



Department for  
Communities and  
Local Government

Our ref: APP/WO340/W/15/3141449  
Your ref: 15/00296/OUTMAJ

Kim Cohen  
Barton Willmore LLP  
The Blade  
Abbey Square  
Reading  
RG1 3BE

27 July 2017

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY A2DOMINION DEVELOPMENTS LTD  
SIEGE CROSS, LAND NORTH OF BATH ROAD, THATCHAM, BERKSHIRE  
APPLICATION REF: 15/00296/OUTMAJ**

1. I am directed by the Secretary of State to say that consideration has been given to the report of John Chase MDC, Dip Arch, RIBA, MRTPI, who held a public local inquiry between 15 November and 7 December 2016 into your client's appeal against the decision of West Berkshire Council ("the Council") to refuse planning permission for your client's application for the phased development of up to 495 dwellings; up to 250 sqm of Use Class D1 floorspace; a new primary school of up to 2 forms of entry; vehicular, pedestrian and cycle accesses; public open space; children's play areas; landscaping; structural planting; new woodland planting; sustainable urban drainage measures including water detention basins; associated ground modelling; and all associated works, in accordance with application ref: 15/00296/OUTMAJ, dated 3 February 2015.
2. On 1 April 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and outline planning permission granted subject to the conditions set out in Annex 3 of the Inspector's Report (IR).
4. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the IR is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Matters arising since the close of the inquiry**

5. Following the close of the original inquiry, the Secretary of State received representations from the Council, which were sent to the Planning Inspectorate on 10 April 2017. These included information on an updated five year housing land supply and the Inspector's Report for the Housing Site Allocations Development Plan Document (DPD) dated 6 April 2017, which was due to be adopted on 9 May 2017. The Secretary of State also received representations from Nexus Planning on 23 March 2017 and from your firm on 29 March 2017.
6. On 3 May 2017 the Secretary of State wrote to the parties to afford them the opportunity to comment on the additional information referred to in paragraph 5 above.
7. On 9 May 2017 the Housing Site Allocations DPD was formally adopted by the Council.
8. On 17 May 2017, the Secretary of State wrote to the parties to afford them the opportunity to comment on the implications, if any, of the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk DC v SSCLG which was handed down on 10 May 2017. The representations received were recirculated to the main parties for comment. A list of all the representations received is at Annex A. The Secretary of State has taken them all into account in reaching his decision and copies can be obtained upon request to the address at the bottom of the first page of this letter.

## **Policy and statutory considerations**

9. In reaching his decision, 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 consists of saved policies from the West Berkshire District Local Plan (2002); the Core Strategy (2012); and the Housing Site Allocations DPD (2006-2026) which was adopted on 9 May 2017. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR175. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended. Furthermore, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

## **Main issues**

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 140-141.

## Housing Land Supply (HLS)

### *Assessment of Need*

12. The Secretary of State has carefully considered the Inspector's analysis of assessment of need at IR144, including his finding that the Strategic Housing Market Assessment (SHMA) assessed a need of 665 dwellings per annum (dpa) in West Berkshire.
13. With regard to the demographic assessment, for the reasons given at IR145, the Secretary of State agrees that the similarity of outcome between different methodologies diminishes the extent to which the alterations sought by the appellants would have a material effect on the assessment of demographic need. For the reasons given at IR146-147, the Secretary of State agrees that it has not been shown that the SHMA has failed to take account of relevant factors, nor that its methodology is fundamentally flawed in respect of demographic assessment.
14. He further agrees, for the reasons set out by the Inspector, that the evidence falls short of proving that the SHMA has significantly underestimated the level of in-migration (IR148).
15. The Secretary of State, for the reasons given at IR149-152, agrees that the evidence falls short of proving that the basis of the SHMA employment estimate is unduly pessimistic in its approach. Similarly, he agrees that the alternative evidence does not prove that the SHMA is wrong on the source and quality of data to set activity rates, commuting ratios and whether double jobbing should be taken into account.
16. For the reasons set out by the Inspector at IR153, the Secretary of State agrees the SHMA assesses need throughout the Housing Market Area, and it is not counter to the Guidance if appropriate adjustments are made between authorities.
17. The Secretary of State agrees, for the reasons given at IR154-155, that the proposed uplift in response to market signals does not seem unreasonably low.
18. With regard to affordable housing, the Secretary of State, for the reasons set out by the Inspector at IR156-158, agrees that the Council has addressed the need for affordable housing, and the evidence does not show that the criteria used are either so adrift of normal practice, or that the expectations of the level of delivery are so unrealistic, as to justify rejecting the SHMA figure on those grounds.
19. For the reasons given at IR159-160, the Secretary of State agrees with the Inspector that, with regard to the report to Government of the Local Plans Expert Group (LPEG), it is not possible to give substantial weight to the relevant LPEG proposals.

### *Conclusions on Housing Need*

20. The Secretary of State agrees that while the SHMA has not been tested at a Local Plan Examination, there were opportunities for third party involvement while it was being drawn up. He further concludes that the representations of the appellant fall short of proving that the SHMA is fundamentally flawed in its methodology or results. While some of the data is now of some age, he concludes, in agreement with the Inspector, that any variation is not of such significance as to invalidate the results. The Secretary of State thus agrees with the Inspector's conclusions at IR161-162 that there are grounds to consider that 665 dpa is an adequately realistic measure of the objectively assessed need in West Berkshire, and he has used this as his starting figure.

## *Land Supply*

### *The Buffer*

21. The Secretary of State has carefully considered the Inspector's analysis of the buffer at IR163-166 and carefully considered the Inspector's conclusion that there are grounds to consider that there is a record of persistent under delivery and that a buffer of 20% is now justified. However, the Secretary of State disagrees with the Inspector's conclusions. In coming to this conclusion, the Secretary of State has had regard to report into the West Berkshire Housing Site allocations DPD and the DPD Inspector's conclusions (DPD IR 134) that the housing supply situation is satisfactorily monitored with no reasons to conclude that there is any significant threat to the delivery of housing in West Berkshire. The Secretary of State also concludes that while there has been an undersupply in 6 of the past ten years, this has been in part due to the influence of the recession. As such he finds that a 5% buffer is appropriate.
22. It is common ground (IR174) between the parties that there is a shortfall of 417 dwellings (IR173). As such the Secretary of State concludes that net housing need is 3,742  $[(665 \times 5) + 417]$ , to which he adds a 5% buffer, to give an overall housing need of 3,929 units.

