask questions of the relevant Council witness. The Inquiry Procedure Rules provide

³ WBC/10 paras 1.3-1.10

⁴ CD10.9

a timetable for the submission of evidence prior to the opening of an Inquiry. The late introduction of evidence is not in accordance with those Rules and therefore I asked the Council to withdraw the document.

- 1.6 An Environmental Statement (ES) was submitted with the planning application. Although the Council did not require further information under the Environmental Impact Regulations 1999 at the time when the planning application was before it for consideration, a request was made to the Secretary of State to require further information under Regulation 19 relating to the impact of the appeal scheme, in particular the off site highways works, on the wider area⁵.
- 1.7 However, it was concluded that the ES contains the level of information referred to in Part II of Schedule 4 of the Regulations, and that it has identified the main likely significant impacts of the proposal within its particular location in accordance with Part I of Schedule 4⁶. As a result the ES was found to meet the basic requirements of the 1999 Regulations.
- 1.8 Having now heard the cases of the parties at the Inquiry, I find that the ES, together with the environmental information which was included with the planning application meets the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and permits a full understanding of the likely environmental impacts of the proposed development.
- 1.9 In reporting the cases for the parties I have generally adopted the closing submissions given at the Inquiry.

2. The Site and its Surroundings

A full description of the site and its surroundings is set out in the Planning SoCG⁷

- 2.1 The appeal site extends to approximately 19.1 ha and is collectively known as Kentwood Farm. It is located to the east and west of Warren House Road, south of the A329(M), and is presently in agricultural use. The site is located approximately 1.5 km from the town centre of Wokingham. The site includes a former garden/orchard west of Keeper's Cottage that now consists predominantly of grassland with a number of fruit trees present. The land is generally level and there are no public footpaths that cross the appeal site.
- 2.2 The curtilage of Keepers Cottage is not within the appeal site but is bounded by it. Keepers Cottage is listed (Grade II) as a 16th century house within a garden defined on four sides by trees and hedges. The wider setting for Keepers Cottage is presently within an agricultural landscape to East and West, with Kentwood Farm Industrial Estate to the north and housing developments to the south. No issue is raised by the Council as to the effect of the development on the setting of the Cottage, which is considered in the ES⁸. Existing hedgerows that screen the listed building from the east, north and west would be retained, and the drive south of the Cottage which provides the only public view, would

⁵ CD10.6

⁶ CD10.7

⁷ CD9.1

⁸ CD6.3 Section 14

be retained in the scheme design. As a result I am content that there would be no significant impact on the setting of the Cottage itself.

3. Planning Policy Background

- 3.1 At the time of drafting this report, the Regional Strategy for the South East (RS) remains part of the development plan. The relevant policies of the Regional Strategy are identified in the SoCG. It is intended that the RS is to be revoked and therefore it may no longer form part of the development plan when the Secretary of State makes his decision. The level of growth in housing provision in Wokingham and the need for the necessary infrastructure to meet and service that growth are established in the Regional Strategy Policy CC7. However, the provisions of Policy CC7 have been carried forward into the recently adopted Wokingham Borough Core Strategy January 2010. As a result they will remain an integral part of development plan policy whether or not the RS remains in effect.
- 3.2 The Adopted Wokingham Borough Core Strategy January 2010 identifies the appeal site as being part of the North Wokingham Strategic Development Location (NWSDL), specifically for housing. The NWSDL seeks to deliver about 1500 new dwellings in the area between 2006 and 2026 along with associated infrastructure and uses. The Core Strategy identifies four such SDLs which in combination will provide the majority of the housing to be delivered within the borough to 2026. The four SDLs provide approximately 10,000 dwellings, 75.58% of the total level of housing to be provided within the Borough to 2026 (13,230 dwellings). The Kentwood Farm application would provide 274 dwellings and would therefore contribute 1.8% to the total provision of housing whilst the overall NWSDL would contribute about 10% towards overall provision for the Borough to 2026.
- 3.3 The SoCG identifies the relevant policies of the Core Strategy. In particular Policy CP4 requires that appropriate arrangements be made for the improvement or provision of infrastructure, services, community and other facilities required for the development before planning permission is granted. Policy CP20 sets out the requirements for the NWSDL, and paragraph A7.30 sets out the concept rationale for the NWSDL. Policy CP20 states that the development of the NWSDL will be guided by a Development Brief Supplementary Planning Document produced with the involvement of stakeholders including all interested landowners in the area.
- 3.4 Saved policies of the Wokingham Borough Local Plan deal with trees and landscape, wildlife corridors, archaeology and real time public transport.
- 3.5 The Council has adopted Supplementary Planning Documents which include the NWSDL SPD (October 2010), Infrastructure (October 2010), Sustainable Design and Construction (May 2010) and Wokingham Borough Design Guide (2010). The NWSDL SPD and Infrastructure Delivery and Contributions (IDC) SPD have been reviewed and the new amended versions have been adopted (October 2011). These are up-to-date and take precedence over the October 2010 versions. However the level of weight to be attributed to the IDC SPD is a matter of dispute.

3.6 In the NWSDL SPD⁹ Figure 3.1 is a "Preferred Spatial Framework Plan" which identifies two areas suitable for residential development. Crest Nicholson Operations Ltd is a member of an informal group known as the North Wokingham Consortium (NWC) which includes Bovis Homes and Gleeson Developments Ltd. Land at Kentwood Farm, the eastern area identified for residential development, is in the control of the appellant, whereas Bovis and Gleeson each control land at Matthewsgreen, which is the western area for residential development. The area of land which separates the two development areas is shown as potential Green Open Space and location for SANG. The Plan shows a route for a Northern Relief Road¹⁰ (NRR) which runs through the NWSDL from the west to the east.

4. The Appeal Proposals

- 4.1 The new development would be accessed from proposed new roundabouts off Keephatch Road and Warren House Road. The junction from Warren House Road would be phased with construction initially forming a T-Junction to maintain the present access to the West into a Suitable Area of Natural Green Space (SANG) Car Park and Recycling Centre. The SANG car park is likely to be superseded in the future by a later NWSDL phase, however for the purposes of the appeal proposal and the s106 legal agreement the SANG car park is effectively permanent.
- 4.2 Inherent to the proposals is a section of, together with potential to link further onto, the possible future Full Northern Relief Road (FNRR). A section of the NRR is proposed through the appeal site to the boundary with Pebblestone Cottage, and areas of land are reserved to enable the future implementation of the FNRR to the east and west of the appeal site if required in the future¹¹.
- 4.3 The proposals include the laying out of a SANG to the West of Warren House Road, in accordance with the requirements of Natural England (NE). They also include the erection of a bund and fence along the northern boundary of the site to act as noise attenuation from the A329 (M) and the erection of a sewage pumping station on the western boundary of the site.
- 4.4 A total of 274 dwellings at a density of 30 dwellings per hectare is proposed. 35% of the housing would be affordable, and the proposed mix and broad distribution has been agreed with the Wokingham Borough Council. The proposal would be Phase 1 of the NWSDL which is intended to provide a total of 1500 dwellings by 2026.
- 4.5 The appellant has produced, in consultation with the remaining NWC developers, an Infrastructure Delivery Plan (IDP)¹² which aims to provide a high level phasing strategy to demonstrate how infrastructure can be implemented to meet the requirements of the Core Strategy, as outlined in Appendix 7¹³ and supplemented by the Council's IDC and NWSDL SPDs. It is intended to provide the means by which the infrastructure, including the NRR, which is identified in

⁹ CD1.6

¹⁰ Also referred to as the Northern Relief Road - NRR

¹¹ See Appendix 8 Drwg no 1955/SK/123 rev A: Full Northern Relief Road Dedication Areas

¹² CNO/14

¹³ CD1.2 A7.30-A7.41

the Core Strategy and subsequently carried forward in the Council's SPDs, will be delivered for the whole of the NWSDL if Kentwood Farm gains planning permission separately from Matthewsgreen. The IDP identifies all of the infrastructure to be delivered across the NWSDL, and apportioned the costs of that infrastructure between the different phases of the NWSDL.

5. The Case for Wokingham Borough Council

The need for a comprehensive approach to the development of the NWSDL

- 5.1 As one of four Strategic Development Locations identified within Core Strategy¹⁴ Policy CP17, the NWSDL is intended to provide around 1500 dwellings within the plan period. The co-ordinated and managed implementation and delivery of the housing and related social and physical infrastructure is regarded by the Council as of fundamental importance to the successful accommodation of planned growth across the Borough. In the Core Strategy, Policy CP3 sets out the general principles for development including the need for development proposals to demonstrate compliance with the criteria where required through Masterplans, Development Briefs, Concept Statements and Design Codes. Crucially, Core Strategy CP4 provides that permission will not be granted unless appropriate arrangements for the provision of infrastructure, taking account of the cumulative impact of schemes, are agreed.
- 5.2 This policy requirement is regarded by the Council as having even greater force within the four SDLs as a result of the scale of development associated with each, and the consequent environmental and cumulative infrastructure demands which need to be met in order to avoid unacceptable impacts and conditions to the existing local communities and environment. Paragraph 4.25 of the Core Strategy advises that development proposals will not be allowed where the necessary infrastructure required by the scheme is either not available or will not be delivered in line with the phased approach identified for the development concerned, including those in a masterplan or development brief.
- 5.3 The IDC SPD¹⁵ anticipates that within each SDL, an overarching infrastructure planning application or other relevant mechanism, such as an overarching Infrastructure Delivery Plan (IDP) or equalisation agreement, would be submitted in advance of the determination of any planning applications for the residential development itself. The intention is to establish land owner and developer commitment to a comprehensive and deliverable pattern of infrastructure provision together with all associated funding in advance of the receipt or determination of individual planning applications. The Council would expect any overarching IDP or other mechanism to secure the same overall coordinated approach as would a planning application covering the whole SDL supported by an enforceable s106 obligation. If no such application is available then all planning applications should be accompanied by another relevant mechanism which covers the whole SDL and for individual s106 agreements to

¹⁴ CD1.2

¹⁵ CD1.7

reflect this approach. Thus all the landowners and developers would need to be contractually bound to the IDP.

- 5.4 In the absence of any overarching comprehensive or legally binding commitment to an infrastructure delivery mechanism which extends to cover the whole of NWSDL, supporting infrastructure, services and facilities would not be properly planned on a comprehensive basis. In the appeal case the IDP¹⁶ produced by the appellant does not constitute a comprehensive funding package associated with a comprehensively designed and costed IDP for the whole SDL to which the principal land owners and developers are committed. Thus there is the risk that an incremental release of land for residential development would lead to unacceptable consequences, poor environmental conditions, inadequate coordination and provision of social and physical infrastructure, and a stalling of the SDL's delivery.
- 5.5 The appellant's IDP is associated with a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (UU). However this is inadequate in that there is no committed or legally binding coordination with the phased release of infrastructure funding from the other principal land owners and developers within the SDL. Those other landowners and developers are not bound by the terms and conditions of the UU, and funding shortfalls could lead to viability issues and inadequate delivery of the necessary infrastructure. The Council is not in a position to provide "gap funding" and has been previously assured by the consortium, that the proposals and the funding of all necessary social and physical infrastructure was in principle financially viable.

Matters no longer at issue

- 5.6 The list of putative reasons for refusal identified by the Council reflects the issues which arise from the inadequate provision for comprehensive infrastructure to serve the SDL as a whole. Nevertheless, a number of the deemed reasons for refusal have been overcome as a result of amendments and clarification to the application both before and during the inquiry. Deemed reasons for refusal nos 14, 16, and 18 have been overcome. In addition, the provision of SANG, as secured in the bilateral agreement, now meets the requirements of Natural England, such that deemed reason for refusal no 7 has been overcome. With regard to affordable housing, deemed reason for refusal number 17 is also met since the appellant has accepted a condition to control the provision of a scheme of affordable housing at a level of not less than 35% as set out in WBC/9.
- 5.7 In terms of the local transport network, agreement has been reached that the impact of the proposals in the context of the whole NWSDL could be dealt with via Grampian conditions so that part of deemed reason for refusal no 12 is largely overcome. The only matter at issue is the question of appropriate triggers. At this stage, the appellant has not produced all the necessary assessments and schemes for the eight junctions which would be affected in order to properly identify the triggers which should be used for the improvements to be carried out¹⁷. The Council has therefore put forward its preferred condition as an alternative to that proposed by the appellants.

¹⁶ CNO/14

¹⁷ This will be addressed in the section relating to conditions.

5.8 Illustrative drawings have been produced of some of the 8 junction improvements, but having regard to their locations and scale, the Council raises no issue in terms of the assessment in the ES of the environmental impacts of the junction improvements. The Council's principal concern has always been the failure of the ES to consider the impacts of the NWSDL beyond the red line of the appeal site and in particular the impact of the widening of Warren House Road to accommodate a link for the relief road (NDR) between the two neighbourhoods of Kentwood and Matthewsgreen. Although the effect of additional traffic in terms of air quality may be dealt with through a condition, the issue of noise remains a concern. If the developers of other parts of the SDL take the same approach as the appellants, the existing residents could find a significant increase in traffic noise which has not been assessed in ES terms.

The s106 Unilateral Undertaking (UU)

5.9 The appellant's UU is deficient insofar as it fails to include appropriate arrangements relating to the remaining dwellings to come forward in the NWSDL. To get it wrong in the first application to come forward within the SDL ultimately risks the ability of the Council to deliver the improvements to the strategic road network required by CP20(7) and CP10(17). These failures to comply with the infrastructure requirements of the Core Strategy are fundamental. At the Core Strategy examination the Inspector supported the SDL strategy on the basis that it would deliver the necessary infrastructure¹⁸. Furthermore there is an absence of any binding arrangements tying in other landowners and consortia members to the appellant's IDP transport improvements.

i) The Northern Relief Road, or Northern Distributor Road

5.10 With regard to the impact on strategic networks, Policy CP20(7) specifically requires improvements to transport capacity along the A321 and A329 including the provision of a new route from the A329 (near the M4 over-bridge) to the vicinity of Coppid Beech roundabout. In terms of strategic transport provision, it is the future construction of the Full Northern Relief Road (FNRR) which continues to be of concern to the Council.

5.11 The Council does not dispute the appellant's estimates of the cost of the FNRR¹⁹. The Council anticipates the introduction of a CIL charging scheme by September 2013 with 4 charging schedules to cover the 4 SDLs. Provision for the FNRR would be made through a strategic transport charging schedule. The FNRR needs to be implemented by 2026 so it is not realistic by 2012 to be making applications for planning permission supported by an EIA which would also support a strategic transport CIL charging scheme. Accordingly the Council accepts that the appellant has done all it can in designing and costing the eastern part of the FNRR and the AI, and the Council has no alternative costs for the Secretary of State.

5.12 The unilateral undertaking includes obligations to pay contributions towards the costs of whichever strategic transport improvements are selected with regard to

¹⁸ CD1.3 para 4.6

¹⁹ Day 7 AM: Ms Cook set out the Council's position

a FNRR²⁰. Whilst the Council has no issue with the apportionment of the costs between developers, the mechanism for payment exposes the Council to the prospect of no contributions should the developer dispose of its interest in the land²¹ before the time has come for payment. The payments to be made in respect of "strategic highway improvement contribution" are substantial ranging from around £700,000 to £2,000,000. Thus there is an incentive for the developer to dispose of its interests as soon as possible and so avoid the contributions altogether. Thus the unilateral undertaking does not provide an appropriate arrangement to ensure that the appeal scheme complies with Policies CP4 and CP6 and CP20(7) as well as the relevant parts of the NWSDL and IDP SPD²².

ii) Travel Plan

5.13 No NWSDL wide objectives are set out in the Travel Plan. There is no consideration of how routes between the East and West of the NWSDL might be linked and delivered. The NWSDL SDP refers to 2 neighbourhoods²³ and it is important that the new neighbourhoods integrate with the existing community and with each other. At the Core Strategy examination the NWC gave evidence which made reference to bus priority measures and a potential bus link between the two putative neighbourhoods. There is no reference to this in the travel plan or in the public transport strategy. Even the previously promised car club has disappeared. It is important to set all the right objectives across the whole of the NWSDL at the outset otherwise there is no coordination. Such an approach is also consistent with the Guidance on Transport Assessment²⁴ and the DfT/DCLG Good Practice Guidelines²⁵. A framework travel plan should be required to be submitted by condition so that these deficiencies can be addressed at the outset and deemed reason for refusal number 11 can then be overcome.

iii) Public Transport

5.14 In spite of the explicit advice in the NWSDL SPD for early engagement with bus operators there has been no discussions with them by the appellant. Whilst the Council do not take issue with the information regarding bus patronage the developer should be the one who takes the risk in the event that these figures are not achieved so that there can be some assurance that the service at the frequency agreed will be secured. The S106 wholly fails to do this, and the appellant fails to recognise that the Council is not responsible for providing bus services. Furthermore the public transport strategy fails to even include an agreed timetable for the new service with agreed bus stops. It allows the developer to simply run a minibus to and from Wokingham station. Thus the

²⁰ WBC/10/2 states at 1.20 that "on the basis of traffic grounds alone, WBC is minded to prefer the Full NNR over the Ashridge Interchange" (and Partial NNR)

²¹ By sale of the built houses, transfer of SANG and Open space to the west of Warren House Road, adoption of highways and transfer of the rest to an Estate Management Company probably in the control of the residents.

²² See WBC18 for full list of Infrastructure requirements.

²³ CD1.6 eg p41 para 2a(i)

²⁴ CD2.17 para 4.82

²⁵ CD 2.18 para 2.13

strategy fails to establish a co-ordinated approach to public transport across the SDL.

Matters which remain in issue

i) The need for Co-ordination

- 5.15 The strategy for providing for 10,000 homes in four SDLs was designed "to enable the provision of fully funded social, environmental, and transport infrastructure, as the Council aspires"²⁶. The SDLs were regarded as self financing and the strategy to bring them forward was seen as consistent with Policy CP4. At the time of the examination into the Core Strategy in 2009, the three developers joined forces as the North Wokingham Consortium (NWC) to make joint representations to the examination inspector. The impression given was that a consortium of developers working together were in control of the land required to bring forward the NWSDL. In addition that the NWC would provide an outline application across the site. The NWC considered and confirmed the viability of the development at a level of 1500, 1700 and 2500 unit scenarios. The examination inspector had every reason to believe that development of the NWSDL would be brought forward in a coordinated manner.
- 5.16 It is against the background of the developers acting in concert that para A7.41 of the Core Strategy refers to "developers will be expected to enter into a legal agreement to ensure the provision of necessary infrastructure and facilitate facilities detailed in this statement in order to make the development acceptable". However in the context of promoting the Development Brief SPD and the Infrastructure Delivery SPD the Council discovered that individual developers were pressing ahead with individual sites within some SDLs outside the context or framework of an outline application based on a master plan. This approach was justified on behalf of all SDL consortia on the basis that "different landowners/companies are in varied positions to advance implementation".²⁷
- 5.17 in November 2010 the differing timescale point was re-stated on behalf of all SDL consortia together with the original observation that landowners had an expectation of a return they might achieve based on minimum land prices (most of the options contain them)²⁸. There is an inference that it is the differing expectations of landowners which lay behind the refusal to adopt a coordinated approach ultimately reflected in a legal mechanism which would tie all members of the NWC and their respective landowners together.
- 5.18 Although the appellant has produced its own Infrastructure Delivery Plan for the NWSDL, and the developers Bovis and Gleeson have indicated their agreement to the apportionment of costs between the members of the consortium²⁹, that agreement is not binding on Bovis and Gleeson in the future much less anyone else who might step into their option interests in due course. Furthermore given the clear warning about differing timescales and landowner expectations, even

²⁶ CD1.3 para 4.6

²⁷ WBC4/3 Letter from Barton Willmore on behalf of the SDL Consortia Group to Mark Cuppit 7 July 2010

²⁸ WBC4/3 Letter from Barton Willmore on behalf of the SDL Consortia Group 30 November 2010

²⁹ CD10.8

though the representatives of developers at present indicate their agreement to infrastructure apportionment and costs, there is no guarantee that this agreement extends to those landowners who have optioned parts of their land to the developers. It is the Council's view that the need for coordination should be reflected in a comprehensive developer and landowner infrastructure delivery and funding mechanism before any planning permission is granted.

- 5.19 Policy CP20 designates an area identified at North Wokingham for residentially led mixed use development and broadly identifies the infrastructure improvements required to support the SDL. The policy itself clarifies that the development will be guided by a Development Brief SPD and that a co-ordinated approach to development will be required to deliver the necessary infrastructure, facilities and services to meet the needs of the extended community. There is nothing to indicate that the consortia at the Core Strategy examination objected to the requirement for a coordinated approach.
- 5.20 In order to comply with the need for coordination the necessary infrastructure needs to be identified at the outset and the timing of when and who will deliver that necessary infrastructure needs also to be agreed between the landowners and consortia so far as is possible at this stage.
- 5.21 Policy CP20 provides a starting point as to the specific infrastructure requirements and Appendix 7 gives additional guidance on development of the SDL. Paragraph 3.19 of the Core Strategy refers to amplification in Development Brief SPD and associated master plan. However, it cannot override the basic policy requirements of the Core Strategy itself including but not necessarily limited to CP4 and CP20; the latter of which crucially calls for coordination to deliver the necessary infrastructure. In this case development is proposed in a piecemeal fashion, with the appeal site representing a small proportion of the overall NWSDL.
- 5.22 Section D of the Development Brief SPD explicitly states that if there is not to be an overarching infrastructure planning application then the Council will seek an overarching IDP³⁰. The IDP must be for the wider SDL and section 106 agreements must reflect this approach. The IDP should address SDL-wide needs including primary routes, utilities, strategic flood prevention and protection measures and school sites, strategic public open space, SANG, sports and community buildings and neighbourhood centres. The requirement for a single overarching master plan for the entire SDL is not limited to cases where an overarching outline application is required.
- 5.23 The appellant's IDP is not based upon a consortium and landowner agreed SDL wide master plan of the necessary infrastructure. Such a master plan (even if it did not form the basis of a formal planning application) would evidence an agreed quantum of infrastructure, its location or disposition across the SDL and the timing or phasing of its delivery. Were such a plan to have formed the basis of an agreed IDP (that is, agreed by landowners and consortia members) supported by binding section 106 legal obligations or at the very least a proper collaboration agreement, tying the landowners and developers together, there would be much more confidence and certainty in such an IDP.