### *Deliverable Housing Land*

23. The Secretary of State has carefully considered the Inspector's analysis of deliverable housing land at IR167-173. With regard to Sandleford Park, the Secretary of State agrees with the Inspector that it should be removed from the figures for deliverable sites given doubts as to whether it will deliver within the 5 year period. He thus excludes the 220 dwellings at Sandleford Park from his calculations of housing supply.
24. The Secretary of State has gone on to consider the Core Strategy site at Newbury Racecourse (IR169). Given the revised trajectory of February 2017 from the developer, and noting that units on the site are selling well and that development is now under way on the third phase of the site, the Secretary of State concludes that it is realistic to deduct only 102 sites from the delivery figures, to give a total of 873 dwellings at the site.
25. With regard to the J&P Motors site, the Secretary of State notes that there is no indication of any legal impediment to the use of the land for housing, there is an implemented planning permission, and there is recent evidence of the involvement of the developer (IR170). As such he agrees with the Inspector that this site will deliver housing within the five year period. With regard to the Lakeside site in Theale, (IR170), the Secretary of State disagrees with the Inspector given the uncertainty as to whether the site will begin to deliver within the five year period, and has excluded the site from his calculations.
26. The Secretary of State has also excluded 160 units on land off Faraday and Kelvin Road from his calculations, given that the lease situation means that it is not certain that the site will deliver within the five year period.
27. The Secretary of State has had regard to the Inspector's analysis at IR172 on the Market Street site, and notes that the s106 Agreement has now been signed and planning permission granted. For that reason, and for the reasons set out by the Inspector, he concludes that delivery of 232 units from this site within 5 years is not an unreasonable expectation. He further agrees, for the reasons set out by the Inspector, that there is not a substantial reason to exclude the Pound Lane Depot site from his calculations.

28. The Secretary of State has had regard to your client's representations concerning the Land adjacent to Hilltop site. However, given that planning permission has now been granted following appeal, he concludes that it is reasonable that 200 units will be delivered within the five year period.
29. With regard to Land adjacent Pondhouse Farm; Land at Poplar Farm; 72 Purley Rise; and Field between A340 and The Green; and Land adjacent to Lynch Lane, the Secretary of State has taken into account your client's representations on reducing the figure of deliverable dwellings, and those representations of the Council (Annex 2) stating that the sites are available, and early delivery is expected.
30. With regard to South East Newbury (2); and South East Newbury (3), the Secretary of State has had regard to the representations of your client on reducing the figure of deliverable dwellings, and the representations of the Council stating that the sites are available, and delivery is expected in the later phase of NEW047.
31. The Secretary of State has also had regard to the Inspector's analysis of DPD allocations at IR171. In addition he has had regard to the fact that the DPD has now been adopted. The Secretary of State has taken into account the DPD Inspector's conclusions that that the housing supply situation is satisfactorily monitored and that there are no reasons...to conclude that there is any significant threat to the delivery of housing in West Berkshire. For those reasons, and those given by the Inspector, he concludes that there is insufficient evidence to conclude that these sites will not deliver within the five year period.
32. As such the Secretary of State concludes that 873 dwellings can be taken into account at Core strategy sites (Newbury Racecourse), and 1,076 from DPD allocated sites. He includes 443 dwellings at permitted sites under 10 units, and 1,175 dwellings at larger permitted sites. He includes 279 sites without planning permission, and 261 units on sites allocated through the prior approval process. To this figure he adds a windfall allowance of 192 dwellings.

#### *Conclusion on housing land supply*

33. The Secretary of State thus concludes that the Council can deliver a total of 4,299 dwellings within the 5 year period. Setting this against a 5 year requirement of 3,929 dwellings, as set out above, the Secretary of State concludes that there is a surplus of 370 dwellings, or a 5 year supply of 5.47 years.
34. As such, for the reasons set out above the Secretary of State disagrees with the Inspector and concludes that in his judgement the local planning authority can now demonstrate a 5 year supply of deliverable housing sites.

#### *Development Plan Policy*

##### *Whether the proposal complies with the development plan*

35. The Secretary of State has gone on to consider the development plan (IR 175-181) in the context of the Council now being able to demonstrate a 5 year HLS.
36. The Secretary of State has had regard to Core Strategy Policy CS1 and considers that the proposal does not comply with any of the identified 4 categories of land. The appeal site is not one of the sites which has been chosen in the Site Allocations DPD. However,

the Secretary of State considers that the wording is not wholly prohibitive of development outside these categories (IR 176).

37. The Secretary of State agrees with the Inspector at IR 177 that the location of the appeal site would meet a number of the criteria in Core Strategy Policy ADPP1. For the reasons given at IR 178, the Secretary of State agrees with the Inspector that the land falls below the settlement hierarchy. As the appeal site lies within land composed of agricultural fields with the characteristics of open countryside, the proposal is subject to the final bullet point of Core Strategy Policy ADPP1, which allows only limited development which addresses identified needs and maintains a strong rural economy. The Secretary of State therefore agrees with the Inspector that the proposal would not comply with this aspect of the development plan (IR178).
38. The Secretary of State has given careful consideration to the Inspector's discussion regarding Core Strategy Policy ADPP3 at IR179. Policy ADPP3 indicates that approximately 900 homes are to be provided in Thatcham during the plan period. For the reasons given at IR179, the Secretary of State agrees with the Inspector's conclusion that 900 homes should not be viewed as a ceiling, and the wording of ADPP3 does not directly restrict development to this level.
39. The Secretary of State agrees with the Inspector at IR180 that Policy C1 in the Site Allocations DPD includes a presumption against new residential development outside settlement boundaries.

*The weight to be attributed to policies*

*The Site Allocations DPD*

40. The Secretary of State has given careful consideration to the Inspector's analysis at IR183-185, but disagrees with his conclusions. He agrees that the intention to protect rural areas by restricting development outside settlement boundaries is not inconsistent with the Framework. He further agrees that the site allocations DPD amends the settlement boundaries to allow more land for housing. While he agrees that the DPD is based on the Core Strategy, which was not based on an objective assessment of need, he notes that Policy CS4 treats housing numbers as a minimum, allowing for their review and update over time to reflect housing need. He thus concludes, in the context of the Council demonstrating a 5 year housing land supply, that the housing policies of the Local Plan are consistent with the Framework and that the application of paragraph 14 of the Framework is not triggered.
41. For the reasons given at IR 186, the Secretary of State agrees that the proposal would be in conflict with policies ADPP1, and C1.