³⁰ CD1.6 p76

5.24 Policy CP4 explicitly states that planning permission will not be granted unless appropriate arrangements for the improvement or provision of infrastructure, taking account of the cumulative impact of schemes, are agreed. The proffered arrangements and the IDP put forward by the appellant are inadequate.

5.25 Whether or not the NWSDL SPD was originally conceived to incorporate a master plan and the SPD either is a master plan or it contains a master plan, that does not override the central issue which is the need for coordination in order to provide the foundation of good planning for the SDLs. Both the 2010 and 2011 Development Brief SPDs state that each document is a guide and has been prepared on the assumption that outline applications for the SDLs come forward. The 2011 SPD envisages that the outline applications will be accompanied by a "single overarching master plan"³¹. Such language is entirely consistent with the anticipation that an outline application would come forward on the whole of the NWSDL. It is clear from Figure 3.1 and the language on the key that the Spatial Framework Plan is not a master plan in itself. Furthermore the SPD would not state that "a single overarching master plan for the entire SDL is required" if the Council considered the SPD to be just that.

ii) Inadequate provision of infrastructure

5.26 Policy CP20 refers to social and physical infrastructure, including provision for one new primary school if required, and in Appendix 7³² the provision of one new primary school (2 form entry) is listed as one of the matters to be included in a planning obligation. However, in the appellant's IDP³³, the provision of a primary school is to be made as part of the Matthewsgreen phase of the SDL, with no contribution made towards its cost by the developers of Kentwood Farm.

5.27 The appellant has been in communication with an education officer within WBC and as a result agreement was reached to keep open the available capacity at the All Saints school which lies to the south of the Kentwood site. As a result the appellant argues that as the first phase in the NWSDL, it can rely on that spare capacity and there is no requirement for it to contribute to the primary school identified in Appendix A to the Core Strategy.

5.28 Such an approach would be a clear breach of paragraph 22 of Circular 05/05. The first to develop within the NWSDL should not be permitted to soak up spare primary school capacity and then avoid making a financial contribution to support the infrastructure requirements of the whole development. Furthermore the local school that presently has sufficient capacity would not be the nearest primary school to the development. However the critical point is the compliance with policies which requires appropriate arrangements to be put in place now for a development which the consortia acknowledged to the examination inspector would require a two form entry primary school.

5.29 It is acknowledged by the appellant that they cannot and do not enjoy any right over present school capacity. The SoCG on Education agrees that there is some capacity in the local primary school, but suggests there may be a mismatch

³¹ CD1.6 para 6.1.3

³² CD1.2 Para A7.41

³³ CNO/14 Appendix 2 A2

between the age of pupils and the space in each year group. It is stated that it might be useful that some developer funding is set aside to future proof against future capacity issues arising from later phases. With such a statement the Council considers that there should be some formula based approach to assessing primary school contributions which would ensure an appropriate arrangement in the event that no capacity does exist and more spaces have to be provided. Indeed, other developers could come forward at Matthewsgreen and build out schemes in advance of the Crest scheme and they might then claim any spare capacity for themselves.

- 5.30 There is no evidence that the landowners on the Matthewsgreen land would be prepared to pay any more than a proportionate contribution to primary school provision. The apportionment of costs is not properly co-ordinated if developer A will not make primary school contributions because more is being spent per house on transport, since the landowner and developer B only has to pay for directly related contributions. Furthermore the balance of the 1500 homes that will be outstanding after the construction of the 274 in the appeal scheme would require more than a one form entry primary school. The £3.5 million identified in the IDP will therefore not be enough. In any event there is no certainty that these contributions would be paid by the developers of Matthewsgreen without an argument as to the viability of the scheme which may then result in a reduction in the proportion of affordable housing. A properly coordinated approach would provide the answer to this question at the outset.
- 5.31 Another area in which a coordinated approach is not demonstrated concerns open space. The Development Brief SPD³⁴ requires public open space to be provided in accordance with Appendix 4 of the Core Strategy, which identifies Open Space Standards. The precise location of playing pitches or fields is not specified in the SPD. Figure 4.1 identifies suitable locations for multifunctional green open space as well as identifying Cantley Recreation Ground as an existing formal open space to be retained and enhanced. The reference to "and enhanced" is further qualified by the advice that there is scope for some of the open space requirement to be met through the enhancement of Cantley Recreation Ground. It is not suggested that all the playing field/pitch provision can or is required to be met in this way. Clearly if the Development Brief SPD is to be taken as "the master plan" or even "a master plan" one would expect the location of the land to accommodate the necessary playing pitches to be identified in the SPD.
- 5.32 The recognition in NWC's representations on the draft 2011 NWSDL development brief SPD further demonstrates that NWC acknowledge that the consortium could yet come forward with further detailed master planning to demonstrate that more than 1500 dwellings could be provided across the SDL³⁵. In the absence of any formal linkage such as a collaboration agreement, there is no assurance that the three members of the consortium will act as a delivery vehicle to secure comprehensive development of 1500 units. Furthermore the evidence suggests they have differing options with differing timescales. They have not produced a master plan showing where, when, and the extent of the necessary playing pitch provision for the whole SDL, or how it will be provided

³⁴ CD1.6

³⁵ WBC17 Savill's email and letter 27 July 2011

and secured in a coordinated manner. If they had been acting in a coordinated way there is no reason why they could not have agreed that they would all contribute proportionately to providing playing pitches outside the development areas and land interests so as to provide a further concentration of provision in one central location.

- 5.33 The Council provides guidance on the triggers and contributions required to mitigate the impact of planning proposals in the Borough through the issue of a planning advice note (PAN). However, the PAN explicitly states³⁶ that development in the four SDLs will be mitigated as set out in Appendix 7 of the Core Strategy, and that it will not be mitigated through piecemeal financial contributions fixed by reference to the PAN. Since the level of the contribution to open space provision put forward by the appellant in the s106 UU is derived from the PAN, it does not comply with Policy CP20 and Appendix 7 of the Core Strategy.
- 5.34 The costs for playing pitches in the PAN are expressly stated to exclude any land costs. There is no indication that Crest or the other landowners or consortia holding interests over their land will provide pitches on their land. It is inevitable that pitch provision is contemplated on third-party land but no allowance has been made in the IDP contribution towards the cost of third-party land. The SDL boundary was fixed sufficiently widely so as to ensure that the playing pitches could actually be provided within the SDL. In these circumstances the failure of the consortia to cooperate so as to commission a scheme which could be agreed by all three members and the necessary landowners is in conflict with the policy imperative for coordination. The Council have commissioned a study of the Cantley Recreation Ground to provide an assessment of the required public open space and sports provision for the NWSDL and the ability of Cantley Park to deliver these requirements. However, this does not absolve the appellant, who seeks an early piecemeal permission, from securing a co-ordinated approach to delivery of the provision across the NWSDL as a whole.
- 5.35 Until the study is complete and there is agreement between the consortia developers and landowners which option should be delivered and how, there can be no compliance with the development plan and the provision of playing pitches. It is not clear why the consortia have failed to grapple with this issue. It is easy to complain of the Council's failure to commission a study earlier but that is to disregard the expectation that the consortium would sort these matters out in an outline application supported by a master plan. Developers negotiate the acquisition of land to deliver housing schemes routinely. They can commission the design of improved and new open space easily. Moreover at no time has the NWC written to the Council formally asking the Council to commission such a study. Nor does it seem to have occurred to the consortium that they could have assisted the process by for example forward funding the cost of the design work.
- 5.36 Whatever the rights and wrongs of the present situation it is important and in the public interest to ensure that future residents do not find themselves living in an environment with inadequate playing pitch provision. Not only is this

³⁶ CD1.10: Approach to Planning Obligations 3 page 2.

contrary to the Core Strategy policies but also the Government's commitment to encouraging the population to exercise more to improve overall health. An inadequate contribution now will not just adversely affect those living in 274 dwellings over the lifetime of the development, but also those who will come to live in the rest of the development since developers of subsequent phases cannot reasonably be expected to make up shortfalls created by inadequate contributions paid with Phase 1. These are significant disadvantages which benefit only Crest and the landowners of Phase 1.

5.37 The appellant's offer may be more than the PAN guidance requires for playing pitches alone, since sums have been added in which are attributable to sports hall provision and swimming pool provision. If all three developers make a proportionate contribution the total sum of £1.3 million would be provided, and the appellant's evidence attempts to demonstrate what that sum could provide³⁷. However, the figure of £271,000 which the appellant would provide falls well short of Sport England's cheapest synthetic turf hockey pitch at £640,000 or football pitch at £730,000.

5.38 The appellant describes the contribution as compliant with CIL Regulation 122³⁸. However the actual contribution secured in the UU obligation is not compliant with Core Strategy Appendix 4 and the quite specific standard set for playing pitches³⁹. Furthermore in the absence of any binding legal commitment from the other landowners or developers, the Council cannot assume that the balance of the £1.3 million will be paid let alone when. As a result there is a very real and substantial risk that whatever the cost of any enhanced and extended Recreation Ground to cater for the NWSDL, if Phase 1 proceeds, there will be a shortfall even if the Council is able to collect contributions in due course based on the commissioned work and land acquisition costs. It is most unlikely that those developers seeking to build out the remaining houses would be prepared to pay larger contributions as a result of a failure to collect adequate contributions from those coming forward on Phase 1 land.

5.39 Thus not only is the adequacy of the contribution plainly wanting, but there are no satisfactory arrangements to actually secure an enhanced and extended Recreation Ground. Accordingly the appeal proposals fail to demonstrate compliance with CP4, CP20, NWSDL SPD and the IDC SPD.

Overall Planning Balance

5.40 There is no dispute that there is currently only a four year housing land supply and that paragraph 71 of PPS three is engaged. Given that the appellant chose not to make a full application on a site designated in the Core Strategy there will be a time lag before houses can be constructed. There will be a delay until a decision is known and then a design code will have to inform reserved matters applications. Thereafter there will need to be substantial earthmoving works to create the bunds and the SANG needs all to be laid out before first occupation of any dwelling. Thus even if Crest develop out at 50 units each year for each outlet it is not possible for all the 274 units to be built out in the five-year period.

³⁷ CNO/15 para 4.11 and Appendix 4

³⁸ CD2.15

³⁹ Appendix 4 requires Playing Pitches to be provided on the basis of 1.67ha/1000 pop

5.41 Refusing planning permission until WBC have an agreed and costed Open Space strategy with the landowners and consortium which would be consulted on would not result in that much further delay but would crucially ensure proper arrangements for Open Space. In the meantime the consortium could work out the phasing of the necessary infrastructure and properly design and assess the 8 junction improvements to inform a fresh application as opposed to discharging conditions. Refusing this appeal would only delay the start of development for some 18 months but crucially it would ensure that adequate infrastructure is provided throughout the lifetime of the development, and that the Core Strategy policies are complied with.

6. The Case for Crest Nicholson Operations Ltd

Introduction

- 6.1 The appellant is a member of an informal group known as the North Wokingham Consortium (NWC). This group includes Bovis Homes and Gleeson Development Ltd who control land within the NWSDL at Matthewsgreen. The NWC was formed to promote the site for development and consequently to assist the Council with the production of the Core Strategy. The NWC jointly commissioned consultants to produce the evidence base for the Core Strategy and subsequently the Infrastructure Delivery Plan (IDP). The appellant commissioned the planning application which is subject to this appeal, the application being the only presently live development proposal pending consideration within the NWSDL. The NWC has prepared joint documentation to support the phased delivery of the constituent parts of the NWSDL in the form of an Infrastructure Delivery Plan⁴⁰ and Bovis and Gleeson have provided written support for the proposals⁴¹.
- 6.2 Wokingham depends upon the delivery of its four SDLs to meet its need to grow sustainably. There is no alternative plan. Without the development of the SDLs the Council does not have a sustainable housing policy. This means that real families in housing need, families for which the planning system should be catering, would be left in housing need. The housing market in the area would be distorted by severe absence of supply and the local authority would be failing to meet one of its primary statutory duties. This is not how localism is meant to work.
- 6.3 The Core Strategy Inspector was expecting housing starts in the SDLs in 2011 to 12. However that has not happened and the Council does not have a five-year land supply⁴². It relies for the supply that it has on the SDL land which is not coming forward. Without the delivery of the SDLs, the Council has just over one year of deliverable housing land. The main reason for this impasse can be traced to an inappropriate and evermore unrealistic interpretation which the Council has placed upon the provisions of the Core Strategy.
- 6.4 The aim of the Core Strategy was to achieve a coordinated approach to the provision of infrastructure across the SDLs. This appropriate land-use planning aim has become an absolute requirement for a mechanism whereby any developer is required to establish a legally binding framework amongst all

⁴⁰ CNO/14

⁴¹ CD10.8

⁴² CNO/2 Section 6

landowners with "all associated funding" for all infrastructure committed "in advance of the receipt or determination of individual planning applications"⁴³. Furthermore in cases where road infrastructure might be required, a full application for transport infrastructure now appears to be a requirement for the positive determination of any planning application.

- 6.5 There is nothing in the statutory development plan nor in any SPD when properly read to support this approach. Neither is there any support for such an approach in central government advice. An approach which requires all funding to be secured prior to the submission of a planning application or as a pre-requisite to any positive determination will hinder the release of the SDL in a coordinated manner and will mean that the much-needed development will proceed at the pace of the slowest or not at all.
- 6.6 This was not how it was meant to be. The Core Strategy on its face committed the Borough Council to take a much more appropriate and proactive role in coordinating delivery of infrastructure. In setting out the provisions to be made prior to the grant of planning permission for the development of the SDL, the Core Strategy lists the steps to be taken. These include the adoption of a Development Brief SPD (incorporating a master plan) for each SDL, based on the Concept Statements at Appendix 7 of the Core Strategy, and an Infrastructure Delivery SPD incorporating a roof levy for the 4 SDLs⁴⁴. The adoption of a roof levy would ensure that individual developments as they came forward would make a fair, reasonable and proportionate contribution to Infrastructure needs.
- 6.7 The Council's failure to provide an element of leadership in the creation of a Circular 05/05 roof levy, is the root cause for the delay in the development of the SDLs. This failure can be explained by the failure to grapple with the strategic transport requirements associated with the NWSDL. The uncertainty as to the requirements for a NRR, and its subsequent costs, appears to have prevented the Council from the production of a roof levy with the appropriate degree of flexibility built within it. Indeed the Council claims that it should not have the role of banker or facilitator which it would need to adopt if it was to pursue the implementation of a roof levy.
- 6.8 The appeal would be Phase 1 of the NWSDL and there would be at least two further separate planning applications for Kentwood Farm west and for land at Matthewsgreen. It now falls to the Secretary of State to consider whether in terms of the development plan and other material considerations, a sufficiently coordinated approach to the development of land in the NWSDL has been taken by this application.
- 6.9 From a proper reading of the Core Strategy, it is clear that the overriding aim of a policy of coordination should be to ensure that development:
- i) is consistent with the land-use provisions of the policy for the SDL, its key aims and objectives;
 - ii) does not, with its necessary and directly related mitigation, cause unacceptable harm in its own right; and

⁴³ WBC/2 para 3.68

⁴⁴ CD1.2 para 3.19

iii) makes an appropriate and proportionate contribution to the infrastructure needs created cumulatively by the wider development of the SDL.

6.10 The appeal proposal meets all of these tests. The proposal meets the requirements of Core Strategy policy without causing unacceptable harm. It makes a reasonable and proportionate contribution to infrastructure needs, consistent with the costings set out in the IDC SPD, through the mechanism of the appellant's Infrastructure Delivery Plan (IDP) which has been drafted with and agreed by the other North Wokingham Consortium (NWC) members⁴⁵.

6.11 If the Core Strategy had reasoned that a single overarching outline planning application for infrastructure made by a consortium of landowners bound contractually to each other with all associated funding secured was necessary, it would have said so. It did not and for good reason. This is particularly the case in the circumstances of the NWSDL where the Council despite telling the Inspector at the Examination that it would press on with traffic modelling to establish what the appropriate approach to strategic transport infrastructure might be has still to decide which of three infrastructure options for the SDL is to be preferred.

6.12 In these circumstances the appellant has taken an approach which allows for any of the three identified potential outcomes of the strategic transportation debate to emerge and to make a reasonable and proportionate contribution to whichever option is chosen. The application also provides for all of the other potential cumulative impacts of the SDL as a whole to be met in a proportionate and fair way. There should now be no impediment to the grant of planning permission based on the absence of coordination.

The proposal is consistent with the approach to development of the SDL contained in the Core Strategy

6.13 There are three elements of the Core Strategy which apply to the development of the NWSDL. First, paragraph 3.19 sets out a series of conditions which should be met before a planning permission pursuant to an application or applications can be granted. None of these conditions requires an overarching outline planning application or a legally bound consortium which can guarantee fully funded infrastructure before any permission can be given.

6.14 The preconditions include an infrastructure SPD incorporating a roof levy of the type which is referred to in Annex B of Circular 5/05. That type of levy seeks to ensure that the cumulative impact of development is anticipated in advance and that contributions are sought by developments as they occur. This ensures that each development makes a coordinated contribution to the meeting of the needs of the area to be developed. Clearly a development which achieves the same broad aim of the levy would not fall foul of the aim or objective of this element of the Core Strategy. In the absence of the adoption of a suitable mechanism by the Council to secure proportionate contributions from the developers of the NWSDL, the appellant in association with its two partners in the consortium (the NWC) have sought to construct a realistic, reasonable and robust costing of the contributions required to fund the necessary and directly

⁴⁵ CD10.8

relevant infrastructure needs of the SDL as a whole. The costs are then apportioned between the members of the NWC⁴⁶.

- 6.15 Paragraph 3.19 also requires a Development Brief SPD based on the principles set out in Appendix 7 to be in place. The NWSDL SPD clearly provides such a document, although the Council now appears to be indicating that the planning system should await yet another layer of master planning before development can take place. The appellant asserts that this document must be the master plan assumed by paragraph 3.19 and required by section 4 of PPS 12. There is no other way that the key disposition of uses and other elements of the strategic allocation could have been refined down in a document owned by the planning system. Prior to October 2011 everybody was working on the basis that the NWSDL SPD (universally called the Masterplan SPD by all, from the Core Strategy Inspector, to the Councillor introducing the document, to the case officer in his report to committee) was in fact the Masterplan. It was the realisation that if this document was in fact the Masterplan, then the putative reasons for refusal 1 to 6 which alleged lack of coordination were actually unarguable, that resulted in a swift about turn on this issue.
- 6.16 In any event whatever it is called the existing SPD gives more than adequate assistance when read with Appendix 7 of the Core Strategy. There is no real allegation of substantial as opposed to procedural harm made by the Council. There is therefore no need, particularly in the absence of housing land supply, for a further layer of master planning. Furthermore the Secretary of State is unlikely, given his clear policy and emerging policy pronouncements, to have much time for an argument based on an alleged prematurity to a further master plan exercise.
- 6.17 The other two elements which apply are Policy CP20 and Appendix 7 which set the main policy framework for the appeal proposal. The proposal in land use terms and in its location is entirely in accord with the terms and provisions of the CP20 policy and its Appendix. The level of consistency with these provisions is significant given the scale of the proposed development:
- The provision of housing is stated to be "phased" in terms of delivery. The reason for this is set out in paragraph 4.88 of the Core Strategy. It is to ensure that "sufficient market demand is available".
 - This is a realistic and usual approach to development particularly where other large housing developments in close proximity are being developed. The appeal scheme would be Phase 1 of the NWSDL.
 - It is inconceivable in these circumstances, where phasing depends upon "sufficient market demand", that there was an anticipation that developers would be required to secure funding for all phases of development infrastructure before a single house was built or granted permission.
 - The provision is also consistent with the likelihood of a series of consecutive and separate though coordinated applications.
 - Policy CP20 requires improvements to transport capacity including a new route from the A329 to the vicinity of Coppid Beach Roundabout. The nature of the

⁴⁶ CNO/14 Appendix 2

new route has to be understood by reference to Appendix 7 which says that this requirement could be met by a variety of measures and that developers would be required to fund the provision of "necessary and directly related parts of a new route".

- If there was a requirement for the whole of the route to be funded prior to a single house being built, it is inconceivable that this wording would have been used. What is anticipated is the funding of the necessary and related part as understood now and a proportionate contribution to the balance if and when it can be shown to be necessary in the future.
 - Policy CP 20 also requires a coordinated approach to the development of the SDL to deliver the necessary infrastructure facilities and services to meet the needs of the expanded community. This is the single most critical provision in the Development Plan. It requires a coordinated approach from both developers and the local planning authority.
 - The very concept of coordination envisages the likelihood of more than one application for development coming forward. What is required in such circumstances is a "harmonious interaction" between applications where each provides a reasonable, fair and proportionate contribution to the needs created by both.
 - The planning system is now well used to dealing with such a requirement. There is no suggestion at all in the requirement for a co-ordinated approach that there needs to be a comprehensive overarching fully funded infrastructure requirement in place before any single application can be considered.
 - It is clear that the Core Strategy and the Core Strategy Inspector did not contemplate such a requirement, they were working on a form of roof tax and separate planning applications.
- 6.18 The application achieves coordination through the appellant's IDP. That identifies the cumulative infrastructure needed by reference to the Core Strategy⁴⁷ and provides for a fair, reasonable and proportionate contribution to that requirement consistent with the provisions in the SPD. As a result this is a plan led development where developers have engaged in every aspect of the planned process. They have now produced an application which is in significant and powerful accord with the provisions of the Plan.

If the proposal is compliant with the key elements of the relevant Core Strategy policies, planning permission should be granted unless material considerations indicate otherwise

- 6.19 The approach by the Council to this application has been such that participants to the inquiry would have been forgiven for forgetting the fact that it was dealing with an application for development consistent with the local planning authority's own recent allocation in the Core Strategy. For example the Council would not respond to requests from the appellant for feedback on the calculation of costs, but then challenged the detailed costings for the Full Northern Relief Road (FNRR) on the first day of the inquiry without any notice or alternative evidence. It then abandoned that challenge in week two. It also

⁴⁷ CNO2.3 provides a comparison of the IDP with Core Strategy A7.41

refused with no apparent reason to meet the appellant to discuss a way forward with the authority in relation to open space contributions in the absence of the Cantley Park Masterplan. These are hardly the actions of a local authority keen to give the impression that it wishes to secure early delivery of its own allocated housing sites.