*The Character and Appearance of the Countryside*

*The Effect on the Landscape*

42. For the reasons given at IR188-195, the Secretary of State agrees with the Inspector's conclusion at IR203 that the site does display some of the recognised distinctive features of the local countryside, including the farmstead in its setting, and this would be lost by the proposed development. Core Strategy policy CS19 deals with landscape quality and includes the need to have regard to the distinctive characteristics of the wider area. Overall, the Secretary of State agrees with the Inspector that there would be some conflict with the development plan in this respect, although to a restricted degree

because of the limited contribution that the site currently makes to the character and appearance of the area and the setting of the town.

#### *The Area of Outstanding Natural Beauty (AONB)*

43. For the reasons given at IR196-198, the Secretary of State agrees with the Inspector's conclusion at IR203 that there is a need to protect the AONB in conformity with policy ADPP5, but no clear evidence that the development would be harmful in this respect.

#### *Heritage*

44. The Secretary of State has given careful consideration to the Inspector's analysis at IR199-201 on the impact of the appeal scheme on the heritage assets within Siege Cross Farm buildings which are located outside, but surrounded by, the appeal site. He agrees with the Inspector at IR200 that the development would lead to a loss of elements of the historic landscape, which would be only partially mitigated by the retention of a buffer zone around the buildings. He further agrees with the Inspector at IR201 that, to the extent that both the visibility and historical context of the farm relies on its relationship with the surrounding fields, the replacement with housing would have some detrimental effect on the setting of the listed buildings. He further agrees with the Inspector that this would be less than substantial harm in terms of paragraph 134 of the Framework.

#### *Agricultural Land*

45. The Secretary of State has carefully considered the Inspector's discussion of agricultural land at IR202 including the fact that the appellant's agricultural land assessment notes that about 87% of the site falls into the category of the best and most versatile agricultural land. The Secretary of State has had regard to the Inspector's consideration that there is no clear evidence that economic difficulties are arising because of a lack of such land in the district. Nonetheless, he agrees with the Inspector at IR202 that it is a factor counting against the proposal to be taken into account in the overall assessment.

#### *Education*

46. The Secretary of State has given careful consideration to the Inspector's discussion regarding education at IR 204-209 and agrees with his conclusion at IR 210 that the evidence falls short of proving that the proposal would have a harmful effect by being premature to the education strategy. The Inspector concludes that there would be the opportunity during the development programme to make provision for the additional numbers of pupils, so as to avoid contravention of Core Strategy policies ADPP1 and CS5. The Secretary of State agrees that there would be no conflict with the elements of those policies dealing with the availability of services.

#### *Financing Education*

47. The Secretary of State has given careful consideration to the Inspector's discussion regarding financing education at IR211-219 and agrees with his conclusion at IR220 that there are grounds to consider that primary education needs should be funded by the developer by the construction of a school on the site, but with an allowance to avoid duplication with CIL payments. The Secretary of State agrees that secondary educational demand may be mitigated from the CIL fund without the need for a specific contribution. He also agrees that the submitted unilateral undertaking would enable the development

to comply with the elements of Core Strategy policies CS5 and ADPP1 which deal with the availability of services.

#### *Other Matters*

48. For the reasons given at IR222, the Secretary of State agrees with the Inspector that the development proposal offers the opportunity to carry out a properly engineered solution to the potential for flooding.
49. For the reasons given at IR224, the Secretary of State agrees with the Inspector that matters raised, including traffic congestion, the capacity of Newbury to cope with the additional housing, and other matters raised, do not provide grounds to recommend dismissal of the scheme.

#### **Planning conditions**

50. The Secretary of State has given consideration to the Inspector's analysis at IR133-138, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

#### **Planning obligations**

51. Having had regard to the Inspector's analysis at IR 221, the planning obligation dated 7 December 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR 221 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and would be necessary to make the development acceptable in planning terms, is directly related to the development, fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

#### **Planning balance and overall conclusion**

52. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Core Strategy policies CS1, CS 14, CS19, ADPP1 and ADPP3 and DPD Policy C1 and is therefore not in accordance with the development plan overall. The Secretary of State concludes that, as the Council can demonstrate a 5 year housing land supply, the application of paragraph 14 of the NPPF is not triggered, and as such the proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
53. The Secretary of State considers that the addition of nearly 500 homes in an accessible location would contribute to the economic and social sustainability of the area by, amongst other matters, providing a market for local goods and services, and a workforce to enable commercial growth, and he affords this benefit moderate weight. Up to 198 affordable homes would be a considerable boost to the supply of low cost housing, to which he affords significant weight. He also finds there would be the social benefits of increased education choice from a new school with expansion potential, and additional



recreational open space and community facilities, which attract significant weight. The Secretary of State also considers that improvements to the road system, and flood control on the site would have wider benefits for the locality, to which he gives moderate weight. He also gives moderate weight to the potential to provide direct financial support to the Council, in terms of the new homes bonus and CIL payments, which attract moderate weight. The development would be in an accessible location, with the potential to minimise the use of private transport.

54. Against this the Secretary of state weighs the conflict with policies CS1, ADPP1, ADPP3 and C1, and he affords this conflict substantial weight in the context of a 5 year housing land supply and a now made DPD.
55. The Secretary of State also weighs the incursion into open countryside against the proposal, and the resulting conflict with policies CS14 and CS19. However, the Secretary of State considers that the site makes a limited contribution to the visible rural landscape. The proposed housing would not be out of keeping with the prevailing suburban character, and the existing vegetation would help to contain and soften the impact. As such he gives this conflict moderate weight.
56. He also weighs against the proposal the 'less than substantial' harm to a heritage asset, and the resulting conflict with policy ADPP3. However, the Secretary of State considers that NPPF paragraph 134 accepts less than substantial harm to the significance of a designated heritage asset maybe justified by the public benefits of a scheme, and the retention of some open space around the buildings would help to mitigate the loss. As such he gives moderate weight to this harm.
57. The Secretary of State gives further weight to the loss of agricultural land. Given his conclusion that there is no evidence that a shortage of land in the area would cause economic difficulties, he gives this moderate weight.
58. Having regard to the conflict with the development plan as a whole and taking account of the policy set out in paragraph 196 of the Framework, and the other harms, the Secretary of State therefore concludes that there are no material considerations sufficient to indicate that the proposal should be determined other than in accordance with the development plan. He concludes that the appeal should be dismissed and planning permission refused.

### **Formal decision**

59. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the phased development of up to 495 dwellings; up to 250 sqm of Use Class D1 floorspace; a new primary school of up to 2 forms of entry; vehicular, pedestrian and cycle accesses; public open space; children's play areas; landscaping; structural planting; new woodland planting; sustainable urban drainage measures including water detention basins; associated ground modelling; and all associated works, in accordance with application ref: 15/00296/OUTMAJ, dated 3 February 2015.

### **Right to challenge the decision**

60. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

61. A copy of this letter has been sent to West Berkshire Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Philip Barber*

Authorised by Secretary of State to sign in that behalf

Richborough Estates

## Annex A – Schedule of representations

### SCHEDULE OF REPRESENTATIONS

#### General representations

Party	Date
Steven Doel Nexus Planning	23 March 2017
Mark Owen Barton Willmore	29 March 2017
Bob Dray West Berkshire Council	10 April 2017, 12 April 2017

#### Representations received in response to the Secretary of State's letters of 3 May 2017 and 17 May 2017

Steven Doel Nexus Planning	17 May 2017, 31 May 2017
Kim Cohen Barton Willmore	17 May 2017, 15 June 2017
Sinéad O Donoghue West Berkshire Council	17 May 2017
Bob Dray West Berkshire Council	1 June 2017
Clare Jenner West Berkshire Council	15 June 2017

Richborough Estates

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# Report to the Secretary of State for Communities and Local Government

by John Chase MCD, Dip Arch, RIBA, MRTPI

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

Date: 4 April 2017

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TOWN AND COUNTRY PLANNING ACT 1990

WEST BERKSHIRE DISTRICT COUNCIL

APPEAL BY

A2DOMINION DEVELOPMENTS LTD

Richborough Estates

Inquiry held on 15 November to 7 December 2016

Siege Cross, Land North of Bath Road, Thatcham, Berkshire

File Ref: APP/W0340/W/15/3141449

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## **ABBREVIATIONS USED IN REPORT**

AOD	Above Ordnance Datum
AONB	Area of Outstanding Natural Beauty
BMV	Best and Most Versatile agricultural land
CIL	Community Infrastructure Levy Regulations 2010
DCLG	Department for Communities and Local Government
dpa	Dwellings per annum
DPD	Development Plan Document
HMA	Housing Market Area
IDP	Infrastructure Delivery Plan
LEP	Local Enterprise Partnership
LPEG	Local Plans Expert Group
LVIA	Landscape and Visual Impact Assessment
NPPF	National Planning Policy Framework
OAN	Objectively Assessed Need
para	Paragraph
PPG	Planning Practice Guidance
SA/SEA	Sustainability Appraisal/Strategic Environmental Assessment
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document

**File Ref: APP/W0340/W/15/3141449**

**Siege Cross, Land North of Bath Road, Thatcham, Berkshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by A2Dominion Developments Ltd against the decision of West Berkshire Council.
- The application Ref 15/00296/OUTMAJ, dated 3 February 2015, was refused by notice dated 14 October 2015.
- The development proposed is the phased development of up to 495 dwellings; up to 250 sqm of Use Class D1 floorspace; a new primary school of up to 2 forms of entry; vehicular, pedestrian and cycle accesses; public open space; children's play areas; landscaping; structural planting; new woodland planting; sustainable urban drainage measures including water detention basins; associated ground modelling; and all associated works. Means of vehicle access into the site is proposed in full detail.

**Summary of Recommendation: That the Appeal be Allowed.**

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**Procedural Matters**

1. At the Inquiry this appeal was conjoined with an appeal by Croudace Homes Ltd for 265 houses and associated works at Henwick Park, Land West of Heath Lane and North of Bowling Green Road, Thatcham (APP/W0340/W/16/3144193). Housing land supply and policy matters common to both appeals were dealt with in joint sessions. For ease of reference, the present appeal is entitled Appeal A, and Henwick Park is Appeal B.
2. Document references (in bold italic) relate to the list at Annex 2. This contains the full schedule for both appeals, as there was a sharing of some documents.
3. The planning application was made in outline, with all matters reserved except access. It was accompanied by a range of reports and illustrative plans, identified as **CD2/A and CD2.1/A** in Annex 2. After submission the Council requested that the application be considered alongside the scale reserved matter, and a Supplementary Statement on Scale was issued in March 2015 (**CD2.1/A/1**) followed by an updated Design and Access Statement (**CD2.1/A/5**).
4. The Council refused the planning application on the grounds that 1) the proposal was contrary to the development plan, the site being green-field land outside the settlement boundary in open countryside where development is strictly controlled, and, in being premature to the emerging Housing Site Allocations DPD, would undermine the plan making process; 2) there would be a harmful impact on the provision of secondary education in Thatcham, which could not be mitigated; 3) the development would damage the landscape character of the area, including the settings of the town, the Area of Outstanding Natural Beauty, and the historic farmstead at Siege Cross, and lead to the erosion of the gap between Thatcham and Upper Bucklebury; and 4) the application did not provide obligations to deliver necessary infrastructure, mitigation and enabling works. The decision notice is at **CD3/A/2**.
5. The Council carried out screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, deciding that there would not be such a significant effect on the environment as to require an Environmental Impact Assessment. The Planning Inspectorate carried out a similar exercise in relation to the appeal application and came to the same conclusion.

6. The appeal has been recovered by the Secretary of State because it involves proposals for residential development of over 150 units or on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.
7. The Inquiry took place on 15-18, 22-25, 29-30 November, 1 & 2 December, and 7 December 2016. The site visit took place on 5 December.

### **The Site and Surroundings**

8. The agreed descriptions of the site and its surroundings are contained in Section 2.0 of the Planning Statement of Common Ground (**CD1/A/9**) and the Landscape Statement of Common Ground (**CD1/A/8**), whilst the site boundary plan (**CD2/A/2**) shows the surroundings, and the site context plan (Figure 1 **CD2/A/19**) illustrates its location in relation to Thatcham and the wider area, including topographical details.
9. In summary, the site is nearly 35 ha of open land adjoining the north east edge of Thatcham. The A4 Bath Road borders the southern boundary of the site, with industrial and residential development on the far side, and there is housing beyond Floral Way on the western boundary. The northern and eastern boundaries abut agricultural fields and woodland, including Long Grove Copse on the eastern side, and the village of Upper Bucklebury lies further to the north. Thatcham town centre is about 1 km distant, and Newbury approximately 3.5 km to the west.
10. The site is rising ground on the northern side of the Kennet valley, mainly agricultural fields separated by hedgerows, but partly used as an informal grass landing strip, and with an area of electricity poles, temporarily used for training purposes. The original group of buildings at Siege Cross Farm, including a barn and cowshed listed Grade II, are surrounded by, but mostly excluded from, the appeal site. A gas compound adjacent to the A4 road is also excluded.