- 6.20 The existing presumption in favour of development which accords with the development plan should be sufficient to warrant the grant of permission in this case by itself. However added to this is the absence of a five-year housing land supply which gives rise to the need to give favourable consideration to housing applications. Furthermore by the time the Inspector's recommendation sits with the Secretary of State, there is every likelihood that the NPPF will be fully in force. If the presumption in favour of sustainable development remains in the framework (and there is every indication that it will) such a presumption will significantly bolster and reinforce the conclusion which should be reached in any event on any rational view of the evidence in the pre-NPPF world.
- 6.21 The SDLs and this one in particular, are identified as the most sustainable locations for development in Wokingham. They are the housing sites which the NPPF is designed to free from the delay of the planning system. Finally the government has made its position clear that development which encourages economic growth in these difficult times is to be encouraged. Planning for Growth is extant guidance now. It is a material consideration of considerable weight.

Wokingham Borough Council has a significant 5 year housing land supply deficit

- 6.22 It is common ground that Wokingham Borough Council has a significant five-year housing land supply shortfall. If the Council continues to insist on an all encompassing delivery mechanism for the SDLs the position will be much worse than currently identified. This is because even the present deficit seeks to rely on significant delivery from the SDL sites including the appeal site, and these sites should be making contributions to the five-year land supply by now⁴⁸. Thus the provisions of PPS3 requiring decision makers to consider housing applications favourably are engaged in this case.
- 6.23 In the event of a favourable decision in 2012, and taking into account the need for the approval of reserved matters applications and earthworks and other engineering works to be implemented before development can commence, the delivery of homes would commence in 2013, with the entire proposal built out in the period to 2017⁴⁹.

Given the compliance of the proposal with the provisions of the Core Strategy and the absence of a five-year land supply, only the most cogent and overwhelming objection should result in a refusal of this outline application for the development of 274 much needed homes

- 6.24 Whilst the Council has produced no allegation of harm, there has been the suggestion that an absence of master planning might result in an uncoordinated approach to the provision of services such as in relation to foul water. However

⁴⁸ CD1.2 Appendix 6

⁴⁹ CNO/2 para 6.9 and CNO/8 para 8.2

there has been a thorough and co-ordinated consideration of all service provision. The capacity of the SDL to accept in excess of 2000 units in the two neighbourhoods has been thoroughly explored, checked with the service providers and costed. The costings relevant to the 1500 units appear in the appellant's IDP⁵⁰ and have been agreed with the developers of the subsequent phases of development⁵¹.

The absence of an overarching outline application for infrastructure and/or a fully funded legal commitment to such infrastructure now is not a cogent and overwhelming objection.

- 6.25 The requirement for an overarching and binding mechanism before any planning permissions might be granted does not derive from the Development Plan. It is said to derive from the IDC SPD⁵². However on an examination of that document there is no such requirement contained within it.
- 6.26 Para 1.3 of the IDC SPD makes it clear that it does not "contain any new requirements other than those already laid down in policies CP18-21". Para 6.4 provides that the Council seeks "either an overarching planning application or other relevant mechanism such as an overarching Infrastructure Delivery Plan. The best way of achieving delivery is through a legally constituted consortia able to show all of the required infrastructure." Nothing in this passage or the rest of the document requires a section 106 agreement which secures funding for all the infrastructure before a single application can be considered.
- 6.27 The "other relevant mechanism" referred to is not prescribed. It is for the decision maker to judge its appropriateness in the circumstances of the objectives of the policy and the facts as they exist at each application. The phrase was added at the request of the Government Office who perhaps saw the need for further flexibility in the approach of the local planning authority if delivery was ever going to be achieved.
- 6.28 However the Council has failed to adopt this flexibility and its witness asserts that the requirement for a full application for transport infrastructure for the whole SDL is an essential precondition of any application. There is no such requirement which can be found in either the Development Plan nor the SPD. Neither is there a requirement to create a legally constituted consortium. There is an expression that this might be the best way and even that was slipped in under the radar without meaningful consultation. But even this last-minute addition recognises there may be other ways of achieving a coordinated approach.
- 6.29 In the appeal case, an IDP⁵³ has been constructed and agreed with the other consortium members who control 98% of the balance of housing development in the SDL. It seeks to apportion fairly and proportionately the infrastructure costs which arise as a result of the development and has been produced as a result of the failure of the Council to follow its own Core Strategy and take ownership of a tariff system for the SDL.

⁵⁰ CNO/14 section 4

⁵¹ CD10.8

⁵² CD1.7

⁵³ CNO/14

- 6.30 What is important in this approach is the fairness and reasonableness of the apportionment and not whether the parties were actually legally bound to each other. The IDP ensures that the development will meet all the relevant provisions of the Core Strategy; cause no harm when the necessary and directly related mitigation is in place; and will contribute to the wider infrastructure needs that will arise as other phases of the development occur by providing now for the reasonable fair and proportionate provision of infrastructure cost.
- 6.31 The costs of the infrastructure arising from the development of all of the remaining phases of Kentwood and Matthewsgreen have been carefully and robustly assessed. They have been shared with the local planning authority at the earliest opportunity to ensure transparency and accuracy. Overall the costings are consistent in general terms with those contained in the IDC SPD⁵⁴ and with the level of roof levy, at some £30,600⁵⁵, which the Core Strategy Inspector found consistent with viable delivery of the NWSDL. Based on the figures for which provision is made in the s106 UU, which includes the FNNR, the average cost per dwelling is £31,700.
- 6.32 Clearly the appellant's approach provides "another relevant mechanism" consistent with the aim and objective of the Core Strategy which is a coordinated approach to the provision of infrastructure within the SDL. However the Council criticise this approach and allege that it has failed on four counts.
- i) Failure to provide certainty of delivery as a matter of law.
 - ii) Failure to establish that this phase or subsequent phases were viable.
 - iii) Failure to get other landowners/developers to sign up to section 106 now.
 - iv) Failure to get the quantum of the contribution correct.
- 6.33 Taking each of these criticisms in turn.
- i) *The search for certainty*
- 6.34 "The search for a perceived perfection is the enemy of progress". Renzo Piano's words often ring true. The search for certainty of provision of all phases of the SDL and the legal certainty of funding of all of its infrastructure in advance of the grant of even one housing development is a test too high. It is not justified by any planning policy and is particularly in the circumstances of the present case, doomed to fail. The adopted Core Strategy envisaged that the Council should take a positive, leadership role in delivering the SDL. It would put in place a funding mechanism which would ensure fairness while limiting the prospect of failure of future delivery. The nature and extent of the roof levy approach was explained to the Inspector at the Core Strategy examinations. He clearly thought it a sensible and sound approach.
- 6.35 The roof levy approach would not as a matter of law have provided certainty either that subsequent phases of development would come forward nor that they would bring with them sufficient contributions to infrastructure. Certainly the roof levy approach did not require the various landowners to all be

⁵⁴ CD1.7 p58: Table 3 sets out the Infrastructure Requirements for NWSDL

⁵⁵ The Consortium's indicative costings set out in CD4.37 p7 Table 2

contractually bound to each other. Neither did it require later potential contributors to sign up in some way to the contribution. Nevertheless on the evidence before the Core Strategy examinations, it was a sufficiently robust mechanism to mean that in the circumstances of this case, the strategic allocation should be made.

- 6.36 The Council now indicates that it will put in place a charging schedule pursuant to CIL. This approach would be consistent with the Core Strategy and has been a mechanism which the appellant has urged on the Council since 2009. But it is now many years away and housing delivery cannot wait for it. Furthermore it would not create the certainty in law which the Council craves. There is no guarantee that later phases will be delivered nor a requirement that the developers of such later phases sign up and be bound to the charges now.
- 6.37 The best that could be achieved in relation to any future CIL charging schedule is to secure on the evidence available at the time, that a fair, reasonable and equitable proportion of necessary and directly related contributions is made. In the present absence of a roof levy or a CIL charging schedule, the same logic applies and should apply to "another relevant mechanism". The best that the planning system can and should do is to ensure that on the evidence available to it now, future phases of development are not prejudiced by earlier phases paying less than their fair share of the cumulative infrastructure burden.
- 6.38 Such an approach does not give rise to a requirement for a test of legal certainty of delivery. It requires an assessment on the evidence of the real risk of non-coordination or non-delivery, and a balancing of any such risk against the consequences for the planning system of a refusal.
- 6.39 The appellant's IDP is supported by the consortium and is robust. If anything it significantly overplays the potential cost of infrastructure provision (even assuming FNRR). It is consistent with the viability appraisal undertaken at the Core Strategy examination, and is supported by the developers of the subsequent phases of development. The risks associated with it are on the evidence no worse than they were at the time of the strategic allocation. In these circumstances there is no justification for seeking a degree of legal certainty which in the present case can only cause harm through the delay of residential development.

ii) *Alleged failure to provide certainty as to viability*

- 6.40 The Council has not produced any evidence to demonstrate any doubt as to the viability of the development of this or any subsequent phase of the NWSDL. Indeed the evidence suggests that the issue of viability has not altered in essence since the matter was considered at the Core Strategy examination. There a PPS12 viability assessment established the soundness of the NWSDL as an infrastructure rich, viable and sustainable housing allocation.
- 6.41 Thus the appeal is proceeding on the basis of the full 35% affordable housing when the policy allows a reduction from this level if there are real concerns about viability. The infrastructure apportionment has been agreed to in terms of portion and actual cost by the developers of 98% of the balance of units to be

provided⁵⁶. There are no objections from Bellway homes which owns the option for the other 30 units on land near Plough Lane.

6.42 There is no suggestion from the relevant landowners that they will not allow their land to be brought forward having regard to the provisions of the IDP. The Kentwood farm owners are all signatories to the section 106 agreement and the appellant's unilateral undertaking.

6.43 If there were evidence of viability issues there is the very significant policy safety valve of a reduction in the level of affordable housing before any development (and associated infrastructure contribution) becomes non-deliverable⁵⁷.

iii) *Failure to get other landowners/developers to sign up to the section 106 now*

6.44 The application before the Secretary of State is for development at Kentwood Farm East only. That is the planning application which he has to determine on its merits having regard to the development plan and other material considerations. The issues raised by the development plan include the requirement for a coordinated approach and the issue of whether granting permission now will prejudice a coordinated approach to the balance of the SDL on the evidence available today. If the Secretary of State finds the apportionment mechanism in the IDP to be fair and proportionate in all circumstances, that will be a very weighty matter for the balance of the remaining SDL developers to address in the determination of their applications.

6.45 Nevertheless the determination of this case cannot bind in any legal sense the determination of the subsequent phases which must be determined on their merits on the basis of the facts known at that time. For the later phases the decision maker will need to consider each application "de novo". It is likely that the apportionment agreed as fair and reasonable at this stage will still represent an appropriate and fair response when the application for the next phase is submitted. But that does not absolve the Council from making a specific judgement as to what s106 contributions are appropriate at that time.

6.46 In making that judgement the fact that the IDP has been considered by the Secretary of State will be significant. In the event that overall the burden ascribed by the IDP to the later phases cannot be viably shouldered then the Core Strategy and the IDP allow for affordable housing to be reduced so that the houses might still sustainably be delivered in an infrastructure rich environment. This is a very powerful safety valve. As explained in evidence for the Matthewsgreen element of the proposal, a reduction of just 5% of affordable housing would produce about £6 million which could be applied to necessary infrastructure. There is no evidence that this flexibility would be required but it provides another layer of comfort for the Secretary of State.

⁵⁶ CD10.8

⁵⁷ Core Strategy Policy CP5 states that the minimum percentages of affordable housing (35% in the SDLs) are subject to viability. An open book appraisal of development finances is required where developers wish to make a provision below that in Policy CP5 on viability grounds.

6.47 In putting forward the benefit of having the developers of future phases sign up in relation to this application now, there was some reliance by the Council⁵⁸ on what has happened in relation to a large site in Didcot. However as is often the case, arguments based on a completely different context are never very persuasive. In this case the Didcot example should carry little weight for the following reasons. It involves a wholly different housing market and land ownership pattern; and it is based on a wholly different pre-PPS 12 development plan background and a site-specific policy which is entirely different to CP 20 in the present case. In any event it appears not to have worked since a small sites "emergency" allocation is now being made to meet a five-year land supply issue apparently caused by the difficulty in developing the larger sites⁵⁹.

iv) Concerns about Quantum of contribution

6.48 Information on the cost of different elements of infrastructure have been with the Council in largely their final form since at least August 2011. Many of the provisions of the IDP have been with the Council since the time of the previous planning application in 2010. There appear to be three costings which remain at issue. These are primary school provision; open space contribution; and community centre provision.

6.49 In relation to primary school provision the appellant was under the impression that there was no issue as to the appropriate provision of primary school places. Several SoCG have passed to and fro between the appellant and the relevant education officer at the Council where the only issue outstanding was the contribution towards Special Educational Needs (SEN). The agreed position reflected the spatial planning for the new SDL set out in Appendix 7 of the Core Strategy and the Masterplan SPD.

6.50 There was to be a two neighbourhood approach to development with Kentwood providing critical mass for the local centre and facilities in Norreys, while Matthewsgreen provided a new local centre to serve its new and existing community⁶⁰. The two neighbourhood proposition was reflected in the provision made for schools with Kentwood providing pupils to the undersubscribed All Saints school which is within easy walking distance of the Kentwood area.

6.51 That school was physically too big for its rolls and was due to close part of its site. At the instigation of the appellant and having regard to the contents of the Core Strategy, the governors and diocese decided to keep the classrooms open specifically to provide for the SDL. As a result Kentwood children would go to the All Saints school which had been specifically kept open for that purpose. Matthewsgreen children would go to a new school designed to meet the needs it created. However what was thought to be an agreement broke down just before the Inquiry opened, and the Council produced new evidence as to roll requirements and available space, which purports to show an overall excess of demand over supply in a hermetically sealed catchment of less than 2% by

⁵⁸ WBC/4 para 10.40 et seq;

⁵⁹ CNO/15 para 3.3

⁶⁰ CD/1.6 p28-29

2018⁶¹. The Council put the argument that this meant that the capacity specifically saved to deal with the SDL was no longer available and that there was therefore a need for Kentwood to contribute to the creation of a new school in Matthewsgreen.

- 6.52 This last-minute shift of position is supported by poor quality evidence. The figures relied upon do not form part of any audited assessment of supply and demand. They were produced on the witness's computer overnight and have not been the subject of any internal much less external assessment. The figures for rolls within Wokingham town centre will almost inevitably already include a significant number of households who are likely to live in the development. The suggestion that Kentwood's child yield would all be net new to the area is therefore not sound. Thus there is a substantial element of double counting in the figures.
- 6.53 Furthermore the hermetically sealed catchment chosen is inappropriate. It does not allow for outlying schools to make a contribution to the supply side. The calculations ignore over 500 net in migrants to the primary system from outside Wokingham which there is no statutory duty on Wokingham to educate. They are there now because of historical factors and because there is room for them. By 2018, they will have passed through the system, there is no need for their places to be re-provided for those outside the Borough, and the supply will to that extent also increase.
- 6.54 No allowance has been made for the grant available specifically to cater for background growth in education numbers which will be received by the local authority in the next 10 years or so. It is available specifically to build new classrooms and new schools and will be deployed where it is needed most. To fail to take this into account is to fail to have regard to a significant element of the supply and demand equation.
- 6.55 Finally, forward planning to 2018 is inherently unreliable. It is inappropriate to make important decisions in land use planning based on such imprecise evidence with such significant margins of error both ways. In terms of Secondary School places, the parties have agreed an entirely appropriate formula which considers whether there is capacity in schools by reference to the next three years. If it is not appropriate to look forward more than three years from the grant of permission in relation to Secondary Schools, it seems strange to adopt 2018 in terms of primary education.
- 6.56 As a result there is no identified need for the first phase of Kentwood to make a contribution to the provision of a primary school in Matthewsgreen. The developers of Matthewsgreen accept that it is for them to make that contribution and are prepared to provide a one form entry school which meets the needs of their development while providing serviced land for a two form entry as a form of future proofing⁶². The costing of the provision has been provided and is based on the provision for a primary school in Norwich which in turn has been audited and assessed and thereafter used nationwide with regional indices as appropriate⁶³. The evidence on costing was not challenged

⁶¹ WBC8/1 and 8/2

⁶² CNO/14 para 4.9-4.14

⁶³ Clyne EIC and xx

in cross-examination. Neither is the evidence of cost for the primary school challenged in any evidence presented to the Inquiry by the Council. The Council produced a late alternative costing which was put to the wrong witness in cross examination, but the source of that material was not identified nor was it presented by a Council witness so that it could be subject to cross-examination on behalf of the appellant. For that reason it should not be given any weight.

- 6.57 Nevertheless in overall terms the difference between Mr Clyne's cost and the unidentified author's costing are not so great so the evidence of Mr Clyne should be preferred. A fully costed provision, agreed by the developers of Matthewsgreen will be likely to serve the needs of the subsequent phases of the NWSDL. There is no need for the present appellant to contribute to that because sufficient capacity exists in its neighbourhood already. This solution is consistent with the provisions of the development plan and the requirements of Circular 05/05. Policy CP 20 makes it clear that a primary school is to be provided if necessary. This must be read as meaning if necessary and insofar as is necessary.
- 6.58 The appellant has established that there is no necessity for the developer of Kentwood to make provision for the children of Matthewsgreen. There is a sufficiency of school places to meet the anticipated demand and they only continue to exist because they were safeguarded for that purpose with the assistance of the appellant and the Council. In these circumstances Policy CP 20 places no requirement on the developer to contribute to a primary school at Matthewsgreen.
- 6.59 The proposal does not fall foul of the provision in Annex B of Circular 05/05 which states that earlier developments should not simply be able to claim the benefit of existing capacity which is jointly required by the new developments. Because of their geographical locations the Matthewsgreen development would never be likely to take up capacity at All Saints. That capacity is not required to meet the cumulative impacts of the SDL, but can be used to meet the needs of Kentwood, which would form an extension to the neighbourhood in which All Saints is located.
- 6.60 In relation to open space provision, the Council's case is weakened by the fact that it is unable to identify the appropriate contribution, but suggests the decision should await the determination of the Cantley Masterplan exercise and an associated planning application⁶⁴. That is not an appropriate approach for a local authority with a pressing 5 year land supply shortfall.
- 6.61 The Council accepts that the appellant over provides open space as part of the application⁶⁵. The only technical deficiency in provision is that within the overprovision there is a shortfall of 1.1 ha of formal play space. It is further accepted that such provision should not be made on site. An earlier suggestion that it should be met substantially on site was rejected as inappropriate by the Council. In the absence of the Cantley Strategy it follows that off-site provision should be secured by way of a financial contribution. In the absence of any other guidance from the Council as to the scale of that contribution, the

⁶⁴ WBC/6 paras 3.34- 3.37

⁶⁵ WBC/6 para 3.28

appellant has taken the PAN⁶⁶ document for guidance. The PAN calculation for off-site payments has been used to assess ecological contributions, SANG contributions, library contributions and (slightly modified) for secondary school commuted payments. The PAN document makes it clear that it is capable of being of relevance in the absence of other guidance to developments in excess of 10 units⁶⁷, and the IDP SPD specifically requires decision makers in the SDL to have regard to the PAN mechanism for commuted payments for open space⁶⁸.

- 6.62 PAN is updated annually and can be taken to have regard to the most up-to-date and relevant policy on open space including that contained by way of standards in the Core Strategy and the cost of securing a policy compliant solution within the Borough. It follows that a contribution made consistent with the provisions of PAN would be likely also to be consistent with the likely requirements of the Core Strategy. A contribution should also be viewed in the context of Cantley being a Borough wide facility.
- 6.63 In the absence of a relevant roof tax or CIL schedule, and in the absence of any meaningful strategy for Cantley, there is no better alternative available to the appellant or to any decision maker seeking to remedy the five-year housing land supply position in this case. It should be noted that the development at Plough Lane (150 dwellings) was consented on these terms and no allegation of harm appears to have arisen out of this PAN compliant contribution.
- 6.64 A late assertion that Cantley was "full up" has no support in any of the published assessments. The open space audit does not say so. The present consultants for the Cantley Masterplan have been asked to examine this issue and have yet to report. It is clear from a quick analysis of how playing pitches are provided at the Borough wide venue that there is clear potential for rationalisation and placement of further pitches within the existing boundaries of the Park⁶⁹. Furthermore it is and always has been common ground that parcels of the Bovis/Gleeson land outside the housing elements are capable of meeting open space requirements too.
- 6.65 In all the circumstances the appellant has made the best estimate available to anyone of the level of an appropriate off-site payment for open space.
- 6.66 In relation to community centre provision, the indicative costing for a community facility to serve the SDL contained in the IDC SPD is £4 million. This figure is in error since it represents the total cost of providing a much larger community facility serving a much larger community at Finchampstead. The

⁶⁶ CD1.10

⁶⁷ Inspector's note: CD1.10 states that development in the four SDLs "will be mitigated as set out in Appendix 7 of the Borough's Core Strategy the IDC SPD". Appendix 7 refers to "appropriate leisure/recreational facilities to take account of the potential to expand and enhance facilities at Cantley Park". The IDC SPD refers to "possible enhancement to existing facilities at Cantley and as part of a multi use centre" with "provision should be in line with national playing fields association Fields in Trust standards and Sport England standards" and with regard to "information currently used on planning applications to determine contributions."

⁶⁸ CD1.10 p66

⁶⁹ CNO/15 para 2 and App 4

appellant has relied on evidence of appropriately sized community centres that it has delivered or is in the process of delivering, as set out in the consortium's representations on the IDC SPD⁷⁰. This resulted in a figure of £750,000, which is consistent with the cost of two very recent examples of community provision at West of Crawley and West of Waterlooville⁷¹.

- 6.67 To suggest that the costs of a bespoke facility such as the Matthewsgreen Community Centre should be compared with the costs of the Finchampstead Community Centre is entirely inappropriate and on this basis no weight should be given to the suggestion that the appellant has underestimated the costs of the community facility.