### **Planning Policy**

#### *Adopted and Emerging Development Plan*

11. Section 5.0 of the Planning Statement of Common Ground (**CD1/A/9**) sets out the agreed relevant planning policy. Saved policies from the West Berkshire District Local Plan adopted 2002 (**CD6/AB/2**) remain part of the development plan, including HSG1, which seeks to deliver new development within defined settlement boundaries.
12. The Core Strategy was adopted in 2012 (**CD6/AB/1**), with a range of policies cited in the Council's reasons for refusal. CS1 makes provision for at least 10,500 dwellings during the plan period, at the rate of 525 per annum. A Strategic Housing Market Assessment (SHMA) will be undertaken within 3 years, with a review of the Core Strategy allocation if a need for more houses emerges. New housing will be directed to sites within settlements, to identified strategic sites, and to those allocated in subsequent Development Plan Documents (DPDs). Green-field sites will be needed adjoining existing settlements, selected to achieve the most sustainable form of development.
13. The spatial strategy to meet this housing provision is set out in Area Delivery Plan policies. Core Strategy Policy ADPP1 indicates that most new development



will be within or adjacent to identified settlements, with the focus on the main urban areas and on previously developed land, taking account of the degree of accessibility and availability of services. The settlement hierarchy identifies Thatcham as an urban area, in the same category as Newbury and the outskirts of Reading. ADPP3 indicates that about 900 homes will be provided in Thatcham, two thirds of which have already been committed, and the remainder will be delivered through the Housing Site Allocations DPD, including green-field land adjoining the settlement. The parties agree that Local Plan policy HSG1 and Core Strategy Policies ADPP1, ADPP3 and CS1 are policies relevant to the supply of housing in terms of para 49 of the National Planning Policy Framework (NPPF).

14. CS5 seeks to coordinate infrastructure delivery with new development, including schemes identified in the Council's Infrastructure Delivery Plan; CS6 requires the provision of 40% affordable housing; CS13 covers transport matters, including a reduction in the need to travel; CS14 sets out design principles, noting the need for new development to have regard to its wider context; and CS19 looks to conserve and enhance the historic environment and landscape character, having regard to the sensitivity of an area to change. ADPP5 refers to development in the Area of Outstanding Natural Beauty (AONB) and the need to conserve and enhance its special landscape qualities.
15. The emerging Housing Site Allocations DPD was subject to Examination in June and July 2016, with public consultation on proposed modifications taking place by early 2017, and the Inspector's final report expected in the spring. Policy HSA5 allocates one site in Thatcham, for about 85 houses at Lower Way. Policy C1, the successor to LP policy HSG1, includes a presumption against new residential development outside settlement boundaries.
16. The site lies outside the settlement of Thatcham, as defined in the Local Plan, with the settlement boundary running around the southern and western edges of the land. The North Wessex Downs AONB is approximately 450m north of the site.

#### *Other Planning Documents*

17. Relevant Supplementary Planning Documents (SPD) include Planning Obligations (**CD6/AB/23**) and Quality Design (**CD6/AB/22**). The Council implemented its Community Infrastructure (CIL) Charging Schedule (**CD6/AB/20**) in April 2015, with a residential rate of £75/sqm. The CIL 'Regulation 123 List' is contained at **CD6/AB/25**. The Berkshire Strategic Housing Market Assessment (SHMA) has been carried out with other Berkshire authorities and the Thames Valley Berkshire Local Enterprise Partnership (LEP), with a final report issued in February 2016. It estimates the objectively assessed housing need (OAN) for West Berkshire as 665 dwellings per annum (dpa). Other planning documents are listed at section **CD6/AB** in Annex 2.
18. In addition, attention has been drawn to a range of policies in the NPPF, and advice in the Planning Practice Guidance (PPG), which will be discussed further below.

#### **The Proposals**

19. The application is for up to 495 dwellings, 250 sqm community space, a primary school and about 15 ha of open space and landscaping, which would be publicly accessible. The suggested distribution of uses is shown on the illustrative Master

Plan (**CD2.1/1/6**) and Site Layout (**CD2.1/A/7**), indicating open space around the perimeter, and the school in the south western corner of the site. The Parameters Plan (**CD2/A/3**) sets out the proposed height of buildings, being a maximum of 2.5 storeys (11.5m) over the majority of the site, 3 storeys (13m) in the lower central section, and the school up to 2 storeys (13m).

20. The principal access would be by a new roundabout in Floral Way, shown in the plan at **CD2.1/A/8**, and the Transport Statement of Common Ground (**CD/1/A10**) sets out agreed transport mitigation measures, including off-site junction improvements, and pedestrian and cycle access to the site. The Flood Risk Assessment (**CD2/A/22**) makes proposals to restrict the outflow from the site, including a series of attenuation basins.

### **Other Agreed Facts**

21. Section 6.0 of the Planning Statement of Common Ground (**CD1/A/9**) sets out other matters which are not in dispute between the main parties, including a description of measures proposed to mitigate the effect of the development on ecological interests, following submission of the Ecological Impact Assessment (**CD2/A/20**).
22. It is agreed that the significance of the two Listed Buildings at Siege Cross Farm derives primarily from their historic and aesthetic value, including the simple vernacular appearance and position in the farm complex, but that the significance of the barn has been eroded by subsequent alterations. There is a Grade II Listed milestone in the vicinity, south of the A4 Road, the setting of which would not be affected, and it is accepted that Siege Cross Farm is an undesignated heritage asset. The Council's heritage advisor did not raise an in-principle objection to the appeal scheme, recognising that, in terms of NPPF para 134, any harm to heritage assets would not be sufficient to justify refusal on conservation grounds.
23. Whilst education remains an area of dispute in the appeal, there is agreement<sup>1</sup> about the number of pupils generated by the development, the location and capacities of catchment schools, and the on-site provision of 1.1ha for a primary school. Environmental matters, including those related to noise, air quality and energy use, do not generate fundamental difficulties and could, where necessary, be dealt with by planning conditions. With respect to agricultural land, 77.6% of the site is of the Best and Most Versatile (BMV) quality, and, whilst the appellants draw attention to limited current economic value, its loss would count against the proposal.

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<sup>1</sup> Education Statement of Common Ground (**CD1/A/5**)

## THE CASE FOR THE COUNCIL

24. The summary below is a précis of the Council's closing statement at the appeal. The full text may be found at document **CAB11**.

### ***The Five Year Housing Land Supply***

#### *The Derivation of the 5 Year Housing Land Supply*

25. The Council's Core Strategy was prepared during a period of transition, with the introduction of the NPPF, and uncertainty surrounding the abolition of the South East Plan Regional Strategy. The Inspector had regard to these exceptional circumstances, and took a reasonable approach to the application of legislation and Government policy in finding the Core Strategy to be sound. It was subsequently adopted, without challenge, and now forms an integral part of the plan led system. Its legitimacy cannot be questioned in any legal proceedings except under the terms of S113 of the Planning and Compensation Act 2004.
26. The Core Strategy housing requirement was preceded by the words "at least", being a flexible means of ensuring that it did not represent a target or a ceiling, but a minimum figure; an approach that is endorsed by the Council in the preparation of its Strategic Housing Market Assessment (SHMA). Regard is had to the Ministerial Letter of 19 December 2014 (**CD8/CAB/3**), which notes: *"Many councils have now completed Strategic Housing Market assessments either for their own area or jointly with their neighbours. The publication of a locally agreed assessment provides important new evidence and where appropriate will prompt councils to consider revising their housing requirements in their Local Plans. We would expect councils to actively consider this new evidence over time and, **where over a reasonable period they do not, Inspectors could justifiably question the approach to housing land supply.** However, the outcome of a Strategic Housing Market Assessment is untested and should not automatically be seen as a proxy for a final housing requirement in Local Plans. It does not immediately or in itself invalidate housing numbers in existing Local Plans"*
27. The Council have actively considered this advice, and accept that the Core Strategy housing figure is out of date for the purpose of establishing the five year housing land supply, the Objectively Assessed Need (OAN) in the SHMA being the current requirement. However, this does not mean that the whole of the Core Strategy is out of date.
28. As envisaged by the Core Strategy Inspector, the Council are in the course of producing a Housing Land Supply DPD, which does not change the housing requirement in the Core Strategy, but demonstrates compliance with the "at least" qualification by significantly boosting short term supply to meet the current OAN. The Council have actively pursued the plan making process, and have commenced the preparation of evidence towards a new Local Plan, which is programmed for adoption in 2019. In the meantime, the SHMA OAN represents the best current evidence of housing need, being a significant (27%) increase in the housing requirement over the Core Strategy figure. It has been prepared with the involvement of stakeholders and should be given substantial weight in this appeal.

#### *The Objectively Assessed Need*

29. The SHMA was published in February 2016 and represents a valid, robust and up to date assessment of the needs of the Housing Market Area (HMA) that complies

with the requirements of the NPPF and Planning Practice Guidance (PPG). It was made on an evidence based assessment, including regard for economic growth and its drivers, consistent with the London SHMA.

30. It is recognised that the Firlands Farm appeal decision (**CD7/AB/1**) of July 2015 favoured an OAN of 833 dpa put forward by the appellants in that case, but this preceded publication of the SHMA and was in the absence of any alternative OAN from the Council. It is irrelevant for the purposes of determining this appeal.

#### *The approach to the SHMA*

31. Preparation of the SHMA took a reasonable approach by: i) adopting a Housing Market Area (HMA) which also included Reading, Wokingham and Bracknell Forest, being a practical and manageable area; ii) using household projections from the Department of Communities and Local Government (DCLG) as the starting point of the assessment, acknowledging that new projections would not, of themselves, render the SHMA out of date; iii) adjusting the OAN to respond to adverse market conditions, based on professional judgement; iv) engagement with housebuilders, registered providers, the Local Enterprise Partnership (as recommended by the PPG) and surrounding local authorities; v) carrying out a "thorough" assessment in terms of the advice in the PPG<sup>2</sup>; vi) having regard to the forecasts of well respected forecasting houses (Cambridge Econometrics and Oxford Economics); and vii) adjusting the results of economic models to take account of local conditions.

#### *The Demographic Led OAN*

32. Document **A9** illustrates little difference between the parties in assessing demographic led OAN. The appellants provided no evidence of increases in lone parent and single households to justify a return to 2001 household formation rates. Cultural changes and tuition fees are examples of factors which may have influenced falling household formation rates amongst certain age groups. It was accepted that the use of the patient data register could over-estimate the population and, in any event, there was little difference in migration assumptions between the parties<sup>3</sup>. Both sides' evidence included upward adjustments to migration and household formation, albeit from different starting points. The similarity of housing needs enables issues associated with the 2014 demographic projections, 10 year migration trends and adjustments for younger households to be set aside.

#### *Economic Led OAN*

33. The PPG<sup>4</sup> recognises the need for early involvement with the Local Enterprise Partnership (LEP), a matter overlooked by the appellants. The use of the Cambridge Econometrics 2013 baseline assumptions was consistent with the LEP evidence base. Nor did the Council rely entirely on the 2013 figures, the forecasts going well beyond in gathering local intelligence to establish the economic growth potential, including an assessment of commercial dynamics, local infrastructure investment, and consultation with stakeholders.

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<sup>2</sup> 2a-005-2014036

<sup>3</sup> see Mr Ireland's supplementary proof (**CAB2**) Table 1 on page 4

<sup>4</sup> 2a-007-20150320

34. The Council were criticised for not updating the SHMA to reflect the 2015 Cambridge Econometrics data, which showed a rise from 522 to 790 jobs per annum. However, the SHMA had been circulated by the date of this forecast, and there was, in any event, no credible explanation of why such a substantial rise had occurred between the two forecasts, nor what effect "Brexit" might have on these figures. In fact, more recent data from both Oxford Economics and Cambridge Econometrics show a fall in employment forecasts since the referendum, to 513 and 527 jobs per annum respectively, close to the figures on which the SHMA is based. National jobs forecasts (such as those of the Office for National Statistics) rely on surveys by businesses, but only show where a job is registered, rather than where it actually takes place. It is necessary to interrogate the data and undertake wider research to understand the local economy, as the Council have done.
35. The Confederation of British Industry anticipate slower growth next year, downgrading their forecast from 2% to 1.3%, and 1.1% in 2018, expecting a fall in the level of employment and more challenging economic conditions. There is no reason to upgrade the job estimates on which the SHMA is based.

#### *The Housing Market Area (HMA)*

36. In establishing the OAN, the appellants preferred to look at the individual local authority rather than the full HMA. This approach is not consistent with the conclusions of the Court in *St Modwen*<sup>5</sup> nor the PPG<sup>6</sup>, which makes no reference to balancing homes and jobs within an individual local authority. The Council distinguishes their position from the recent case of *Oadby and Wigston*<sup>7</sup>, considering that *St Modwen* remains good law. The Council are in the same position as East Riding Council (see para 52 of *Oadby*) as they can demonstrate a strong track of working together with their neighbouring authorities over an extended period. Ousley J said in *St Modwen* (para 74) that "*the NPPF does not require housing needs to be assessed always and only by reference to the area of the development control authority*". In this case, any apportionment of job growth between the constituent councils of the HMA reflects their collective view and, like *St Modwen*, it should be possible to rely on their long standing and continuing cooperation in plan preparation.