There are no cogent transport reasons for refusing the permission

- 6.68 The only issue against the appeal scheme is based on the alleged absence of a coordinated approach to the provision of strategic transport infrastructure. The key issue to be considered is whether and how developers in the SDL should contribute to necessary strategic transport infrastructure.
- 6.69 There are potentially three ways of meeting the requirements of the Core Strategy. These include the Ashridge Interchange (East facing) and a Partial Northern Relief Road (PNRR); the Full Northern Relief Road (FNRR); and on line improvements⁷². The main difficulty for the appellant and the decision-makers is that the Council has not yet identified what its final position in relation to that infrastructure is. Neither has it formed a judgement as to which elements of the preferred route are necessary and directly related to the SDL development.
- 6.70 The Council has at all times up to the Inquiry expressed a preference for the Ashridge Interchange and PNRR, which appeared to produce a nil detriment solution against a neutral reference case⁷³. However there is now an indication that a different preference for strategic transport infrastructure, in the form of the FNRR might be spelt out between now and 2014⁷⁴. Such preference appears to be based upon a potential betterment over the nil detriment solution. Insofar as it is a betterment, (which itself is disputed), it would not appear to be consistent with the provisions of Circular 05/05.
- 6.71 When the detailed impact of the much more expensive FNRR is compared with the other alternatives, the strategic impact of the additional expenditure does not appear to be very cost-effective. Neither is the proportion of traffic on the FNRR, when completed, which originates in the NWSDL, very high⁷⁵. For these reasons it would appear that the very significant extra expense of preferring the FNRR raised for the first time on day one of the Inquiry is unlikely to survive the full rigours of public and independent scrutiny.
- 6.72 Nevertheless the appellant has sought to cover all the potential bases in attempting to be as co-ordinated as possible and in attempting to avoid accusations that it is failing to pay its fair part by being developed first. The

⁷⁰ CD7.6 & 7.7

⁷¹ Steele EiC

⁷² As discussed in WBC/10 para 5.27 et seq

⁷³ CNO/17 para 5.27

⁷⁴ WBC10/2 Ms Basford's speaking note para 1.20

⁷⁵ WBC/10 paras 5.95-5.101

appellant's Unilateral Undertaking (UU) provides the Phase 1 share of the funding for any of the three strategic transport solutions which may emerge from the consultation process which is promised to take place in due course. In doing so the appellant has effectively addressed the concern expressed by the Rule Six Party relating to the lack of funding for a FNRR⁷⁶.

- 6.73 The appellant's IDP and associated documents seek to provide for any of the Council's three potential preferences for strategic transport and to provide reasonable, proportionate and fair contributions to their provision. The other members of the consortium agree this apportionment. Any new strategic transport preference which might crystallise is catered for by the appellant's UU. Until the modelling, consultation and construction of a CIL schedule is complete it is not possible finally to rule any potential alternative in or out. For this reason the appellant is providing a constructive and flexible approach which although dependent on later testing, passes the tests in the Circular.
- 6.74 By securing the contribution to strategic infrastructure in this way the appellant achieves a much greater degree of coordination with the potential future configuration of the SDL than any approach advocated by the Council to date. This fully funded flexible approach enables the potential of the SDL to be unlocked in a creative fair and proportional manner.
- 6.75 The Council's criticisms of the section 106 mechanism reflect its overall approach to delivery. The Council suggests that no decision to even let a contract for a NRR solution would be made unless the Council were in full receipt of all funds from all the developers. However, there is no justification for such a stance. There was no indication of it in the evidence presented at the inquiry or any indication that this stance represents official Council policy. Furthermore, it is contrary to what is contained in the Core Strategy where reference is made to the developer funding the necessary and directly related parts of the NRR. Thus if the Council is serious about delivery of the NRR it will need to change its approach.
- 6.76 Nevertheless the appellant is prepared to make its contribution to the NRR as soon as the Council formally resolves which option is to be progressed, and provided that the contribution is necessary and directly related to the proposal. This approach allows the authority to bank the money early and significantly reduces its concerns about the timetable for delivery. All it needs to do is pass a legally robust resolution to secure and call down the funding.
- 6.77 Whilst it is not a position taken by the Council in its closing submissions to the Inquiry, the oral evidence of Ms Basford was to advise the authority that not a single house should be granted permission until a decision on the nature and scale of the strategic infrastructure solution was in place. However, such an approach would delay any delivery on the SDL for many years and represents the primary reason why nothing has yet been achieved in this SDL. In the absence of a decision in relation to strategic transport, no progress has been made.
- 6.78 Government guidance as to prematurity is that it is only triggered in general by the emergence of a Development Plan Document. Otherwise applications must

⁷⁶ Keephatch Beech Landowners Group

be determined on their merits and if an application has sufficient flexibility to deal with each of the potential relevant options then it should not be refused on this ground. The advice in relation to prematurity is of course even more strongly stated in cases where there is no five year land supply. The Council's witnesses Messrs Corrigan and Gillespie were less insistent on the primacy of NRR provision, perhaps understanding that arguing that the grant of consent was premature in advance of a decision on roads which were many years off was hardly likely to chime with central government advice.

- 6.79 They agreed that something like an IDP might do if it did not prejudice future phases. However they took the view that it required a robustness which this IDP it was said did not have particularly in relation to the cost of the main part of the infrastructure, the NRR⁷⁷. However the Council are no longer saying that the costings of the NRR (and Ashridge Interchange) were questionable but this change of position came too late for the Council's witnesses to be cross-examined on its consequences.
- 6.80 Other transport matters such as highway and junction impact fall to be seen in the context of an overall allocation of around 1500 dwellings in the vicinity which in principle the Council and the Core Strategy Inspector all felt could be catered for at a local junction level. There is now common ground as to which junctions need limited mitigation. A relevant Grampian condition has now been agreed in principle to provide for that mitigation, subject to the issue of triggers. However there is no in principle objection to the proposal.
- 6.81 All other highway/transport concerns are also the subject of agreement as a result of very minor changes to the layout and/or provisions of the section 106 undertaking or can easily be made subject of conditions which it would be appropriate to attach to any permission. These issues include design and layout, SANG, and SANG car park and servicing.

There are no other development control reasons why planning permission should not be granted

- 6.82 The areas of outstanding substantive dispute between the parties have all been dealt with above. The issue of real as opposed to potential concerns about services and an absence of coordination has also been set out above. There remain therefore no other matters which need prevent the Secretary of State from granting planning permission in order to help meet the housing supply position in Wokingham Borough Council. There are no sustained objections from any statutory bodies.

The Environmental Information supporting the Application does not disclose a legal or a substantive reason to refuse permission

- 6.83 The adequacy of information contained in an Environmental Statement (ES) is a matter for the decision maker. In this case the decision maker is the Secretary of State. The Courts will not intervene unless the decision maker makes a perverse or otherwise unlawful decision. In this case the Secretary of State's ruling, assisted by the recommendation of the Inspector at the beginning of the

⁷⁷ WBC10/2 para 1.39 et seq

Inquiry, that the ES meets the statutory requirements of the Regulations, has been entirely vindicated by the evidence placed before the Inquiry⁷⁸.

- 6.84 At the pre-inquiry meeting Ms Cook stated that the objection on ES grounds went to the very heart of the case advanced by the Council. However at the heart of the Council's case lay a dreadful error of approach. That was the assumption that only a form of overarching application for the entirety of the SDL would be appropriate, and that consequently the EIA should address the entire NWSDL.
- 6.85 There is nothing to support this approach as a matter of policy or law. The application site forms part of a wider strategic allocation but that does not mean that the wider strategic allocation falls to be treated as one large red line site. Neither, particularly in the circumstances of a two neighbourhood approach to the SDL, is there a requirement in law to treat the SDL as a single "project" for the purposes of the EIA Directive or Regulations.
- 6.86 As a matter of fact and law a series of applications can safely be made. In policy terms they must demonstrate coordination in order to pass the development plan test set by Policy CP20. Further cumulative impact should be considered in a more general sense (and it is). But there is no requirement to treat the development of the SDL as a single complete and indivisible project requiring an overarching application and hence an overarching ES.
- 6.87 The Secretary of State was quite right not to accept the Council's submissions seeking a Regulation 19 Direction. This can be demonstrated by the position adopted by the Council in relation to the Ashridge Interchange (AI). At the pre-inquiry meeting it was said to be fundamental to the Council's case that there be an understanding of the significant environmental impacts of the inevitable development of the AI as part of the application project. However on day one of the inquiry we were told that the AI, never part of the appellant's application, was a project whose days were likely to be numbered⁷⁹.
- 6.88 Whilst it is not clear where the Council's position now lies, it must be noted that Mr Corrigan states in terms that the Council accepts the Inspector's ruling on this matter⁸⁰. In any event the uncontested evidence⁸¹ establishes that the effect on residents at Warren House Road and Bell Foundry Lane⁸² in terms of noise and air quality impacts is likely to be acceptable, particularly in the context of the overall development strategy for the area. Where some impact may be likely this can be dealt with through the imposition of conditions.

In these circumstances planning permission should be granted

- 6.89 There is no dispute that in the absence of a five year housing land supply this application falls to be considered favourably unless there is very good reason having regard to the principles set out in para 69 of PPS3. The reasons for

⁷⁸ Mr Traves EIC and CNO/6 & CNO/19

⁷⁹ Ms Basford EIC

⁸⁰ WBC2(1) under Reason 9 on second page

⁸¹ CD6.3 ES Sections 9 & 10. Inspector's note: Section 9 - the assessment of air quality includes a "with development scenario 2026 (all SDLs); Section 10 – assessment of noise considers the effects of the NDR traffic in 2018 with the appeal development.

⁸² CNO/6 paras 34-37.

refusal put forward by the Council are all based on an alleged absence of coordination of approach. Such allegations are not well founded. Unlike the developers of other sites within the SDLs, the appellant has sought to understand cost and to provide for a fair and proportionate contribution to the meeting of the needs of the SDL as a whole.

- 6.90 The appellant's approach would introduce some certainty to the delivery of development in the NWSDL and end the delay arising from the failure of the Council to grapple with the infrastructure requirements of the SDL. It should be noted that in the face of a five-year housing land supply deficit in the Shinfield Glebe case⁸³, the application of the blunt indicative costings for infrastructure as set out in the IDC SPD was not seen to be harmful to the overall strategy of co-ordinated provision.
- 6.91 The approach adopted by the appellant in this case can if it leads to the grant of permission only further the strategic vision of the Development Plan. A refusal has the potential to kill that strategy and to require a fundamental and urgent new strategy to be put in place to meet the housing needs of Wokingham's population.
- 6.92 The Secretary of State should grant planning permission.

7. Written Representations

- 7.1 **Keephatch Beech Landowners Group Consortium** (KBLG) are registered as a Rule 6 party to the Inquiry but did not appear to present evidence. KBLG consists of landowners and developers who controlled about 18.45 ha of land to the south of Dowlesgreen located within the boundary of the NWSDL⁸⁴. KBLG considers that any planning applications within the NWSDL should make an appropriate level of contribution to the provision of strategic transport and other infrastructure required to enable the strategic development to go ahead in full.
- 7.2 Having regard to the modelling work currently being undertaken by WBC, the FNRR is likely to be the preferred solution for strategic transport provision. However until the modelling work is complete there is no way of knowing the final junction solutions and associated costs. As a result the Kentwood Farm application would not be able to provide the necessary proportion of funding when this is unknown. Any funding must make provision for the land as well as physical infrastructure and services and any shortfall will affect the delivery of the FNRR and undermine the Core Strategy.
- 7.3 Until such time that the appropriate infrastructure solution has been both determined and financially appraised, then the level of appropriate contribution to secure the delivery of the NWSDL is unknown. Such delivery will also rely on the necessary land being available or secured at fair and reasonable rates. Any determination of an application prior to this is premature and could undermine the NWSDL. Any shortfall in land or financial contributions as a result of an early land release could undermine the ability to deliver the rest of the infrastructure. It falls on the developers of the proposed housing allocation to each provide their fair share.

⁸³ CD3.6 IR paras 11.14-19; DL paras 13 - 14

⁸⁴ KBLG2A App 1

- 7.4 In comparison with the Ashridge Interchange scenario, the FNRR performs better and provides the optimum solution. There is a large reduction in traffic on the local roads surrounding NWSDL if the FNRR is provided⁸⁵. In addition to providing benefits to the wider network of north Wokingham, the FNRR would minimise the impact on the A329(M) by mitigating the need for the introduction of a new junction so close to M4 junction 10.
- 7.5 The land required to assist with the delivery of the FNRR in its entirety is within the control of the KBLG consortium or the ownership of landowners/developers, who have confirmed their agreement in principle to the release of the land for the FNRR when it is required. The Core Strategy requires developers to provide the necessary and directly related parts of a new route from the A329 to the vicinity of Coppid Beach. On the assumption that the FNRR is required, the full cost of construction of the road and the land required for its construction, should be borne by the North Wokingham development. If the FNRR is required, such provision would be "necessary and directly related" to the development.
- 7.6 The appellant has included provision for a FNRR in the IDP submitted as part of the planning application, and has apportioned costs between the NWC developers on the basis of the number of houses to be built⁸⁶. However, the appellant's calculations of costs for a FNRR do not include provision for the cost of land. The KBLG would be prepared to make land available for the construction of the road, but that needs to be on an equitable basis. The appellant's calculations should include the cost of acquisition of land east of the appeal site.
- 7.7 In consequence of this approach there is likely to be a shortfall in the costs of providing the FNRR, which would need to be met by some other means either from the public purse or through disproportionate contributions from later development in the NWSDL. Alternatively the road will not be built and there will be unacceptable traffic consequences elsewhere in Wokingham; or additional development will be needed to fund any shortfall.
- 7.8 In the absence of proper provision for the full costs of the FNRR in the section 106 agreement, a planning permission in this case will prejudice the delivery of required strategic transport infrastructure, contrary to the principles of good planning. That represents sufficient reason for the refusal of planning permission.
- 7.9 **Thames Valley Police** withdrew their representation seeking a contribution towards the capital cost of non-property police infrastructure. However, the police do maintain the requirement for a drop in facility to be provided as part of the new community centre at Matthewsgreen. Furthermore, in view of the distance of this site from Norreys Ward, the police request a contribution of £45,000 towards the cost of an extension to the Brambles Children's Centre to provide a neighbourhood police facility to serve the eastern area of the NWSDL.
- 7.10 The **Wokingham Society**, the **Keephatch Area Residents' Association**, **Joel Park Residents' Association**, **Emmbrook Residents' Association**, and a number of individual local residents have submitted objections to the appeal

⁸⁵ KBLG/4 Volume 2 App 1

⁸⁶ KBLG/2 para 3.6

scheme. Those objections focus on the need for a comprehensive and co-ordinated development, reiterating the case put forward by WBC, and the need for a properly planned NRR. Issues are also raised concerning the impact of traffic on existing roads in terms of noise and air quality, and objection is raised to the loss of mature trees and hedgerow along Keephatch Road.

- 7.11 **Natural England** has withdrawn its objection to the appeal scheme on the basis of the provisions made in the S106 Agreement for SANG and contributions to the Thames Basin Heaths Strategic Access Management and Monitoring Project.

8. Conditions and Obligations

Conditions

Note: the numbers in brackets relate to those in the list of conditions produced by the parties at the end of the Inquiry Jnt/Doc 4. The conditions as recommended to be applied if permission is granted appear as an Annex to this report.

- 8.1 Following a session at the Inquiry to discuss conditions and obligations required for the development, a final list of conditions has been produced⁸⁷. The majority of the conditions have been agreed between the appellant and WBC, and I am satisfied that the agreed conditions meet the tests set out in Circular 11/95. In this section attention is therefore focussed on those conditions for which either part of the wording or the entire condition was not agreed.
- 8.2 The first matter in dispute is the condition (2) sought by the Council to require the production and submission of an "Interim Stage Master Plan" for the appeal site to identify all the detailed provision for land uses, design and infrastructure within the development and to relate it to the wider development of the NWSDL. It is a fundamental part of the appellant's case that further master planning is not required in order to enable the appeal site to be brought forward for development, and therefore the Council's requirement for such a condition is not accepted by the appellant.
- 8.3 Provision and guidelines for infrastructure and design have been set out in both the Core Strategy and the Council's IDC SPD and NWSDL SPD. Whether or not any of these documents constitute a "master plan", the appellant has worked within the published policies and advice to produce an IDP which identifies the principle infrastructure for the appeal site and the relationship of that provision to the wider SDL. It also goes on to provide costings and to apportion those costs between the members of the NWC. The provisions of the IDP, in so far as they are to be delivered by the appellant, are then secured through the completed Unilateral Undertaking.
- 8.4 Whilst there are some matters such as details for the routes of utilities which are not set out in such a way as to demonstrate how they would link to the rest of the NWSDL, the provision of utilities for the SDL as a whole has been researched⁸⁸. In view of the geographical disposition of the two development areas in this SDL, it is unlikely that utility provision in one area would have any impact on provision in the other. Other detailed requirements such as lighting

⁸⁷ CD/9.4

⁸⁸ 5.23 above

and waste management can be secured through their own conditions, and suitable conditions have been agreed.

- 8.5 Whether or not the approach adopted by the appellant through its IDP and the subsequent UU would ensure that the long term development of the SDL as a whole is not prejudiced, is a matter for me to deal with in concluding this report. However, I am not convinced that a condition to require production and submission of a specific master plan before this scheme could commence would add to the level of certainty in terms of the comprehensive delivery of the remainder of the SDL.
- 8.6 A condition is put forward to require the submission of a design code (4) for the development. Whilst the principle of such a condition is agreed, there is dispute as to some of the wording. The Council considers that reference to "street grain and permeability, and street enclosure" should be included in the built form strategy as an important element of the wider design code. However the layout of the development is put forward for approval at outline stage and since the layout would already be approved if planning permission was granted, these matters are generally covered as far as I consider to be necessary.
- 8.7 The Council also require the design code to include "integration of strategic utility requirements, landscaping and highway design" on the basis that the strategic utility requirements are uncertain and potentially prejudiced by the granting of an isolated development within the SDL. However, I have already dealt with the matter of utility provision in relation to the master plan condition, and for the same reasons am not convinced that a reference is required in relation to design codes. Landscaping is a reserved matter so the Council retains control, and highway design is largely addressed through the details of the current application and other conditions relating to off site junction improvement.
- 8.8 In the condition relating to affordable housing provision (10), the Council requires the condition to refer to a "scheme" for its provision, whereas the appellant favours "strategy". There is very little difference in the meaning of these words. The Encarta English Dictionary defines "scheme" as a systematic plan of action; and "strategy" as a carefully devised plan of action to achieve a goal, or the art of developing or carrying out such a plan. However, since the reference to "scheme" has been retained in the second sentence of the condition, I see no reason why it should not be used in the first sentence in the interests of consistency.
- 8.9 A condition requiring the submission of a detailed specification for the SANG (11) and adjacent informal open space is put forward by both parties as contingent upon the SANG and bund works being regarded as "development" as defined in the UU. The UU states that "Development means the development of the Property pursuant to the Planning Permission". The "Property" is defined in Appendix 2 to the UU and is that land enclosed within the red line of the planning application. This includes the SANG and bund. Whilst I consider that the requirements of this condition are both reasonable and necessary to provide effective mitigation for the TBHSPA, it could also be covered by the following condition relating to Landscape, Ecology and Open Space. In these circumstances I consider it is unnecessary to have a separate condition.

- 8.10 The next issue in dispute relates to whether Ecology (11⁸⁹ & 21) can be properly covered in a condition which also deals with Landscape and Open Space Strategy, or whether it requires a separate condition. Having reviewed the provisions made in each of the two conditions, I am satisfied that the composite condition is appropriate.
- 8.11 The next dispute relates to the pumping station (17) and whether it should be subject to a condition requiring a noise assessment and mitigation report. The sub stations and gas conveyor are adjacent to residential development and therefore such a requirement is appropriate to those developments. However the pumping station is separate from any residential development in this or any later phase of the SDL and therefore I find no reason to require the condition to apply.
- 8.12 In relation to contamination (18), a site investigation is required before the commencement of development. The appellant prefers the condition to refer to each sub-phase, and since the reference to sub phase is not disputed in the implementation condition, I consider that it should be in the investigation condition in the interests of consistency.
- 8.13 There is dispute as to whether a condition is appropriate which requires an air quality assessment with protective measures to be implemented where necessary (20). The Council is concerned that it is not clear whether the effects of the NRR have been considered in relation to air quality, but the ES has investigated air quality in 2021 and 2026 with the Core Strategy schemes fully built out⁹⁰. In these circumstances the effect of the additional traffic likely to arise from the SDL as a whole has been assessed, including with a FNRR, and in the cumulative impact section the ES confirms that the effects would be negligible. In these circumstances the condition is not necessary.
- 8.14 The appellant has produced a Travel Plan for the appeal scheme which is subject to the UU. Nevertheless, the Council seeks a Framework Travel Plan (37) to cover the whole of the NWSDL. However, since there is no planning application for the other parts of the SDL, and those other parts are not generally in the ownership/control of the appellant, it would be unreasonable to expect the appellant to produce a travel plan to which subsequent phases of the development must comply.
- 8.15 Whilst I understand that this requirement, if it could be achieved, would contribute to the co-ordination of travel arrangements across the SDL, in this case it is not one that can appropriately be achieved through the imposition of a condition. I consider the implications of this within the overall balance of my conclusions.
- 8.16 The next dispute relates to the triggers for the implementation of improvements to the eight off site junctions (38) which it is agreed are required in order to mitigate the effects of increased traffic[5.79]. The Council seeks the submission of the schemes for the 8 junctions before any residential development takes place, with the schemes to incorporate a timetable for implementation. According to the appellant's assessment, the junctions would not require

⁸⁹ There are 2 conditions numbered 11 on CD/9.3

⁹⁰ CD6.3 para 15.5.4 & Tables 9.19-9.24 Appendix 9

mitigation until 250 dwellings have been occupied. The appellant therefore favours a condition which requires no more than 100 dwellings to be occupied prior to the submission and agreement of a scheme for the junction improvements, with the implementation of the works no later than the occupation of the 250th dwelling or implementation of the commencement of phase 2 of the Kentwood Farm part of the SDL.

- 8.17 The Council identifies 2017 and 2026 as key dates when upgrade work may be required. However, since the junction improvements are a consequence of the appeal development, I find it entirely appropriate to link the timing of their implementation to the development of Kentwood Farm. The reference to Phase 2 provides a safeguard in case that scheme should commence before the appeal development reaches 250 dwellings. I therefore consider that the appellant's preferred condition provides a well defined timetable directly related to the development proposed.
- 8.18 A condition is proposed by the Council to withdraw permitted development rights associated with Schedule 2, Part 1 Classes A, B and E of the Town and Country Planning (General Permitted Development) Order 1995 (39). However, the appeal scheme is being planned in accordance with the Council's design codes, and as an extension to an existing neighbourhood it will reflect the existing character. There is no control over Permitted Development rights in the present development and I find no justification to introduce such controls over the proposed new houses.
- 8.19 A condition is also sought to require the prior approval of a drainage strategy to ensure that there is no sewage flooding (40). However, foul drainage is subject to control under the Water Industry Act and therefore I find no reason to duplicate that control through the imposition of a planning condition.

Obligations

- 8.20 A s106 Agreement has been completed between the appellant, the relevant landowners and WBC to provide for:
- SANG,
 - Access and SPA Monitoring Contribution,
 - Informal Public Open Space,
 - Country Parks and Biodiversity Contribution.
- 8.21 There is no dispute as to the provisions of this agreement, and Natural England has withdrawn its objection to the appeal scheme as a result. I am satisfied that the first two provisions listed above are necessary to mitigate any potential impact on the TBHSPA, and that the other contributions are proportionate and directly related to the scale of the residential development.
- 8.22 A Unilateral Undertaking has been completed by the appellant and the landowners in favour of WBC. This provides for⁹¹:

⁹¹ As set out in Schedule 1. The obligations are subject to the proviso in Schedule 1 "that the Secretary of State concludes in a Decision Letter that this is a planning obligation that meets

Education:

- Secondary Education Contribution
- Special Educational Needs Contribution
- Early Years Learning Contribution

Community Facilities:

- Healthcare Contribution
- Contribution to cost of multi-use community facility
- Library Provision
- Cantley Recreation Ground and Formal Open Space Contribution
- Allotment provision
- Fire Hydrants

Transport:

- Keephatch Road Access
- First Warren House Road Access
- Second Warren House Road Access
- Public Footpath and Cycleway Improvements
- Bus Service Development Phase 1 Contribution
- Bell Foundry Road/Warren House Road Link – Partial Northern Distributor Road
- Sustainable Transport Contributions including contributions to a proportion of the costs of:
 - Strategic Highways Improvement Works to the transport capacity of the A321 and A329 corridors (the NRR beyond that to be provided within the appeal site)⁹²;
 - a park and ride facility at Coppid Beech;
 - improvements to Wokingham Railway Station;
 - improvements to cycleway and footpath links between the development and Wokingham Town Centre;
 - construction of Wokingham Railway Station Link Road.
- Travel Plan

the requirements of Regulation 122 (of the Community Infrastructure Levy Regulations 2010) and without which the Planning Permission would not otherwise be granted.”

⁹² The level of contribution is dependent on the choice of scheme. Option 1 is the AI and PNNR; Option 2 the FNNR; Option 3 the PNNR together with On Line Improvements.

Other

- Informal Public Open Space East of Warren House Road

8.23 Schedule 2 of the UU identifies the provisions for the transfer of the allotments, and Schedule 3 sets out the provisions for payments to be made pursuant to the terms of Schedule 1.

8.24 The Council sets out a number of concerns about the UU⁹³ as follows:

1. In relation to primary Education, whilst there may currently be capacity at All Saints School to accommodate the Kentwood development, there is no certainty as to the sequencing of this development and others in the locality. Provision is sought for a contribution to be made in the event that there is insufficient capacity available when the Kentwood development is completed. Otherwise the cost of additional places would fall on the public purse.
2. The level of the contribution to Cantley and formal Open Space is not sufficient to provide the infrastructure required to support the development and the wider NWSDL.
3. The payment mechanism for Strategic Transport contributions is of concern. Although payment would be triggered by a resolution by the Council's Executive as to which of the 3 options for the NNR is to be adopted, the Council will be required to have chosen its preferred transport solution within 7 years from the commencement of development. This is based on the appellant's projected build period, but there is no certainty that the developer will retain any interest in the site at the time when a significant contribution will become payable. The Council suggests that in the event that the relevant decision has not been taken before the occupation of the 272nd dwelling, that should be adopted as the trigger for payment of the maximum contribution, which would be refunded if not required within a specific period of time.
4. Although some allowance is made for Compulsory Purchase Order costs in the sustainable transport contribution, the actual costs are not known. Normally the Council expects an indemnity to cover full costs and suggests an indemnity on this occasion, on a pro rata basis.
5. The definitions of substantial highways improvement works are deficient. For example, "Online Improvements" has been defined as "a suite of junction improvements on the A329" which does not adequately explain the number, nature and extent of the works anticipated. Likewise the definition of the FNRR as a "new highway link from the western boundary of Kentwood Farm Neighbourhood to London Road----" is not correct as the road would need to extend further than Kentwood Farm in the west and would more appropriately be described as "a new highway link from the western boundary of the Matthewsgreen neighbourhood to the A329 London Road in the vicinity of the Coppid Beech roundabout".

8.25 I deal with the issues raised by the Council in my conclusions, since they are bound in with the wider arguments between the parties in this case.

⁹³ WBC/19

9. INSPECTOR'S CONCLUSIONS

In this section, numbers in brackets [] refer to paragraphs in this report of relevance to the conclusions.

- 9.1 Conclusions are considered with regard to the Secretary of State's reason for recovering the appeal for his own determination and with reference to the matters remaining between the parties at the end of the Inquiry[1.4].
- i) *the extent to which the proposal accords with the policies of Regional Strategy, the Wokingham Borough Core Strategy, the adopted North Wokingham Strategic Development Location SPD and Infrastructure Delivery and Contributions SPD in terms of: a comprehensive developer and landowner infrastructure delivery and funding mechanism;*
and
- ii) *whether an overarching infrastructure application is necessary.*
- 9.2 Regardless of the status of the RS at the time of the Secretary of State's decision, the recently adopted Core Strategy (January 2010) embeds and seeks to implement the policies of the RS. Therefore it is the Core Strategy which forms the most relevant part of the development plan against which the appeal proposal should be assessed[3.1]. Provided that the appeal scheme accords with the policies of the Core Strategy it would be in accord with the RS, in the event that the RS has not been revoked at the time of the decision. I therefore concentrate in my conclusions on the extent to which the proposal accords with the policies of the Wokingham Borough Core Strategy.
- 9.3 The Core Strategy concentrates development in four key Strategic Development Locations (SDLs) within the Borough. The appeal site lies within the North Wokingham SDL. It would form one of the extensions to an existing neighbourhood, to help provide critical mass for the local centre and facilities at Norreys[6.50] in accord with the Concept Rationale set out at Appendix A7.30 of the Core Strategy. There is no dispute that the principle of residential development of the appeal site is established.
- 9.4 Policy CP20 applies to the NWSDL, and sets out the level of development to be delivered by 2026, together with the infrastructure required to support that development. The policy states that the development will be guided by a Development Brief SPD and that a co-ordinated approach to the development of the SDL will be required to deliver the necessary infrastructure, facilities and services to meet the needs of the expanded community. The Council has produced an Infrastructure Delivery and Contributions (IDC) SPD⁹⁴ which deals with the infrastructure in each one of the 4 SDLs, and the North Wokingham Strategic Development Location (NWSDL) SPD⁹⁵ which is intended to guide future development of the SDL. The appeal site lies within an area identified for residential development in the Preferred Spatial Framework Plan⁹⁶.
- 9.5 The main issue between the parties relates to whether the appeal proposal would provide for the co-ordinated and managed implementation and delivery

⁹⁴ CD 1.7

⁹⁵ CD 1.6

⁹⁶ CD1.6 Figure 3.21 p 30

of the housing and related social and physical infrastructure in the whole of the NWSDL[5.1]. The IDC SPD states that within the SDL an overarching infrastructure planning application or other relevant mechanism would be submitted in advance of the determination of any planning application[5.3]. For the Council, an appropriate mechanism would provide certainty in terms of the commitment of developers and landowners to a comprehensive and deliverable pattern of infrastructure provision, together with all the associated funding guaranteed in advance of the determination of any individual planning application[5.3-5].

- 9.6 However, I agree with the appellant that such a binding requirement in advance of any development being permitted is not a provision of the Core Strategy[6.5]. The Core Strategy does seek a co-ordinated approach, and an infrastructure rich development within the SDLs. However the steps which it lists to be taken do not include a requirement for a legally binding framework between all landowners and developers as now sought by the Council. What the Core Strategy does require, according to para 3.19 and Policy CP20, is the adoption of a Development Brief SPD, with a co-ordinated approach to deliver the necessary infrastructure, facilities and services to meet the needs of the expanded community; and an Infrastructure Delivery SPD incorporating a roof levy for the 4 SDLs. The Concept Statement at Appendix 7 to the Core Strategy is to be “amplified” in the Development Brief SPD and the associated masterplan for each SDL[6.4-6.7].
- 9.7 Through its reference to a roof levy there is an expectation in the Core Strategy that the Council would take the lead in coordinating development of the SDLs. The Council has not embraced that approach, possibly because of the uncertainty as to the precise requirement for the NRR[6.7]. Nevertheless, that does not absolve any proposal for partial development of this or any other SDL from demonstrating that the incremental release of land for residential development would not lead to unacceptable consequences as envisaged by the Council[5.4].
- 9.8 Clearly the first step identified in the Core Strategy is the production of a Development Brief SPD, such as the NWSDL SPD. The Council argues that a further phase of masterplanning is also required, but the appellant points out that before October 2011 the NWSDL SPD was being referred to by representatives of the Council as the “Masterplan SPD”[6.15]. The NWSDL SPD does state at para 1.2 that “the document has been prepared on the assumption that applications accompanied by a single co-ordinating Masterplan and SDL-wide IDP will be submitted”. Nevertheless it does set out the key disposition of uses and other elements of the strategic allocation, including key design principles, delivery and phasing. In my view this document does therefore provide a Development Brief as sought by the Core Strategy[6.15]. The Council has produced the IDC SPD, so in my view that element of the Core Strategy “list” is also in place. What is missing is the “associated masterplan” referred to in para 3.19, and the provision of a roof levy to ensure that developments as they come forward make an appropriate contribution to overall infrastructure requirements[6.6].
- 9.9 In the absence of a roof levy, and in order to assess the contributions to be made by this Phase 1 development to the infrastructure for the SDL as a whole, the appellant has produced, in the name of the NWC, an IDP for the SDL as a

whole. This has been drafted and agreed with the other developers in the NWC⁹⁷[6.10]. The NWC IDP identifies the Infrastructure required for the development of the NWSDL to be implemented in accordance with the policies of the Core Strategy, and outlines the means by which the phased development of the NWSDL will contribute to overall delivery. The NWC IDP identifies which infrastructure is applicable across the NWSDL and beyond (strategic), and which can be dealt with by development phase, either within the application site or associated directly with the phased proposals themselves. The strategic element of the infrastructure would require a joint delivery through proportionate contributions by each member of the NWC. The NWC IDP apportions the cost of the different elements of infrastructure between the different phases. That apportionment has also been agreed between the members of the NWC[5.17; 6.10]. The WBC is expected to act as “banker” or “facilitator” for those elements which are not provided directly by the developers.

- 9.10 At para A7.41, the Core Strategy states that in accordance with Circular 5/05 and the Council SPD relating to Infrastructure Delivery, developers will be expected to enter a legal agreement to ensure the provision of necessary infrastructure and facilities detailed in the Concept Statement in order to make development acceptable. In the absence of a roof levy or any assessment by the Council to guide the provisions of any such legal agreement, the appellants have taken the apportionment set out in the NWC IDP to establish the provisions made in the legal agreement now linked to the appeal site⁹⁸. The s106 UU is intended to cover that proportion of the infrastructure costs which are to be met through the development of Phase 1, whilst the overall apportionment of costs between the different phases of development of the SDL are set out in the NWC IDP.
- 9.11 The UU produced in connection with the application by Crest Nicholson cannot be legally binding on the developers Bovis and Gleeson, or the landowners of later phases of the NWSDL. As a result, the appeal proposals, together with its s106 legal agreements, do not provide any binding commitment from the developers and landowners of the later phases of the SDL to pay the apportionment attributed to those phases in the NWC IDP[5.5; 5.17]. Without such a binding commitment, the Council identifies the risk that supporting infrastructure, services and facilities across the NWSDL as a whole would not be properly planned and delivered on a comprehensive basis[5.4]. Without appropriate arrangements for the provision of infrastructure, taking account of the cumulative impact of schemes, the Council points out that the appeal scheme would be in conflict with Core Strategy Policy CP3[5.1].
- 9.12 Policy CP20 requires a coordinated approach to the delivery of infrastructure. The appeal scheme would represent a small proportion of the overall SDL, and without a properly co-ordinated approach there is the risk that development would proceed in a piecemeal fashion with consequent failure to deliver the level of infrastructure identified in the Core Strategy[5.20]. However, whilst I accept that proper coordination is essential in order to secure the provisions of

⁹⁷ I will refer to the document as the NWC IDP to differentiate it from the Council's IDC SPD.

⁹⁸ Appendix 2 to CNO/14 provides the proportionate splits between the different phases of the SDL for the different elements of infrastructure.

Policy CP20 and Appendix 7, the Council's requirement for an overarching masterplan is not given in the Core Strategy as the only means of achieving it. Likewise, there is no requirement in the Core Strategy for an outline planning application which is for the whole of the NWSDL[5.24].

- 9.13 I understand the Council's reason for preferring a single application linked with a series of S106 agreements to bind all the developers at the outset before any houses can be built. It would provide the security of delivery which the Council seeks, and would be likely to avoid the need for "gap funding" by the Council[5.5]. However, the Core Strategy does envisage that the NWSDL would start to deliver completed houses in 2010-2011⁹⁹. It is common ground that there is currently a shortfall in housing land supply in Wokingham. Without the SDLs, the Council has just over one year of deliverable housing land[5.40; 6.3]. Therefore the need for a start to the development of the SDLs is a matter of considerable weight.
- 9.14 Having regard to the number of developers and landowners involved in the delivery of the SDL, the achievement of the Council's ideal approach is unlikely at an early date. In any event, delivery would need to take place at the rate at which the market could absorb the new houses. The Council's expectations for a developer of a later phase to commit financially to a particular scheme some years before the development is likely to take place, seem to me to be unrealistic, and likely to lead to delay in any delivery. As the appellant states, progress with the outline application and accompanying legal agreements is likely to proceed at the pace of the slowest, or even not at all[6.5].
- 9.15 In any event, even the approach put forward in the Core Strategy, with a roof levy, would not necessarily provide the legally binding arrangements which the Council now seeks[5.17; 6.35]. It would not require all landowners and developers to sign up to the contribution, or that they be contractually bound together. It would be for the Council to negotiate a legal agreement for payments based on the roof levy as each application for a separate phase of development is submitted. Nor would it guarantee the timing or delivery of later phases of the SDL.
- 9.16 The Council indicates that it is to prepare a CIL charging scheme, which would accord with the Core Strategy. However, notwithstanding the Council's intentions the timing for its implementation must be uncertain[5.11; 6.36]. To await its implementation would be likely to result in further delay. Furthermore, it would not necessarily provide any more certainty since there would still be no guarantee that later phases would be delivered. In the absence of any indication in the development plan that certainty of delivery is the test for planning permission to be granted, I agree with the appellant that the test set by the Council is a test too high.
- 9.17 The test which would be appropriate, is whether the delivery of future phases of the SDL together with the overall infrastructure and service provision required for the SDL as a whole, would be prejudiced by the release of the appeal scheme[6.37]. The legal certainty of delivery required by the Council is unlikely to be achieved in any event, and there is no such requirement in Policy terms. The IDC SPD provides for an "other relevant mechanism"[6.26]. I therefore

⁹⁹ CD1.2 Appendix 6

consider the test to be applied is whether the NWC IDP together with the legal agreements associated with the appeal scheme do meet the requirement of an “other relevant mechanism” and would ensure that a permission for this phase would not prejudice the delivery of future phases or the overall infrastructure and services which are necessary for the SDL.

- 9.18 Whilst there is some disagreement on level of funding for some of the provisions in the associated UU, the Council makes no complaint that the NWC IDP provides for the necessary and directly related infrastructure and services for the SDL as a whole as identified in Policy SP20 and Appendix 7. Areas of dispute include whether the calculation of cost for some items of infrastructure, such as the primary school at Matthewsgreen, or the provision for formal recreation, is sufficient, and I will return to these later in my conclusions. However, the main objection raised by the Council relates to the lack of a master plan agreed between the landowners and developers to form the basis for the IDP, supported by binding s106 legal obligations, or a proper collaboration agreement, tying the landowners and developers together[5.22].
- 9.19 I have considered whether the approach sought by the Council is supported by Policy and feasible, and come to the view that whilst I understand the Council’s desire for a high level of certainty, even the approach put forward in the Core Strategy, with a roof levy, would not deliver that level of security. However, the NWC IDP identifies the level of contribution to each item of infrastructure, together with the way in which that contribution should be apportioned between the developers. As such it provides a framework within which the Council can negotiate with individual developers as each phase of the SDL comes forward. Although Appendix 7¹⁰⁰ refers to the requirement for developers to enter into a legal agreement, it does not indicate that there should be legal agreements for the whole of the SDL before any development begins. Supported by the figures in the NWC IDP, to which the other members of the consortium have indicated their agreement, the Council would have a firm basis from which to negotiate future legal obligations as each phase of the SDL is brought forward. The weight to be accorded the NWC IDP would be significant if the Secretary of State endorses that approach in this appeal[6.44-6.46].
- 9.20 Although the Council refers in evidence to a large site at Didcot, the circumstances in that case are significantly different from this appeal, and the final outcome in terms of the implementation of the development is not yet certain[6.47]. I place little weight on that evidence.
- 9.21 The Council argues that there may be an expectation on behalf of the landowners in the NWSDL of a specific level of return[5.17]. Without a contractual commitment from the other landowners and developers within the SDL, an applicant for a later phase of the SDL might argue that the figures for contributions set out in the NWC IDC and apportioned to their phase would not be viable because of the landowners’ expectations, and seek to reduce the level of infrastructure to be provided[5.5; 5.29]. However, even if a roof levy approach as set out in the Core Strategy had been adopted, that issue could equally arise for later phases of the SDL.

¹⁰⁰ A7.41

- 9.22 A viability assessment of the NWSDL was undertaken for the Core Strategy examination. This established that the NWSDL was capable of delivering an infrastructure rich, viable and sustainable housing allocation, so the likelihood of any phase being not viable is low.
- 9.23 Nevertheless, whilst the appeal proposal is proceeding on the basis of the full 35% affordable housing[5.14; 6.40-41] identified by Policy CP5 as the minimum percentage of affordable housing to be provided within the SDLs, that Policy states that this figure is "subject to viability", such that it could be reduced if necessary for viability reasons. In the event of a viability argument, it would be for the applicant to firstly prove that its scheme was not viable. If that were to be proven, the wording of Policy CP5 would allow for a reduction in the proportion of affordable housing within a phase of the SDL if it was necessary in order to ensure that the overall level of infrastructure provision was not prejudiced. A 5% reduction in affordable housing could produce about £6 million[6.43; 6.46]. As a result there is a safety valve which could be used to guarantee the delivery of an infrastructure rich development even if later phases were to prove the figures in the NWC IDP to be not viable.
- 9.24 In all these circumstances I conclude that the NWC IDP does constitute "another relevant mechanism" which is capable of delivering the infrastructure rich development of the NWSDL in accordance with the requirements of the Core Strategy and relevant SPDs. Furthermore, an application for all of the infrastructure within the NWSDL is not necessary to achieve a co-ordinated development.
- iii) whether adequate financial contributions are proposed for the provision of a primary school, formal open space, and community centre;*
- 9.25 The Council raises concerns as to the level of some of the contributions to be provided through the NWC IDP. In relation to primary school provision, Policy CP20 refers to social and physical infrastructure, including provision for one new primary school if required, and in Appendix 7¹⁰¹ the provision of one new primary school (2 form entry) is listed as one of the matters to be included in a planning obligation. However, in the NWC IDP, the provision of a primary school is to be made as part of the Matthewsgreen phase of the SDL, with no contribution made towards its cost by the developers of Kentwood Farm.
- 9.26 However, the appellant is relying on spare capacity at All Saints school which would be within walking distance of the Kentwood development. The provision made for primary education was the subject of much debate at the Inquiry and the appellant's case is set out above[6.49-6.58]. It is through the appellant's intervention that the additional provision at All Saints school has been maintained in order that it should cater for the future needs of the Kentwood development. Furthermore, with the physical separation between Matthewsgreen and Kentwood, the All Saints school is in a far more suitable location for children from Kentwood. A future school at Matthewsgreen would not be within reasonable walking distance for primary school children in the Kentwood development, and would be most likely to serve only Matthewsgreen

¹⁰¹ CD1.2 Para A7.41

children. I therefore consider it appropriate that the appellant relies on the capacity at All Saints rather than agree to contribute towards a new school at Matthewsgreen which would not be located to serve Kentwood children. In these circumstances the proposal to use All Saints capacity would not conflict with advice in circular 05/05[6.59].