#### *Economic Participation*

37. The only data used by the appellants for economic activity rates specific to West Berkshire is from the 2011 Census, despite the availability of later evidence, and from a time when the economy was in recession. The Council's current evidence is that the employment rate for men between 20 and 54 and women over 34 is increasing<sup>8</sup>. This is stronger than the forecasts of the Office for Budget Responsibility, on whom the appellants rely, whose purpose is to look at the long term sustainability of public finances, and which is unduly pessimistic about the labour market, as confirmed by data from Oxford Economics and Experian. There is no reason to consider that these latter bodies are any less impartial or

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<sup>5</sup> *St Modwen Developments Ltd v SSCLG and East Riding of Yorkshire Council* [2016] EWHC 968 (Admin) **CD7/CAB/3**.

<sup>6</sup> 2a-018

<sup>7</sup> *Oadby and Wigston Borough Council v SSCLG and Bloor Homes Ltd* [2016] EWCA Civ 1040 document **A3**.

<sup>8</sup> Mr Ireland's proof, Figures 8 and 9 on page 50

independent in their approach. Nor is there evidence to support the appellants' assumption that no person would hold more than one job.

### *Market Signals and Affordable Housing*

38. The appellants sought to argue for a 20% uplift on the demographic starting point to address the need for affordability, as indicated by market signals. However, this was founded on the additional consideration of just two indicators, with analysis of past housing delivery performance based on comparison of short-term trends and in a period of over-delivery against the housing targets of the time. The SHMA followed the PPG approach<sup>9</sup> by relying on secondary data, including national surveys, to derive estimates of affordable housing need. Whilst the appellants suggested that more existing home owner occupiers might fall into affordable housing need, it was accepted that the Guidance requires application of an affordability test, that primary survey evidence is not required, and that applying the Council's Home Choice Criteria<sup>10</sup>, homeowners would not generally qualify for affordable housing. It was also accepted that the housing register for 2015 showed a similar level of need to that in the SHMA.
39. The choice of income threshold for assessing affordability is influenced by the cost of housing, not income levels<sup>11</sup>. The income threshold was based on a lower quartile rent across all property sizes of £650/month which, at a 35% proportion of income, would require earnings of £23,300 per year. The lower quartile rent is identical to that in West Oxfordshire<sup>12</sup>, so that a consistent income threshold would be appropriate. In addition, it was accepted that historical rates of affordable housing delivery, with which the appellants had sought to criticise the Council's estimate of 30%, were influenced by demolitions and assessments against the lower requirements of the Local Plan which preceded the Core Strategy.
40. The appellants' contention that adjustments to improve affordability need to be treated entirely independently from adjustments to household formation rates is not consistent with the logic of their own evidence, which recognises that affordability influences household formation. The Local Plans Expert Group (LPEG) methodology favoured by the appellants has been criticised as introducing double counting by applying separate adjustments to household formation, for market signals and for affordable housing, when there are clear overlaps between these issues. The LPEG proposals are not Government policy or guidance.

### *Conclusions on OAN*

41. The Council's witness, Mr Ireland, has been personally involved in producing SHMA for 9 local authorities, which have been accepted by Inspectors for adoption in Local Plans without uplift of the OAN. The current West Berkshire SHMA establishes an OAN which has been subject to extensive research and should carry substantial weight. It is a robust assessment against which to measure the five year housing supply.

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<sup>9</sup> 2a-014-20140306

<sup>10</sup> CAB4

<sup>11</sup> SHMA para 6.27 CDB/AB/1

<sup>12</sup> CAB5

### *The Buffer*

42. The Core Strategy Inspector (2012), the Mans Hill appeal Inspector<sup>13</sup> (2015) and, most recently, the Firlands Farm appeal Inspector<sup>14</sup> (2015) all found that the Council had not persistently undersupplied housing and applied a 5% buffer. The purpose of the buffer is so that performance in the past can provide a realistic prospect of achieving the planned supply in the future; it ensures that the circumstances of the past are not repeated.
43. The assessment of the buffer to be applied is a matter for the decision maker. In measuring past performance, the Cotswold cases<sup>15</sup> note that it is necessary to establish the standard which applied and the degree to which that standard had been met. The decision maker would be entitled to consider the figures in a previous development plan for this purpose. In the present case the appellants have applied the SHMA OAN figure (665 dpa) for the last three years, even though the document was not published until February 2016. The Council could not have achieved a supply against a figure of which they were unaware.
44. In any event there has been no persistent under-delivery. In the Uttlesford appeal decision<sup>16</sup>, the assessment was based upon whether there had been under delivery for several years in a row. In the present case, whilst the Council did not meet the Core Strategy figure of 525 dpa during 5 of the preceding 10 years, these were interspersed with years when the figure was met. There were not several years of under delivery in a row, but, rather, the supply fluctuated above and below the requirement. It is also clear that performance between 2009 and 2012 was affected by the economic recession, a matter which the Core Strategy Inspector took into account<sup>17</sup>. In addition, the 2010-2012 figures were influenced by regeneration schemes, involving loss of housing before making a gain, whereas there are no similar schemes in the Council's future supply.
45. It is apparent<sup>18</sup> that the Council's average supply over the last 12 years, at 587 dpa, exceeds the Core Strategy "at least" requirement of 525 dpa, with housing delivery in West Berkshire increasing in recent years, and the Housing Site Allocations DPD will ensure further improvement. There is no need to deviate from the views of previous Inspectors who have considered the performance of West Berkshire, and a 20% buffer is not justified.

### *Deliverability*

46. The PPG indicates<sup>19</sup> that deliverable sites include those allocated in a development plan and those with planning permission, unless there is clear evidence that a scheme will not be implemented within 5 years. The exercise should be approached on the basis of the rebuttable presumption; footnote 11 of the NPPF does not require certainty that a site will deliver.
47. The disputed sites include Sandleford in Newbury, which does not have planning permission but is allocated in the Core Strategy. It should be considered

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<sup>13</sup> **CD7/CAB/8**

<sup>14</sup> **CD7/AB/1**

<sup>15</sup> Cotswold District Council v SSCLG [2013] EWHC 3719 document **A16**

<sup>16</sup> Appendix 7 of Ms Peddie's proof para 15.15 of the Inspector's report

<sup>17</sup> **CD6/A/2** para 45

<sup>18</sup> see page 36 of Ms Peddie's proof

<sup>19</sup> 3-031-20140306

deliverable within 5 years unless there is clear evidence to the contrary. The difference between the parties is not whether the site will be developed, but the rate at which development will occur. It is accepted that an extension for issuing planning permission beyond the deadline of 31 December 2016 may be necessary, that it is a complex site, and that there may be disagreements between the owners of the land. Nonetheless, a package of amendments to the scheme is out to consultation, and highways modelling has been carried out. Regular meetings of a steering group monitor progress, and a dedicated Council officer is assigned to the scheme. There is no reason to doubt the developer's trajectory for delivery from the site.