- 9.27 In addition to the issue raised as to the apportionment of the cost of the Matthewsgreen primary school, the Council argues that the £3.5 million cost identified for the NWC IDP is not enough, and that provision should be made for a two form entry school. However, the £3.5 million figure is supported as a reasonable figure by the appellant's evidence[6.56]. Furthermore, the developers of Matthewsgreen, whilst expecting a one form entry school to meet the needs of that development, would provide serviced land for a two form entry school as a form of future proofing. Although the Council argues that there is no evidence that the Matthewsgreen developers would be prepared to pay any more than a proportionate contribution to primary school provision[5.25; 5.29], the NWC IDP with its arrangement for the costs of educational provision, has been agreed by the developers of Matthewsgreen¹⁰². In these circumstances I consider the provisions put forward for a primary school at Matthewsgreen in the NWC IDP to be adequate and in no way prejudiced by the appeal proposals.
- 9.28 In relation to the concern raised by the Council about the UU[8.24 (1)], the Council has sought to demonstrate that there is a possibility of demand exceeding supply of primary school places by 2018¹⁰³. However, the method of calculation used has some flaws, as identified by the appellant[6.52]. Even if such shortfall was to arise, it would be made worse if the additional provision now available at All Saints had been closed. I therefore consider that the provision of funding contingent upon a potential future shortfall as sought by the Council in the UU is not justified.
- 9.29 The other area in which provision is considered to be inadequate concerns open space. The Council considers the contribution in the appellant's UU to be not sufficient to provide the infrastructure required to support the development and the wider NWSDL[8.24 (2)]. Appendix 7 requires provision for appropriate leisure/recreational facilities to take account of the potential to expand and enhance facilities at Cantley. The NWSDL SPD requires public open space to be provided in accordance with Appendix 4 of the Core Strategy, which identifies open space standards, whereas the appellant has used the Council's PAN¹⁰⁴ to calculate contributions[5.33]. Nevertheless, the Council accepts that the appellant over provides open space as part of the application, and that the contribution in the UU is more than the PAN guidance requires for sports pitches alone[5.37]. The deficiency in open space is a technical one in so far as there is a shortfall of 1.1 ha of formal play space.
- 9.30 The NWSDL SPD does not identify the precise locations for open space, although it identifies Cantley Recreation Ground as to be retained and enhanced. The appellant has offered to provide the space within the development site, but that

¹⁰² CD10.8

¹⁰³ WBC 8/1 and 8/2

¹⁰⁴ Planning Advice Note CD1.10

was not acceptable[6.61]. The Council is concerned that with no masterplan to show where playing pitch provision is to be made for the whole SDL there is no co-ordination between the developers to ensure that they would all contribute proportionately to providing playing pitches outside the development areas and land interests so as to provide a further concentration of provision in one central location[5.31]. Furthermore, the basis on which the IDP contribution has been calculated does not include the cost of acquiring third party land[5.33].

- 9.31 The Council argues that detailed work on this outline application could continue whilst the study of the Cantley Recreation Ground is complete, and no planning permission should be granted until a costed open space strategy is agreed with the NWC[5.41]. However, such an approach would risk further delay in bringing forward the NWSDL to meet the housing land shortfall[6.3; 6.20]. The Council's PAN states that development in the SDLs should be mitigated as set out in Appendix 7, but it also states that it can be of relevance in the absence of other guidance to development in excess of 10 units[6.61]. It has been adopted by the appellant in order to calculate contributions for the formal open space, and I see no reason why it should not also be applied to future applications within the NWSDL. I note the Council's concerns that the NWC could bring forward a plan for more than 1500 dwellings, but that should trigger more payments if the PAN guidance is adopted. In these circumstances, and having regard to the role of Cantley Park as a Borough wide facility[6.62], I agree with the appellant that there is no justification for a delay in the decision in this case whilst the Cantley Park study is completed[5.34; 6.60]. In the absence of any more specific guidance in the form of a Cantley Masterplan, the use of the PAN mechanism for calculating a commuted payment in the UU is both reasonable and proportionate.
- 9.32 The disagreement in relation to costings for the Community Centre relate to the figure put forward in the IDC SPD. However, the figure is based on the cost of the facility which serves a much larger community at Finchampstead[6.66]. The figure put forward for the NWC IDP is based on recent examples of community provision which would be of appropriate size to the NWSDL Community Centre. I am therefore satisfied that an appropriate figure is proposed.
- iv) whether the s106 Unilateral Undertaking makes adequate provision for the payment of the Strategic Transport contributions; for Compulsory Purchase Order costs in the sustainable transport contribution, and for the definition of substantial highways improvement works; whether the Travel Plan is adequate; and whether there is adequate provision for Public Transport.*
- 9.33 Since no decision has been taken by the Council as to which option for the NRR should be pursued, the UU provides costings for 3 alternative options[6.12 6.69]. This includes provision for the FNRR, which partly meets the concerns raised by the KBLG in relation to the funding of the FNRR[7.2]. KBLG seek provision for the full cost of the land required for the FNRR, on the basis that the part of the FNRR to the east of Dowlesgreen should be financed by the NWC[7.5].

- 9.34 The apportionment of the costs of the 3 Options in the UU is determined according to the NWC IDP. The Council does not dispute the appellant's cost estimates, and accepts the apportionment between developers[5.10; 5.11]. However, the Council fears that the mechanism for payment of the contribution from the appellant exposes it to the risk of no contributions in the event that the developer, having completed the development and sold the houses, disposes of its interest before the payment becomes due.
- 9.35 The Council is required by the s106 to make a formal resolution as to which of the 3 Options it wishes to progress, within 7 years of the commencement of the development in order to call down the relevant funding. The developer will then make its contribution to the NRR provided that the contribution is necessary and directly related to the proposal[6.75-6.76]. Thus the action required by the Council to trigger the payment is a matter within its own control and depends on no third party actions. WBC has indicated the importance of the NNR to the strategic network, and work is underway on detailed modelling to help the decision making process. It does not therefore seem to me to be unreasonable for a resolution as to the preferred option to be taken within 7 years of the start of the development of the appeal site.
- 9.36 Once the development is built out, all the dwellings are sold, and the SANG, POS and allotments have been transferred, the landowners and developer would no longer be liable for the payments. Since the liability would not transfer to the owners of the new houses, it would be necessary for the Council to ensure that the necessary resolution has been taken before all the dwellings are sold. However, the developers are required to give notice to the Council at least 10 days prior to occupation of the 1st, 100th, 200th and 272nd dwelling such that the Council would be in a position to ensure that action was taken to secure the funds before the scheme was sold out. I do not therefore find the mechanism for payment set out in the UU to be unreasonable.
- 9.37 I return to the matter of whether the requirements of the UU, and of the KBLG in relation to costs for the FNRR, are necessary and directly related to the proposal, later in these conclusions.
- 9.38 The Council raises the issue of costs for any future CPO required to deliver the NRR[8.24 (4)]. However, the Council has accepted that the costs calculated by the appellant for the 3 NRR options are appropriate[5.10]. The appellant's estimates include a contribution to the cost for a CPO. Having accepted the appellant's calculation of costs on that basis, it does seem unreasonable for the Council to now seek an indemnity in case the CPO provision is not sufficient.
- 9.39 Finally the Council questions the definitions set out in the UU of the strategic highways improvement works. The definition of "online improvements" has some flexibility since in addition to the junction improvements it refers to other "sustainable transport measures". Thus even though it does not explain the number nature and extent of the works anticipated, it does not prejudice or prejudice the detail of the future works.
- 9.40 The different sections for road improvements known as the PNDR, PNNR and FNRR can be understood by reference to Appendix 5 Drawing 1955/SK/200-A of the UU. The Council complains that the FNRR is defined as from the western boundary of Kentwood Farm to the London Road, whereas it would run from the western boundary of Matthewsgreen to the London Road. However, that part of

the road which would run through Matthewsgreen would be constructed as the Matthewsgreen Strategic Site Road (Section A); then from the eastern boundary of Matthewsgreen to the western boundary of Kentwood the route would be provided through the PNDR contribution (Section Y-X). This leaves the route from the west boundary of Kentwood to the London Road which is defined as the FNRR. In these circumstances I find that the definitions in the UU do relate accurately to the payments which are provided by the UU, and would cover the three options as listed in the UU.

- 9.41 Appendix 3 to the UU is the Travel Plan (TP) for the development. Whilst the TP does not set NWSDL wide objectives[5.12], there is no reason why it should not be used as a framework for development of the Matthewsgreen Neighbourhood in due course, with any difference reflected in the detail of each TP. The TP does not identify travel routes between the 2 neighbourhoods. Such links would contribute to the integration of the 2 neighbourhoods, and their absence is therefore a shortcoming in the TP and the appeal scheme as a whole. Furthermore, no car club has been included, since the appellant indicates that it would not be viable for this size of development. The TP is adequate as a plan for a stand alone development, but there are shortcomings in terms of its contribution towards the co-ordination of development across the NWSDL. Nevertheless the TP does not prejudice the delivery of later parts of the SDL, and in the particular circumstances of this case I consider it to be adequate.
- 9.42 The strategy for public transport across the NWSDL has been developed having regard to the whole of the SDL, but at this stage the only commitment is from the appellant as set out in the s106 UU. This provides for a contribution to either subsidise a bus service between the appeal site and Wokingham town centre for a period of 5 years or to procure a minibus to seat up to 20 people and serve the development for up to 5 years¹⁰⁵. A payment is also to be made to the Council towards the cost of a new bus stop.
- 9.43 Whilst this limited provision would not promote integration between the two neighbourhoods of the NWSDL, other bus routes could be added once the other parts of the SDL are developed, with the developers paying relevant s106 contributions to pump prime the service¹⁰⁶. Although the Council complains that the appellant has not discussed provision with bus operators, and that WBC does not have responsibility for providing services[5.13], the UU requires the developer to undertake the procurement of the bus service or minibus. It does not rely on any action by WBC. I therefore consider the public transport strategy to be acceptable.

Requirements of CIL Regulation 122

- 9.44 I have dealt with the provisions of the s106 Planning Agreement in respect of the SANG and Access and SPA Monitoring Contribution[8.21]. In the appellant's UU, the Planning Obligations listed under Schedule 1 are subject to the proviso that they "shall only apply if and to the extent that the Secretary of State concludes in a Decision Letter that it is a planning obligation that meets the requirements of Regulation 122 and without which the Planning Permission would not otherwise be granted". Whilst the Council raised some concern at

¹⁰⁵ S106 UU Schedule 1 paras 14.1-14.3

¹⁰⁶ S106 UU Appendix 3 p 18 and Figure 3b.

this proviso at the inquiry, unless the obligations meet the requirements of Regulation 122, they cannot be given any weight, as a matter of law, by the decision maker.

9.45 The CIL Regulations 2010 set out the tests which a planning obligation must meet. These are:

- Necessary to make the proposal acceptable in planning terms;
- Directly related to the proposed development;
- Fairly and reasonably related in scale and kind to the development.

9.46 There is a firm policy foundation for the provision of an infrastructure rich development in the NWSDL. The Core Strategy in Policy CP2 requires that new development contributes to the provision of sustainable and inclusive communities, including the provision of community facilities, and Policy CP4 states 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, taking account of the cumulative impact of schemes. The particular infrastructure requirements for the NWSDL are set out in Policy CP20 and Appendix 7, and are amplified in the IDC SPD.

9.47 I have listed the provisions of the UU above [8.22]. Taking each of these in turn it is clear that the majority of the provisions are required to meet the needs of the new community in the NWSDL. Through the requirements of the Core Strategy policies, including the requirement for a co-ordinated approach, the majority of the provisions meet the tests of the CIL Regulations as necessary and proportionate to the appeal scheme as Phase 1 of the NWSDL. I therefore concentrate on those provisions where the policy link is not clear cut, or where the appropriateness of the Council's requirement is questioned by the appellant. These include the Special Educational Needs Contribution (SEN), which is introduced in the IDC SPD and the options identified in the UU for the Full or Partial NRR.

9.48 In relation to the contribution to SEN, the Council argues that children occupying the appeal scheme with SEN may need to attend a special school or a specialised unit located at a mainstream school¹⁰⁷, and that places for these SEN pupils are substantially more costly than places for mainstream pupils. As a result the Council seeks an additional educational contribution to cover the provision of additional SEN facilities across the Borough. The Council seeks contributions for a proportion of the pupils generated by the appeal scheme, who might require special needs provision. The appellant does not agree the percentage identified by the Council, but is prepared to pay a lower percentage contribution if in principle it is considered by the Secretary of State to meet the Regulation 122 tests. However, it is the appellant's view that it is not a reasonable expectation for a developer to specify the disabilities of children resident in a development in advance, and a clear link between new housing and SEN requirements cannot be demonstrated¹⁰⁸.

¹⁰⁷ WBC/8 para 2.13 et seq

¹⁰⁸ CNO/12 sections 4, 5 & 6; CNO/18 para 2.14 et seq.

- 9.49 Provision for the primary and secondary education needs of the children likely to be accommodated within a new development can be calculated on a straight forward basis, in terms of numbers of places. The link with the development is direct, and proportionate. For SEN the Council seeks to apply a Borough wide average of SEN pupils to an individual development, with no evidence to demonstrate that this proportion of SEN requirements is likely to arise. However, SEN provision tends to be provided on an individual needs basis rather than in accordance with a pre-determined formulae based on population statistics or dwelling numbers¹⁰⁹. The developer would not be in a position to investigate the number of SEN pupils who might be in the households locating to the development since this would be an invasion of the privacy of such families. In these circumstances I find that the obligation to pay a SEN contribution cannot be said to be directly related to the proposed development; or fairly and reasonably related in scale and kind to the development.
- 9.50 In the event that the Secretary of State does not agree with this finding, there is also the dispute as to the proportion of pupils for whom the provision should be made. For the reasons set out in the appellant's evidence¹¹⁰, I prefer the appellant's calculation of what the contribution should be, and that is the basis on which it is provided in the UU.
- 9.51 Policy CP20 requires improvements to transport capacity along the A321 and A329 including the provision of a new route from the A329 (near the M4 overbridge) to the vicinity of the Coppid Beech roundabout. In Appendix 7, para A7.41ii) it refers to "the provision of necessary and directly related" parts of that new route (the Full or Partial NNR)[6.17]. Thus the Core Strategy does not specify that the whole of a new route from the M4 overbridge to Coppid Beech roundabout should be provided by the developers of the NWSDL.
- 9.52 Since the Council has not yet identified its final position in relation to meeting the requirements of the Core Strategy[6.69], 3 options are provided for the NRR in the UU. In relation to these 3 options it is necessary to consider whether the contributions put forward for each option are reasonable and proportionate to the development, and so meet the tests in Regulation 122. WBC argues that highways improvement should use mitigation measures to bring junctions currently operating at over capacity back below capacity¹¹¹[6.70]. However, the DfT/DCLG's Guidance on Transport Assessment 2007 states¹¹² that the key issue is to ensure that development proposals seek to achieve "nil-detriment" to the strategic network for the opening year and appropriate horizon year. It does not require an improvement on the base conditions. Thus I consider that contributions to strategic highways improvements in connection with the NWSDL will be reasonable and proportionate where they secure improvements to the network which would ensure that traffic conditions are no worse than the position without the development of the NWSDL.
- 9.53 The appellant's evidence indicates that the provision of the AI and PNRR (Option 1 in the UU) or the PNRR with on line improvements (Option 3 in the UU) would

¹⁰⁹ CNO/12 para 2.12

¹¹⁰ IBID

¹¹¹ WBC/10 para 4.7

¹¹² CD2.18 para 4.51

be sufficient to mitigate the impact of the NWSDL and background traffic growth in 2026¹¹³. This view is not accepted by WBC, even though updated model runs have been carried out which verify the conclusions reached in the 2011 Transport Assessment¹¹⁴. The Council has indicated a preference for the FNRR[6.70], which would secure a new highway link from the western boundary of the Matthewsgreen neighbourhood to the A329 London Road in the vicinity of the Coppid Beech roundabout. However, it would be significantly more costly (an additional £1.3m contribution from the appeal scheme) to construct[6.71].

- 9.54 At the Inquiry, the Council stated that they preferred the FNRR on the basis of traffic grounds alone¹¹⁵. However, WBC has not yet completed all the modelling work necessary to evaluate the full benefits of the highways infrastructure proposed for the four SDLs and the local traffic impacts. As a result the Council's witness was not able to state categorically whether the FNRR would be required in order to achieve "nil-detriment" with the NWSDL, or whether it was preferred by WBC because it would mitigate the cumulative impacts of other SDLs or provide improvements, and consequently a net benefit, to the wider network. As a result the Council has clearly not yet reached a judgement as to which elements of the FNRR are necessary and directly related to the NWSDL development[6.69].
- 9.55 Policy CP4 requires that infrastructure provision should take account of the cumulative impact of development. As a result the need for the FNRR should be considered against not just the NWSDL, but also the potential impact of traffic arising from the other Wokingham SDLs. In the event that Options 1 or 3 are sufficient to accommodate traffic growth in the A321 and A329 corridor arising from the 4 Wokingham SDLs, I consider that the additional costs for the FNRR would not be reasonable and proportionate for the NWSDL to support, and as a result Option 2 would not meet the tests in the CIL Regulations. It is only if the cumulative traffic impacts of either the NWSDL, or the NWSDL together with one or more other SDLs could only be mitigated through the FNRR that I consider that a proportional contribution from the developers of the NWSDL and the other relevant SDLs would be appropriate. The Council is currently undertaking the necessary modelling, and it is through that modelling that the Council would need to be able to demonstrate that the FNRR is necessary and directly related to the development of either the NWSDL alone, or the NWSDL together with one or more other SDLs[6.17 bullet 6]. Furthermore, it must be shown to be necessary on the basis of the test of nil-detriment. In my view, a scheme which aims to achieve betterment would not meet the relevant tests.
- 9.56 The Council has indicated that it intends to produce a CIL charging scheme by September 2013, and provision for the FNRR would be made through a strategic transport charging schedule[5.11]. The CIL charging schedule would be subject to independent examination such that the Council would, if they choose, have the opportunity to demonstrate the extent to which it is justified for the FNRR to be funded by the NWSDL or the NWSDL and other relevant SDLs. Clearly the CIL charges could not be applied to a development which had been granted planning permission before the CIL has been adopted. However, with the UU

¹¹³ CNO/4 10.3 & 10.4.

¹¹⁴ CD6.5

¹¹⁵ WBC10/2

provision in place, the Council's position would be safeguarded in the event that the Option 2 contribution was demonstrated to be an appropriate contribution from the appeal development. As a result I consider there is no reason for permission in this case to be withheld, and further delay in housing land supply to result, whilst further work is undertaken in assessing the need for the FNRR.

9.57 In the appellant's Transport Assessment¹¹⁶ at Table 10.1 other indirectly related costs are identified. These include the Wokingham Station Link, and the Coppid Beech Park and Ride. The UU makes provision for a contribution to a proportion of the costs of these schemes. These schemes meet the requirement in Policy CP20 for measures to improve access to non-car modes to Wokingham town centre (including the station interchange), and accord with the requirements of A7.41 which states that such contributions are necessary to make the development acceptable. In these circumstances I find that it is only the contribution required to implement a FNRR which has the potential to be in conflict with the tests set out in Regulation 122.

Other matters

9.58 Appendix 7 of the Core Strategy refers to provision to enhance existing neighbourhood facilities¹¹⁷, and the IDC SPD refers to the expansion of the existing Children's centre. However, there is no reference in any policy to a contribution to an extension to the Brambles Children's Centre to provide a neighbourhood police facility as sought by Thames Valley Police[7.9]. No evidence is presented to demonstrate that the need for such a facility arises directly as a result of the proposed development, or of the development of the NWSDL. In these circumstances I am unable to conclude that such a requirement would be directly related to the proposal and a necessary provision before planning permission could be granted.

9.59 In terms of issues relating to noise and air quality[7.10], these have been addressed in the appellant's ES[6.88]. I have dealt with air quality above[8.13]. The noise evidence relates to the impact of the development alone at 2018, and indicates that there would be no significant impact on the residents of Warren House Road and Bell Foundry Lane¹¹⁸. Whilst it does not address cumulative impacts of subsequent phases of the NWSDL, these are matters which could be addressed in the ES which will need to be produced for each new phase as it is proposed. The appellant's ES also considers the impact of the development in terms of the loss of trees where this is necessary to implement the proposals, including those that would need to be removed to accommodate highways works¹¹⁹. The impact is minimised where possible, and landscaping of the development would provide for new tree planting to take place.

10. Summary of Conclusions

- 1) The appeal development would constitute Phase 1 of the NWSDL which is allocated in the recently adopted Core Strategy. The Core Strategy envisaged

¹¹⁶ CD6.5 p 86

¹¹⁷ CD1.2 para A7.37

¹¹⁸ CNO/6 para 34-37

¹¹⁹ CD6.3 Appendix 12

development coming forward from 2010-2011 and since it has not, WBC now has a serious housing land supply shortfall. As a result there is a presumption in favour of permission being granted.

- 2) The Core Strategy requires a co-ordinated approach to the development of all the SDLs, but it does not require a binding commitment as sought by WBC before any planning permission could be granted. The Core Strategy refers to the preparation by the Council of an Infrastructure Delivery SPD incorporating a roof levy for the 4 SDLs. An IDC SPD and the NWSDL (Development Brief) SPD have been prepared, but no roof levy has been introduced to enable WBC to provide the lead in co-ordinating the development of any SDL.
- 3) In association with the other members of the NWC, the appellant has produced an IDP which identifies all infrastructure considered by the developers to be appropriate, and apportions costs between the members of the NWC. The costs attributable to the appeal development are then provided for in the s106 UU.
- 4) The other members of the NWC have agreed to the provisions of the IDP, and the IDP would form the basis for the Council to secure subsequent proportional contributions from later developers in the NWSDL, through the requirement for legal obligations which would be tied to later planning applications. As a result the delivery of the remaining phases of the NWSDL would not be prejudiced. In the absence of the mechanism identified in the Core Strategy, the NWC IDP linked to the s106 UU in the appeal case, with the potential for linkage to future s106 obligations, provides a satisfactory mechanism for delivery of the co-ordinated development of the NWSDL.
- 5) In the approach adopted by the appellant, in collaboration with the other NWC members, it is unlikely that the piecemeal development feared by the Council would result. It has the benefit of enabling development to start in the NWSDL, and help meet the serious shortage of housing land in the Borough.
- 6) Having reviewed the provisions to be made in the s106 UU, it is clear that the development would deliver its fair proportion of the necessary and directly related infrastructure identified in Policy CP20 and Appendix 7 of the CS. In spite of the Council's concerns, adequate Primary School and Community Centre provision is made, and the contribution to playing pitches is appropriate. The Travel Plan does not provide a co-ordinated package for the whole SDL, but it does not prejudice future phases, and is appropriate for the appeal scheme. The public transport strategy is adequate for this phase, and leaves it open for the Council to negotiate increased provision as other phases are developed.
- 7) The appeal scheme generally meets the requirements set out in Policy CP20 and Appendix 7 of the Core Strategy and would initiate the infrastructure rich development envisaged by the Core Strategy. This judgement is subject to the proviso that any contribution made towards the costs of a future FNRR can be demonstrated to be necessary and directly related to the appeal development as a phase of one of the four SDLs in Wokingham.

11. Recommendation

That the appeal be allowed, and planning permission be granted, subject to the conditions set out in the attached annex.

That the Secretary of State indicate in his decision that the Schedule 1 planning obligation to contribute to SEN would not meet the tests of CIL Regulation 122; and that the payment required for Option 2 in Schedule 1 para 16.5.1 must be demonstrated to be necessary in order to secure nil-detriment in terms of traffic generated by the NWSDL or cumulatively by the NWSDL together with one or more other SDLs in order to be compliant with CIL Regulation 122.

Wendy Burden

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Mary Cook of Counsel

Instructed by the Head of Governance and Democratic Services WBC

She called
Connor Corrigan
Lynne Basford
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Principal Planning Officer WBC
Director of Transport Planning JMP Consultants
Managing Director Impact Planning Services Ltd
& Managing Director the Environment Bank Ltd
Ecology Officer WBC
Service Manager, Children's Services
Infrastructure and Development WBC

Andy Glencross
Piers Brunning

FOR THE APPELLANT:

Mr Russell Harris QC

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He called
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Director & Chartered Town Planner, Savills
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Consultant

Stephen Clyne

Peter Traves

AIEMA Environmental Planner Savills

Richborough Estates

Annex A: List of Conditions

1. The development hereby permitted shall be carried out in accordance with the details shown on the following submitted plans:

Component Plan	PLAN002	A1001.1	F	February 2011
Overall Site Layout Plan	PLAN004 A	A-1006	N	November 2011
Overall Site Layout Plan	PLAN004 B	A-1007	H	February 2011
Overall Site Layout Plan	PLAN004 C	A-1008	J	February 2011
Overall Site Layout Plan	PLAN004 D	A-1005	S	February 2011
Parking Plan	PLAN004 E	A-1102	J	November 2011
Site Access – Keephatch Road	PLAN005	1955/SK/020	H	March 2011
Site Access Warren House Road Junction 1	PLAN006	1955/SK/019	K	March 2011
Site Access Warren House Road Junction 1 (Initial)	PLAN006 A	1955/SK/018	G	March 2011
Site Access Warren House Road 2	PLAN007	1955/SK/097	A	March 2011
SANG Car Park Plan	PLAN008	1955/SK/095	H	November 2011
Utilities Plan & Sewage Pumping Station	PLAN010	1955/UD/001	C	March 2011
Landform Plan (SANG & Noise Attenuation)	PLAN014	PLAN014	001	March 2011
SANG Detailed Layout and Arrangement	PLAN016	PLAN016	001	March 2011

Reserved Matters and Implementation

2. Details of the appearance, landscaping and scale (hereafter 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.

Reason: In pursuance of s.92 of the Town and Country Planning Act 1990 (as amended by s.51 of the Planning and Compulsory Purchase Act 2004).

3. The first reserved matters application shall be made within three years from the date of this permission and all remaining reserved matters applications for this development shall be made within five years from the date of this permission.

Reason: By virtue of Sections 91 to 95 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. No development shall be commenced until a strategy for the sub phasing of the development based on the submitted drawing PLAN 009 A-1103 rev B ('the Sub - Phasing Strategy') has been submitted to and approved in writing by the Local Planning Authority. The Sub - Phasing Strategy will define timescales and triggers for commencement of each sub - phase of the development, the arrangements to prevent interruption of delivery across sub - phase boundaries, and details of the coordination of infrastructure and housing delivery within each sub phase. Any variations to the Sub - Phasing Strategy must be approved in writing by the Local Planning Authority.

Thereafter the development shall be implemented in accordance with the Sub Phasing Strategy.

Reason: To ensure the proper and comprehensive planning of the site within the wider North Wokingham Strategic Development Location, to ensure the timely delivery of facilities and services and to protect the amenity of the area in accordance with Wokingham Borough Core Strategy Policies CP2, CP3, CP4, CP5, CP6, CP17 and CP20 and the North Wokingham Strategic Development Location Supplementary Planning Document (October 2011).

5. The development phases, as identified within the Sub - Phasing Strategy to be approved under condition 4, shall begin no later than two years from the date of the approval of the last of the reserved matters for that sub-phase.

Reason: By virtue of Sections 91 to 95 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Lighting

6. Before the commencement of the development, a strategy including details of implementation for lighting for all principle highways, cycleways and public/other footpaths shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved Strategy prior to the relevant highways / cycleway and public/other footpaths being brought into use.

Reason: To ensure the proper planning of the development as required by Core Strategy policies CP1, CP3 and CP20

Waste Management

7. Before the commencement of the development a Waste Management Strategy based on the principles outlined by the submitted Kentwood Farm Waste Implementation Plan (SLR Ref. 404.00404.00037 – March 2010) 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 implemented in accordance with the timescales set out in the approved Strategy.

Reason: To ensure sustainable development in operation as required by Core Strategy policy CP1

Design Codes

8. As part of the first reserved matters application, a detailed design code for the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed design code shall demonstrate how the objectives of the DAS will be met. No more than 100 of the dwellings hereby permitted shall be occupied until a review of the approved design code has been submitted to and approved in writing by the Local Planning Authority to take account of changing circumstances and technologies. The development hereby permitted shall be carried out in accordance with the approved design code. The design code shall include the following:

- sustainable design and construction, in order to achieve a minimum Code for Sustainable Homes Level 3 (or other such equivalent sustainability standard as may be agreed in writing by the Local Planning Authority) for residential buildings;
- measures which show how energy efficiency is being addressed to reflect policy and climate change, and show the on-site measures to be taken to produce at least 10% of the total energy requirements of the development hereby permitted by means of renewable energy sources;
- built-form strategies to include density, height and massing, and active frontages, type and form of buildings including relationship to plot and landmarks and vistas;
- design of the public realm, including layout and design of squares, areas of public open space, areas for play and allotments including any structures;
- open space needs including sustainable urban drainage;
- conservation of flora and fauna interests;
- provision to be made for art;
- surface materials (quality, colour and texture) proposed for all footways, cycle ways, bridleways, roads, car parks and vehicular accesses to and within the site (where relevant) and individual properties;
- cycle parking and storage;
- means to discourage casual parking and to encourage parking only in designated spaces;
- provision to be made for domestic refuse and recycling facilities.

Reason: To secure the good design of the development and to be in accordance with CP17, CP20 and the North Wokingham Strategic Development Location Supplementary Planning Document (October 2011).

Construction management

9. Before the development hereby permitted is commenced a Construction Management Plan (drafted with regard to the submitted Site Waste Management Plan SLR Ref 404.0404.00037 – March 2011) shall have been

submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved construction management plan. The Construction 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) details of proposed means of dust suppression and noise mitigation;
 - j) details of measures to prevent mud from vehicles leaving the site during construction;
 - k) haul routes for construction traffic on the highway network; and
 - l) monitoring and review mechanisms.
10. No works in respect of the construction of the development hereby permitted and no deliveries to the site during construction shall be undertaken at the following times:
- Outside the hours of 0800 - 1800 on Mondays to Fridays (inclusive);
 - Outside the hours of 0800 - 1300 on Saturdays;
 - On Sundays and on public holidays.

Reason: To protect occupants of nearby dwellings from noise and disturbance outside the permitted hours during the construction period in accordance with Core Strategy Policy CP3 and to accord with the submitted Environmental Statement.

Affordable Housing provision

11. No development in relation to the dwellings shall begin until a scheme for the provision of affordable housing across the whole site has been submitted to and approved 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 B of PPS3 or any future guidance that replaces it. The scheme shall include:
- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 35% of housing units;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

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

Reason: To comply with Core Strategy policy CP5.

Landscape, Ecology and Open Space Strategy

11. Before the development hereby permitted is commenced a Landscape, Ecology and Open Space Strategy (covering a period of 20 years or until completion of the development hereby permitted, whichever is the later), in respect of all the land within the red line, shall have been submitted to and approved in writing by the Local Planning Authority. The Strategy shall comply with details submitted as part of the application (reference O/2011/0699). The development shall be carried out in accordance with the approved Landscape, Ecology and Open Space Strategy. The Landscape, Ecology and Open Space Strategy shall include:

- a) a detailed specification for the laying out of the SANG and the adjacent informal open space in accordance with the submitted plan (PLAN016 rev 001 – March 2011)
- b) a programme for implementation;
- c) long-term management responsibilities and proposals (5, 10 and 15 years) including budgetary costings for all landscaping works within each Sub Phase, method statements and programmes of work;
- d) ecological management plan (to include guidance for habitat creation, enhancement or restoration including a description and evaluation of proposals; to demonstrate accordance with the Environmental Statement); and;
- e) annual maintenance schedules for the SANG, all hard and soft landscape areas and open spaces (other than privately owned domestic gardens), and any associated features.

Reason: To assimilate the development into its surroundings, and to protect the biodiversity resource of the area in accordance with Core Strategy Policy CP3 and CP20, Wokingham District Local Plan saved policies WLL4, WBE4, WBE5 and the recommendations in section 12.5.12 of the Environmental Statement.

Tree protection

12. No development shall commence without first having submitted for approval to and had approved in writing by the Local Planning Authority a method statement for the protection of trees, hedgerows shrubs to BS5837:2005 and water features (including but not limited to ponds) within that sub-phase of development, based on the Arboricultural Survey submitted (ref 404-00404-00037, March 2011). The statement will cover matters relating to the protection of retained trees and hedgerows, and remedial works that shall be in accordance with BS 3998/1989. Any works within the root protection areas of trees or hedgerows to be retained shall be monitored in accordance with the protective measures specified, by an appropriately qualified arboricultural consultant to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development. Provision

shall be made for the reporting of continued compliance or any departure there from to the Local Planning Authority. The relevant phase of development shall then be implemented and maintained in accordance with the approved method statement.

Reason: To assimilate the development into its surroundings, and to protect the biodiversity resource of the area in accordance with Core Strategy Policy CP3; Wokingham District Local Plan (WDLP) saved policies WLL4, WBE4, WBE5.

13.No sub - phase of development shall commence until a detailed scheme of landscaping and external works for that phase of development have been submitted for approval in writing by the Local Planning Authority. The scheme shall thereafter accord with the approved scheme of landscaping. The details shall be provided on drawings to a scale of 1:1250 and 1:500 and shall include:

- a) existing trees, hedgerows, orchard, grassland and other landscape features to be retained, restored or reinforced;
- b) schedules of proposed trees and plants, location, species, sizes, numbers and densities;
- c) details of construction methods in the vicinity of retained trees and details of pit design for tree planting within streets or areas of hard landscaping.
- d) existing and proposed levels comprising spot heights, gradients and contours, grading, ground modelling, and earth works;
- e) details including locations and specifications and product literature relating to materials for pedestrian and vehicular areas, artefacts and street furniture including signs, seats, bollards, cycle racks, bus shelters, lighting columns; planters, refuse bins, play areas and equipment;
- f) existing and proposed services above and below ground;
- g) boundary treatments and means of enclosure with particulars of height, materials, brick bonds and fencing styles; The particular phase of development shall then be implemented in strict accordance with the approved scheme.

Reason: To help assimilate the development into its surroundings, protect existing features and enable high quality design, in accordance with Core Strategy Policy CP3; Wokingham District Local Plan (WDLP) saved policies WLL4, WBE4 and WBE5.

14.Any trees, shrubs or grass areas that are planted or retained as part of the development that die, become seriously damaged or destroyed within 5 years from completion of the relevant sub-phase of development shall be replaced with a specimen of the same species and of a similar size (in which case the five year period shall recommence for that particular plant) at the earliest appropriate planting season. The particulars (including species and location) of the replacement trees, shrubs or grass areas shall be submitted to the Local Planning Authority for written approval prior to planting.

Reason: To help integrate the development into its surroundings and enable high quality design in accordance with Core Strategy Policy CP3; Wokingham District Local Plan (WDLP) saved policies WLL4, WBE4

Noise

15. The noise bund and fence shall be completed in accordance with the approved specification and details set out on PLAN014 Rev 001 prior to completion of the SANG and/or before any dwelling affected by NEC B hereby approved is occupied (Plans ref 10.4 Day-Time PPG24 NEC Contour Plot – Completed Development & 10.5 Night-time PPG24 Contour Plot - Completed Development as provided in Vol 1 of the submitted Environmental Statement). The approved scheme shall be retained and maintained thereafter in accordance with the approved details.

Reason: To protect the amenity of the area and to ensure that premises are protected from noise nuisance and disturbance in accordance with South East Plan Policy NRM11 and Wokingham Borough Core Strategy Policy CP3 and the recommendations in section 10.6, notably 10.6.10 to 10.6.13 and Tables 10.17/10.18 of the Environmental Statement.

16. The approved dwellings shall be designed and/or insulated so as to provide attenuation against externally generated noise in accordance with a mitigation scheme to be submitted to and approved in writing by the Local Planning Authority, such scheme to ensure that all noise implications, but specifically including future potential noise implications of the Full Northern Relief Road (FNRR) within the site and noise from the A329(M) are mitigated so that internal ambient noise levels for dwellings shall not exceed 35 dB LAeq (16 hour) 07:00-23:00 during the daytime and 30 dB LAeq (8 hour) 23:00-07:00 during the night assuming full FNRR traffic flows at the outset. The design and/or insulation measures to be identified in the scheme shall ensure that ambient internal noise levels for the dwellings meet the BS8233/1999 design range 'good' for living accommodation. Prior to occupation the approved mitigation measures shall be implemented and retained thereafter.

Reason: To protect the amenity of the area and to ensure that premises are protected from noise nuisance and disturbance including for the future potential route of the Full Northern Relief Road, in accordance with South East Plan Policy NRM11 and Wokingham Borough Core Strategy Policy CP3 and the recommendations in Table 10.18 of the Environmental Statement

17. Details of the technical specifications of the sub stations, and gas governor (as shown on submitted PLAN010 rev C), to include a noise assessment and mitigation report identifying attenuation measures to ensure that these buildings are 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.

Reason: To protect the amenity of the area and to ensure that the development is not unneighbourly in accordance with South East Plan Policy NRM10 and Wokingham Borough Core Strategy Policy CP3.

Contamination

18.No development of each sub-phase shall commence until the following measures (a-c) to investigate site contamination within each sub-phase have first been carried out. Each stage is to be approved in writing by the Local Planning Authority and shall be in accordance with BS10175 and BS5930. The stages comprise:

- a) a desk study including a walkover, identification of all potential sources of contamination and an initial conceptual model (as included in the submitted ES (see Phase 1 & 2 Geotechnical Site Investigation Report, November 2009 Ref: 403.0404.00028 as included in the submitted Environmental Statement Vol 2)
- b) an intrusive site investigation using a refined conceptual model and appropriate laboratory accreditation in the event that potential contamination is found; and
- c) a remediation scheme in the event that levels of unacceptable contamination are identified.

Reason: To ensure safe occupation and use of the site and to prevent pollution of the environment in accordance with Policies CP1 and CP3 of the Core Strategy.

19.Where levels of unacceptable contamination are present, no development shall be occupied within a sub phase until all the measures for that sub phase identified in the remediation scheme approved under Condition 18 have been completed. The approved measures shall be retained and maintained thereafter.

Reason: To ensure safe occupation and use of the site in accordance with Wokingham Borough Core Strategy Policy CP1 and CP3.

Archaeology.

20.No development of any sub-phase shall take place within the site, including any works of demolition or ground preparation until the archaeological programme as outlined by the Archaeological Written Scheme of Investigation (ref. 403.00404.00028 – May 2011) have been completed, the findings of which submitted in writing to the Local Planning Authority.

Reason: As the site is potentially of archaeological importance and to safeguard the identification and recording of features of historic and/or archaeological interest associated with the site and in accordance with Wokingham Borough Core Strategy Policy CP3 and Wokingham District Local Plan saved Policies WHE10 and WHE12 and the recommendations in sections 14.6.1 to 14.6.4 of the Environmental Statement.

Drainage and flooding

21.The development hereby permitted shall not be carried out otherwise than in accordance with the submitted Flood Risk Assessment (See 11.2 of Vol 2 of the submitted Environmental Statement)

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

22.No development shall commence until full details of the surface and foul water drainage scheme for the development 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 subsequently be implemented in accordance with the approved details before the development is complete. The scheme shall include:

- Demonstration that SUDs have been considered for the site and the SUDs hierarchy has been clearly followed

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1 and in accordance with the recommendations in sections 11.6.8 to 11.6.22 of the Environmental Statement.

23.Prior to commencement of development details of the measurements of the flows of watercourses in and around the site and monitoring of groundwater levels shall be submitted for approval in writing by the Local Planning Authority. The measurements and monitoring shall be continued thereafter and carried out in accordance with the approved details and reports to be submitted annually to the Local Planning Authority until all the surface water drainage on the site has been implemented.

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1 and in accordance with the recommendations in section 11.6.7 of the Environmental Statement.

24.No development approved by this planning permission shall take place until detailed plans and specifications for culverts, water crossings and their clear span nature shown within the site plans have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

25.No development of any dwellings approved by this planning permission shall take place until a buffer zone scheme alongside the Ashridge Stream has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone
- details of the planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

26. Prior to the commencement of development, a working method statement and detailed design to cover all channel and bank works on the Ashridge Stream shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason: In accordance with Wokingham Borough Core Strategy Policy CP7.

Sustainable Drainage

27. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version) and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) include a timetable for its implementation;
- c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime; and
- d) include detailed designs for any wetland features on the site (e.g. ponds, swales and balancing features).

Reason: To prevent pollution and flooding in accordance with Wokingham Borough Core Strategy Policy CP1.

28. No soakaways shall be constructed more than 2 metres below existing ground level and shall not penetrate the water table or be constructed through contaminated material.

Reason: To prevent pollution of groundwater in accordance with Wokingham Borough Core Strategy Policy CP1.

Access and Movement

29. No road or footway shall be constructed as part of the development that is to be public highway without first having entered into an agreement with the Local Highway Authority pursuant to section 38 and/or section 278 of the Highways Act 1980 in respect of that road or footway.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1 and CP6.

30. Details of any construction access(es) to be provided shall be submitted to, and approved by the Local Planning Authority, prior to commencement of development.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1 and CP6.

31. The implementation of the permanent access from Warren House Road (given by submitted plan ref PLAN006A1955/SK/019 rev K) shall be undertaken prior to the commencement of any development at phase 2 of Kentwood Farm as indicated by the blue line on PLAN001, A-1002, rev D February 2011. On construction of the permanent access details shall be submitted to the Local Planning Authority to include arrangements for the provision and implementation of an alternative access to the SANG car park and the maintenance of the access to the pumping station. Works to form the alternative access to the SANG car park and the maintenance of the access to the pumping station shall be undertaken at the same time as the permanent access is implemented and all works shall be retained thereafter.

Reason: In the interests of coordinated planning and phasing of the development.

32. The means of access shall be formed between the site and the highway in accordance with the submitted detailed access design (including but not limited to construction drainage and vision splay).

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1 and CP6.

33. No residential accommodation shall be occupied within a sub phase of development until all links to existing on and off site infrastructure estate roads and footpaths within that phase have been constructed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policies CP1, CP4 and CP6.

34. No residential unit shall be occupied within a sub phase of Development until the relevant vehicular accesses, driveways, parking and turning areas serving that residential unit have been constructed in accordance with details hereby approved

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policy CP6.

35. No more than 100 dwellings in the development hereby approved shall be occupied until a scheme for the implementation of the following junctions has

been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out pursuant to a S.278 and/or S.38 agreement under the Highways Act (1980), and shall be undertaken no later than the occupation of the 250th dwelling or implementation of the commencement of development at phase 2 of Kentwood Farm as indicated by the blue line on submitted plan ref. PLAN001, A-1002, rev D February 2011 or any phase of residential development at 'Matthewsgreen' (Area B as defined by Figure 3.1 of the NWSDL Supplementary Planning Document, October 2011), whichever is sooner.

The submitted details shall demonstrate how the potential upgrades to the following junctions shall be implemented:

- Junction 2: A329 London Road / Binfield Road
- Junction 3: Warren House Road / Wiltshire Road / Bell Foundry Lane
- Junction 5: A329 Reading Road / Old Forest Road
- Junction 8: A329 Reading Road / Holt Lane
- Junction 9: Milton Road / Jubilee Avenue / Twyford Road
- Junction 15: Matthewsgreen Road / A321 Twyford Road/ A321 Milton Road
- Junction 24: Forest Road / Twyford Road
- Junction 25: Forest Road / Warren House Road

The off-site works shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and convenience in accordance with Wokingham Borough Core Strategy Policy CP6.

Annex B

DOCUMENTS

(Documents which have been deleted were withdrawn)

LIST OF CORE DOCUMENTS

CD 1 Local and Regional Policy/Supplementary Documents

- 1.1 Regional Strategy – The South East Plan (May 2009)
- 1.2 Wokingham Borough Core Strategy (January 2010)
- 1.3 The Planning Inspectorate, WBC Core Strategy Inspectors Report (October 2009)
- 1.4 Wokingham Borough Council Adopted Core Strategy Development Plan Document Changes to the Proposals Map arising from the Adopted Core Strategy (Adopted 29th January 2010)
- 1.5 Wokingham Borough Local Plan (2004) ('saved' policies- 2007)
- 1.6 NWSDL Supplementary Planning Document (Adopted October 2011)
- 1.7 Infrastructure SPD Supplementary Planning Document (Adopted October 2011)
- 1.8 Sustainability Appraisal of the Development Briefs (Masterplans) Supplementary Planning Documents (SPDs) for the four Strategic Development Locations and the Infrastructure Delivery Schedule SPD, WBC (June 2011)
- 1.9 The Borough Design Guide SPD (adopted 18 February 2010) (updating the Borough Design Guide: Residential Design and amalgamating existing village/parish design statements. Relevant Document Shinfield School Green Village Character Statement.
- 1.10 Wokingham Planning Advice Note (PAN) on Infrastructure Impact Mitigation (updated November 2010)
- 1.11 Individual Executive Member Decision on the Planning Advice Note
- 1.12 Wokingham Borough Council Adopted Sustainable Design and Construction Supplementary Planning Document (2010) and Companion Document (2010).
- 1.13 Wokingham Borough Council Adopted Affordable Housing Supplementary Planning Document (2011).
- 1.14 Wokingham District Highway Design Guide (2004).
- 1.15 Wokingham District Landscape Character Assessment: adopted 2004
- 1.16 Wokingham Borough Council Draft Options For the Managing Development Delivery Development Plan Document (2011)
- ~~1.17 Emerging Wokingham Borough Council Design Guide SPD consultation version~~
- 1.18 NWSDL Masterplan Supplementary Planning Document (October 2010 version)

- 1.19 Infrastructure SPD Supplementary Planning Document (October 2010 version)
- 1.20 Extract from the Panel Report, South East Plan (August 2007) – Western Corridor & Blackwater Valley

CD 2 National Planning Policy/Legislation/ PINS Advice

- 2.1 PPS1 – Delivery Sustainable Development (2005)
- 2.2 PPS3 – Housing (2011)
- 2.3 PPS4 - Planning for Sustainable Economic Growth (2009)
- 2.4 PPS5 – Planning for the Historic Environment (2010)
- 2.5 PPS9 – Biodiversity and Geological Conservation (2005)
- 2.6 PPS12 – Local Spatial Planning (2008)
- 2.7 PPG13 – Transport (2011)
- 2.8 PPG17 – Planning for Open Space Sport and Recreation (2002)
- 2.9 Assessing Needs and Opportunities: a companion guide to PPG17
- 2.10 PPS22 – Renewable Energy (2004)
- 2.11 PPS23 – Planning and Pollution Control (2004)
- 2.12 PPG24 – Planning and Noise (1994)
- 2.13 PPS25 – Development and Flood Risk (2010)
- 2.14 Draft National Planning Policy Framework (July 2011)
- 2.15 Community Infrastructure Levy Regulations 2010 - Regulation 122
- 2.16 Letter of 31 March 2011 from CLG Chief Planner incorporating the Statement of Greg Clark Minister for Housing (23 March 2011)
- 2.17 Department for Transport (DfT) / Department for Communities and Local Government (DCLG), Guidance on Transport Assessment (GTA) (March 2007)
- 2.18 DfT / DCLG, Good Practice Guidelines: Delivering Travel Plans through the Planning Process (April 2009)
- 2.19 ODPM Circular 05/2005 Planning Obligations
- 2.20 Circular 11/95 Use of Conditions in Planning Permission
- 2.21 ODPM The Planning System: General Principles (2004)
- 2.22 PINS Advice Note. Impact of CALA Homes Litigation
- 2.23 PINS Advice Note. Draft National Planning Policy Framework
- 2.24 PINS Model Planning Conditions
- 2.25 EC Directive 92/43/EEC On the Conservation of Natural Habitats and of Wild Fauna and Flora
- 2.26 The Conservation of Habitats and Species Regulations 2010.

- 2.27 Managing Natura 2000 Sites: The provisions of Article 6 of the "Habitats" Directive 92/43/EEC.
- 2.28 Childcare Act 2006
- 2.29 The Education and Skills Act (2008)
- 2.30 Education Act (1996) as amended
- 2.31 Wildlife and Countryside Act 1981
- 2.32 Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 1999; Regulation 2, Schedule 4, Part I and II.
- 2.33 Local Growth: realising every place's potential; Presented to Parliament by the Secretary of State for Business, Innovation and Skills (28 October 2011)

CD 3 Appeal Decisions/ Planning Approvals and Authorities

- 3.1 R (Cala Homes Ltd) v Secretary of State for Communities & Local Government, [2010] EWHC 2866 (Admin)
- 3.2 Cala Homes (South) Ltd v Secretary of State for Communities & Local Government [2011] EWHC 97 (Admin)
- 3.3 Bishopsdown Farm, Salisbury (September 2011) (APP/Y3940/A/10/2143011)
- 3.4 Land off Hill Barton Road, Exeter (June 2011) (APP/Y1110/A/10/2137880)
- 3.5 Land adjacent 65 Plough Lane, Wokingham - SoS Decision Letter (May 2011) (APP/X0360/A/11/2152037)
- 3.6 Shinfield Glebe. Church Lane, Shinfield - Appeal Decision (Aug 2011) (APP/X0360/A/10/2133804)
- 3.7 38 Silverdale Road, Earley, Reading – Appeal Decision (July 2009) (APP/X0360/A/09/2101262)
- 3.8 Hurstleigh Park, Coronation Road, Ascot – Appeal Decision (October 2011) (APP/TO355/V/10/2139957)
- 3.9 Land at Barton Farm, Andover Road, Winchester, Hampshire - SoS Appeal Decision Letter (September 2011) and Report to the SoS (May 2011) (APP/LI765/A/10/2126522)
- 3.10 Section 106 Agreement relating to land at Plough Lane, Wokingham (14 March 2008) and associated planning permission decision notice
- 3.11 The Dilly Lane Judgement (Hart District Council, R (on the application of) v Secretary of State for Communities & Local Government & Others [2008] EWHC 1204 (Admin))

- 3.12 Legal Opinion from David Elvin QC (2 March 2010) 'Issues regarding mitigation and SANGs)
- 3.13 Kentwood Farm Committee Report (ref: O/2011/0699)
- 3.14 Kentwood Farm (Ref: O/2011/0699) Committee Agenda and Minutes
- 3.15 Didcot Great Western Parkway Outline Application, Decision Notice, Framework Plan, Landscape and Movement Strategy and S106 (ref: PO2/WO848/0)
- 3.16 Statutory Challenge – Shinfield Glebe Appeal Decision
- 3.17 Mersea Homes Appeal, Ipswich.

CD 4 Wokingham Borough Council Documents

- 4.1 Wokingham Borough Annual Monitoring Report and SHLAA update (Sept 2011)
- 4.2 Wokingham Housing Options Report (October 2010) prepared by GL Hearn.
- 4.3 Wokingham Borough Report to Executive – Adoption of the Supplementary Planning Documents (October 2011)
- 4.4 Wokingham Borough Validation Study of SDLs Infrastructure Delivery & Contributions SPD (Hearns) (August 2011) incorporating Wokingham Infrastructure Review – Capita Symons (August 2011)
- 4.5 Thames Basin Heaths Delivery Framework (2009)
- 4.6 Manual for Streets and for Manual for Streets 2
- 4.7 Design Manual for Roads and Bridges (DMRB)
- 4.8 Wokingham Strategic Transport Model Forecasting Methodology Report (April 2011)
- 4.9 Wokingham Strategic Transport Model Local Model Validation report (March 2011)
- 4.10 Wokingham Strategic Transport Model and Forecasting Report (October 2011)
- 4.11 WBC Protocol for the use of the Wokingham Transport Model by Developers
- 4.12 The Local Transport Plan 2011 (LTP3)
- 4.13 WBC Residential and Workplace Travel Plan Guidance (2011)
- 4.14 Wokingham Borough Council Cycle Route Maps 2007
- 4.15 Affordable Housing Viability Study Levvels (2008) and update (2009)
- 4.16 Wokingham Housing Strategy 2011-2013
- 4.17 Berkshire Strategic Housing Market Assessment (2007)
- 4.18 Housing Needs Survey (2002)
- 4.19 Wokingham Housing Needs Assessment 2007 by DTZ
- 4.20 Wokingham Older People's Strategy 2008
- 4.21 The Wokingham Strategic Flood Risk Assessment

- 4.22 Adopted Rights of Way Improvement Plan (2009)
- ~~4.23 Wokingham Borough Council Public Open Space Audit (anticipated but not yet published)~~
- 4.24 Wokingham Borough Local Development Scheme 2008 – 2011
- ~~4.25 Faithful & Gould report for WBC on Order of Cost for a new secondary school (October 2011)~~
- 4.26 Masterplan SPD North Wokingham Infrastructure Model Test (March 2010)
- 4.27 Ashridge Interchange V1.0 Option Testing (March 2009)
- 4.28 B3 – Core Strategy Review (March 2009)
- 4.29 LDF Review of Core Strategy Transport Requirements (August 2008)
- 4.30 NWSDL Partial NRR Test v1.1 with Figures (May 2008)
- 4.31 LDF SDL Transport Assessment (August 2007)
- 4.32 LDF Draft Core Strategy Alternatives TIA (November 2005)
- 4.33 Wokingham Borough Report to Executive – Adoption of the Supplementary Planning Documents (October 2010)
- 4.34 Wokingham Borough Council Community Strategy
- 4.35 Wokingham Borough Council Open Space Audit (2005)
- 4.36 Levvels EIP Evidence
- 4.37 WBC Evidence to Examination Session 14 – Core Strategy EIP (April 2011)

CD 5 Other Documents

- 5.1 Sport England: Natural Turf for Sport
- 5.2 Natural England Guidelines for the creation of Suitable Accessible Natural Green Space (SANGS) dated 12.06.08
- 5.3 Code for Sustainable Homes, DCLG (2006)
- 5.4 Safer Places – The Planning System and Crime Prevention, ODPM (2004)
- 5.5 Secure by Design Principles, ACPO (2004)
- 5.6 Building Bulletin 102, Department for Education
- 5.7 DfE Green Paper ‘Special Educational Needs and Disability’
- 5.8 2010 Annual Reports of Taylor Wimpey, Persimmon, Galliford Try, Redrow and H1 2010 interim report for Miller Homes
- 5.9 Preparing for Recovery: Maximising House Building Growth in the Upswing, Home Builders Federation (HBF) (August 2009)
- 5.10 “Figures mask the paucity of new loans”, Daniel Thomas, Financial Times, (20 May 2011)
- 5.11 UK Weekly Economic Briefing, Oxford Economics (21 October 2011)

CD 6 Planning Application and related documents

6.1 Planning Application Form and including the following:

PLAN001/002 -Site Boundary/ Component Plan

PLAN003/004 & 004 A to H - Existing Site Plan and Proposed Site Layout
(Block Plan)

PLAN005/006/006(A)/007/008/011/012 - Highways Access Designs/ Layout
Tracking

PLAN009 - Phasing Plan

PLAN010 - Utilities Plan including Sewage Pumping Facility

PLAN012 - Road Hierarchy, Highway Treatment and Square Plan

PLAN013 - Detailed Site Plans

PLAN014 - Landform Plan (SANG and Noise Attenuation)

PLAN015/016 - SANG Detailed Layout and Arrangement

PLAN017 - LEAPS/ LAPS Location Plan

PLAN018 - Public Open Spaces Plan

PLAN019 - Tree Survey Plan

PLAN020/021- Landscape Masterplan

PLAN022 - Adoption Plan

PLAN023 - Detailed Planting Plan Enclave & Crescent

6.1.1 Bilateral (S.106 Legal Agreement re: SANG/ Informal Open Space) (*originally CD6.13*)

6.1.2 New Plans Issued (29 November 2011) with Schedule of all plans for
determination

6.1.3 Updated Unilateral Undertaking S.106 (30 November 2011) (*originally CD6.13*)

6.2 Supporting Planning Statement

6.3 Environmental Statement

6.4 Design and Access Statement

6.5 Transport Assessment/ Travel Plan/ Bus Strategy (IBC)/ Public Rights of Way
Study

6.6 Summary of Community Involvement

6.7 North Wokingham SDL (NWC) Infrastructure Delivery Plan (IDP) March 2011

6.8 Affordable Housing Statement

6.9 Services Report

6.10 Sustainability and Energy Statement

6.11 Site Waste Management Plan

6.12 Waste Implementation Plan

Section 106 Planning Obligation / Supporting Plans

~~6.13 Unilateral Undertaking~~

6.14 Further Application Plans and related Documents - submitted during the determination (up to 28 July 2011)

- a. PLAN001 (A-1002) Rev D – Site Plan (Red Line)
- b. PLAN004 A (A-1006) Rev H – Overall Site Layout Plan (Proposed)
- c. PLAN004 B (A-1007) Rev H – Overall Site Layout Plan (Proposed)
- d. PLAN004 C (A-1008) Rev J – Overall Site Layout Plan (Proposed)
- e. PLAN004 D (A-1005) Rev M – Overall Site Layout Plan (Proposed)
- f. PLAN004 E (A-1102) Rev D – Parking Plan
- g. PLAN004 F (A-1101) Rev D – Storey Heights Plan
- h. PLAN004 G (A-1100) Rev E – Dwelling Distribution
- i. PLAN004 H (A-1020) Rev D – Garden, Refuge, Aspects Plans
- j. PLAN008 Rev C – SANG Car Park Plan and Access

6.15 Plans submitted for information only

- (a) Noise Contour (Night)
- (b) Noise Contour (Day)
- (c) Traffic Calming Spine Road
- (d) Parking Court North
- (e) Parking Court South

6.16 Infrastructure Delivery Plan – Working Draft Apportionment (May 2011)

6.16.1 Infrastructure Delivery Plan – Working Draft Apportionment (30 November 2011)

6.16.2 Transport Infrastructure Apportionment Table (30 November 2011)

6.17 Flood Risk Assessment Addendum & Attachments (May 2011)

6.18 Archaeology Written Scheme of Investigation (June 2011)

6.19 Transport Costs in Draft Section 106 Agreement (July 2011)

6.20 Transport Assessment Update Addendum (July 2011)

CD 7 North Wokingham Consortium ('NWC') and Core Strategy/EiP

Documents

7.1 NWC Evidence to Support the Core Strategy (Sept 2008):

- (a) Supporting Planning Statement (Appendix 1)
- (b) Neighbourhood Principle (Technical Appendix 1)
- (c) Masterplan and Landscape Framework (Technical Appendix 2)
- (d) PPS3 Housing Density Character Assessment (Technical Appendix 3)
- (e) Environmental Constraints and Mitigation (Technical Appendix 4)

- (f) Review of Indirect Impacts on Thames Basin Heaths SPA (Technical Appendix 5)
- (g) Initial Transport Study & Critique of WBC's Transport Study (Technical Appendix 6)
- (h) Initial Infrastructure Study (Technical Appendix 7)
- 7.2 Statement of Common Ground - NWC and WBC (March 2009)
- 7.3 Statement of Common Ground (Transportation) - WBC and NWC (April 2009)
- 7.4 Core Strategy EiP - Inspector's Report (Oct 2009)
- 7.5 NWC Placemaking Strategy (Oct 2009)
- 7.6 NWC Representations on the draft Infrastructure SPD (March 2010)
- 7.7 NWC Representations on the draft Infrastructure SPD (July 2011)
- 7.8 Infrastructure Business Case Ashridge Interchange
- 7.9 Infrastructure Business Case Partial Northern Relief Road
- 7.10 Infrastructure Business Case Bus Strategy
- 7.11 NWC Infrastructure Delivery Trajectory (March 2009)

CD 8 Rule 6 Party – Keephatch Beech Landowners Group bundle of documents

CD 9 Statements of Common Ground

- 9.1 Statement of Common Ground (Planning) (10 Oct 2011)
- 9.2 Statement of Common Ground (Highways) (10 Oct 2011)
- 9.3 Statement of Common Ground (Education) (02 Dec 2011)
- 9.4 List of Conditions
- 9.5 Agreed list of other parties

CD 10 Correspondence

- 10.1 Bovis and Gleeson Letter of Support (April 2011)
- 10.2 Appellant letter of Response to Representations Received (27 May 2011)
- 10.3 Appellant Letter to PINS (7 Oct 2011)
- 10.4 PINS Response RE: Regulation 19 Request (19 October 2011)
- 10.5 WBC Scoping letter (SO/2010/2855) dated 25 February 2011
- 10.6 WBC EIA letter dated 26 September 2011
- 10.7 Inspectorate EIA response letter dated 19 October 2011
- 10.8 Letter from Bovis & Gleeson – 7th December 2011
- 10.9 Letter from Natural England – 13th December 2011

10.10 Letter from RPS (Thames Valley Police) – 12th December 2011

Wokingham Borough Council Documents

WBC/1 – Statement of Case

WBC/1.1 – Opening Statement

WBC/1.2 – Closing Statement

WBC/2 – Planning Proof of Evidence – Connor Corrigan

WBC/3 – Summary of Planning Proof of Evidence – Connor Corrigan

WBC/4 – Planning, Infrastructural and Housing Land Supply Proof of Evidence – Rob Gillespie

Rob Gillespie Appendices

WBC 4/1 - Secretary of State and Ministerial Speeches

WBC 4/2 - Plough Lane Appeal Location Plan

WBC 4/3 - WBC and SDL Consortia Board letters

WBC 4/4 - Property and Land Market Research by Savills and GVA

WBC 4/5 - Appeal Decision

WBC 4/6 - Submitted Issue 5 - North Wokingham (24th March 2009)

WBC 4/7- Examination Session 5 Appendix to Statement 3 (Issue 5 / 1852)
IDT

WBC 4/8 - North Wokingham Issue 14 - Affordable Housing (23rd April 2009)

WBC 4/9 – Rob Gillespie Speaking Note

WBC/5 – Summary of Planning, Infrastructural and Housing Land Supply Proof of Evidence – Rob Gillespie

WBC/6 – SANG, Biodiversity and Public Open Space Proof of Evidence – Andy Glencross

Andy Glencross Appendices

WBC 6/1 - Cantley Park Map

WBC 6/2 - TBH SPA and Gorrick Plantation Map

WBC 6/3 - S106 Agreement – SANGs

WBC 6/4 – Andy Glencross Speaking Note

WBC6/5 – WBC Brief for Cantley Masterplan

WBC/7 – Summary of SANG, Biodiversity and Public Open Space Proof of Evidence – Andy Glencross

WBC/8 – Education Proof of Evidence – Dan Brockbank

WBC8/1 – Education Figures

WBC/8/2 – Piers Brunning Statement (Educational witness)
WBC/9 – Affordable Housing Proof of Evidence – Carol Lovell
WBC/10 – Transport Proof of Evidence – Lynn Basford
WBC 10/1 – Lynn Basford Speaking Note
WBC/11 – Summary of Transport Proof of Evidence – Lynn Basford
WBC/12 – Lynn Basford Appendices 1-8
WBC/2(1) – Rebuttal of evidence of Connor Corrigan
WBC/10(1) – Rebuttal of evidence of Lynn Bashford

Further Supplementary Evidence

WBC 13 – Sustainability Appraisal (incorporating SEA) Document (Oct 11)
WBC 14 – Core Strategy Statement of Compliance (Aug 08)
WBC 15 – Audit Trail for Developing Options for the Core Strategy (Jun 08)
WBC 16 – Community Centre Spec (Note: for number reference only - removed from
WBC evidence on request of Inspector)
WBC 17 – Email dated 27th July 2011
WBC 18 – IDP / Infrastructure requirements for North Wokingham SDL
WBC 19 – Note to Inspector re Unilateral Undertaking

List of Crest Nicholson Documents (CNO)

CNO/1 – Statement of Case
CNO/1.1 – Opening Statement

Proof of Evidence

CNO/2 – Planning Proof of Evidence – Mr Steele
CNO/3 – Summary of Planning Proof of Evidence – Mr Steele
CNO/4 – Transport Proof of Evidence – Mr Hutchings
CNO/5 – Summary of Transport Proof of Evidence – Mr Hutchings
CNO/6 – EIA Proof of Evidence – Mr Traves
CNO/7 – Summary of EIA Proof of Evidence – Mr Traves
CNO/8 – Market Evidence Proof of Evidence – Mr Ward
CNO/9 – Summary of Market Evidence Proof of Evidence – Mr Ward
CNO/10 – Delivery Proof of Evidence – Mr Turner
CNO/11 – Summary of Delivery Proof of Evidence – Mr Turner
CNO/12 – Education Proof of Evidence – Mr Clyne

CNO/13 – Summary Education Proof of Evidence – Mr Clyne

Others

CNO/14 – Infrastructure Delivery Plan (November 2011 update)

Rebuttals

CNO/15 – Rebuttal of evidence of Mr Steele

CNO/16 – Rebuttal of evidence of Mr Turner

CNO/17 – Rebuttal of evidence of Mr Hutchings

CNO/18 – Rebuttal of evidence of Mr Clyne

CNO/19 – Rebuttal of evidence of Mr Traves

Response to WBC Comments on Unilateral Provided on 13th December

CNO/20 – Appellant Response

Further Supplementary Evidence & Plans

CNO2.1 – E-mails from Connor Corrigan (as raised in Cross Examination of Corrigan 30 November)

~~CNO2.2 – Delivery of Strategic Infrastructure – Community Infrastructure Levy – Timescale Estimate.~~

CNO2.3 - Planning Obligations: Comparison of IDP with Core Strategy A7.41

CNO4.1 – E-mail re Highway Focus Group submission of IBC (Highways) (as raised in Cross Examination of Basford 29 November)

CNO4.2 – Detail of Length of FNRR (Section Lengths)

CNO4.3 – Junctions update

CNO4.4 – Spons Information costs (2005)

CNO4.5 – Spons Information costs (2012)

CNO4.6 - Gardiner & Theobald costs

CNO4.7 – Road Safety Audit

CNO4.8 – Summary of Strategic Modelling from Appendix F (CNO/4 Tables)

CNO17.1 – Residential Travel Plan (November 2011)

Annex C**Glossary of Terms**

AI	Ashridge Interchange
CIL	Community Infrastructure Levy
CPO	Compulsory Purchase Order
ES	Environmental Statement
FNRR	Full Northern Relief Road
IDP	Infrastructure Delivery Plan (submitted by the appellant)
IDC SPD	Infrastructure Delivery and Contributions Supplementary Planning Document
NDR	Northern Distributor Road
NE	Natural England
NPPF	National Planning Policy Framework
NRR	Northern Relief Road
NWC	North Wokingham Consortium
NWSDL	North Wokingham Strategic Development Location
NWSDL SPD	North Wokingham Strategic Development Location Supplementary Planning Document (referred to by the appellant as the Masterplan SDP, and by the Council as the Development Brief SPD)
PAN	Planning Advice Note
PNDR	Partial Northern Distributor Road
PNNR	Partial Northern Relief Road
POS	Public Open Space
PPS	Planning Policy Statement
RS	Regional Strategy
SANG	Suitable Alternative Natural Green Space

SEN	Special Educational Needs
SDL	Strategic Development Location
SPA	Special Protection Area
SPD	Supplementary Planning Document
TBHSPA	Thames Basin Heath Special Protection Area
TP	Travel Plan
UU	Unilateral Undertaking under Section 106 of the Town and Country Planning Act
WBC	Wokingham Borough Council

Richborough Estates