48. The second major site is Newbury Racecourse, which has planning permission, so that the rebuttable presumption in NPPF footnote 11 applies. Building is underway, with an average completion of 136 units per annum since 2013, and a forecast rate of 180 dwellings per annum for the next 6 years. There will be a 50/50 mix of houses and apartments, similar to the 40/60 mix which has already been achieved, and the developer has an incentive to keep to the programme, with financial penalties if this is not achieved, as well as the need to recoup the cost of infrastructure already provided. There is no evidence to support assertions that the market cannot support the programme of completions, nor that national statistics of building rates are to be preferred to the actual levels achieved on this site.
49. The J&P Motors site has an implemented planning permission, so that the rebuttable presumption applies. Whilst part of the site is currently retail, and there is planning permission for another use, there is now a housing developer involved, and there are no grounds to contradict the conclusion of the Mans Hill Inspector<sup>20</sup>, who found no good reason to exclude the site.
50. The Lakeside site in Theale also has an implemented planning permission, and the developer has already paid more than £500,000 in planning obligations, indicating a firm intention to proceed. It is true that a further planning application has been taken to appeal on the grounds of non-determination, but this does not indicate that the site will not be developed within the timescale, nor that the existing permission does not represent a realistic fallback position.
51. Whilst awaiting adoption of the Housing Site Allocations DPD, proposed housing sites have been considered at the Examination and the Inspector has not recommended deletions. The Council have included only 70% of the allocated units in the five year supply, and there is a firm likelihood that they will be delivered. In each disputed case the owners have indicated an intention to proceed with planning applications.
52. Market Street, Newbury is a Council owned site, with a resolution for planning permission to be granted, subject to completion of a planning agreement. There is already permission for the relocation of the bus station away from the site, and any third party ownerships would not impede development. There is no reason for it to be excluded from the five year housing supply, as confirmed by the Mans Hill Inspector<sup>21</sup>.

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<sup>20</sup> CD7/CAB/8 para 24

<sup>21</sup> CD7/CAB/8



53. Pound Lane, Thatcham is also a Council owned site, which is previously developed land, and where planning permission will be confirmed by submission of a Section 106 agreement, expected during December 2016. A national house builder is in the process of purchasing the site.
54. Overall, the housing sites in the Council's 5 year supply satisfy the tests in the NPPF footnote 11 and the advice in the PPG and there is no reason to consider that they will not be deliverable.

### ***Policy Implications***

55. For these reasons, the Council are able to demonstrate a 5 year housing land supply, so that NPPF para 49 does not apply and housing policies should be considered up to date. The process in the second part of NPPF para 14 is not triggered; the appeals should be determined in accordance with the development plan.
56. The appellants also allege that relevant policies are out of date because the housing requirement in the Core Strategy was based on the withdrawn South East Plan. To follow this logic, the policies would have been deemed out of date the moment the Core Strategy was adopted. However, the figure in this plan was never a ceiling, and the Council have used their evidence base to establish an OAN in accordance with NPPF para 47, whether or not it is part of their Local Plan. Again, the process in NPPF para 14 is not triggered.
57. In any event, the NPPF allows weight to be allocated to policies even if they are out of date, a point endorsed by the Suffolk Coastal judgement<sup>22</sup>. The degree of weight is a matter for the decision maker. In this respect, the most relevant part of the nominated policies is the spatial distribution of development, which should reflect the existing and future role of the settlements, to ensure sustainability.

### *The Interpretation of development plan policies relevant to the supply of housing*

58. The site is green-field land in open countryside outside the defined settlement of Thatcham. The proposal does not comply with development plan policies when read together and with the supporting text. The spatial strategy of the Council is the strict control of development outside settlement boundaries, to ensure the most sustainable locations; any settlement extensions are allocated through the plan led process.
59. The District Settlement Hierarchy in Core Strategy policy ADPP1 refers only to sites within settlement boundaries, and not other land, even if it is adjacent to the boundary. The "open countryside" bullet point of ADPP1 applies. Unlike Thatcham, Newbury is the main focus of housing growth<sup>23</sup>. Policy ADPP3 limits planned growth in Thatcham, two thirds of which has already been committed, and the rest will be delivered through the Housing Site Allocations DPD. There are five paragraphs<sup>24</sup> of explanatory text in the Core Strategy to indicate how this allocation will take place.
60. Whilst policy ADPP1 refers to sites adjacent to the settlement boundary, the only logical interpretation of this paragraph, and the Core Strategy Inspector's

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<sup>22</sup> CD7/A/15

<sup>23</sup> CD6/AB/1 para 4.21

<sup>24</sup> CD6/AB/1 paras 4.9, 4.10, 4.11, 4.13, and 4.15

comments about green-field land in Thatcham<sup>25</sup>, is that such land will only come forward as part of a planned provision. When read in conjunction with policy CS1, it is clear that the Core Strategy is precluding development outside the settlement boundary on green-field sites, except where they have been specifically allocated.

61. The conflict with the development plan weighs heavily against the proposal.

*The weight to be attached to the emerging DPD*

62. In accordance with NPPF para 216 the Housing Site Allocations DPD can be accorded substantial weight. The Inspector has had regard to objections, and, in particular, has hardly altered the wording of policy C1. It is only the modifications that will now be consulted on, and the appellants cannot repeat the objections previously made. Nor is there a case that the DPD is inconsistent with the NPPF by being based on the Core Strategy OAN, rather than more up to date figures. This point was established in *Gladman v Wokingham BC*<sup>26</sup>, which noted that the delay incurred would not match the need for the preparation of planning documents to guide development decisions. There is no support for the view that policy C1 will be out of date immediately on adoption.

63. Local Plan policy HSG1 was saved in 2007 and remains part of the development plan until its replacement with policy C1. The new policy does not represent a shift towards some general expansion of settlements, and, whilst the settlement boundary has been altered, that alteration does not affect the appeal site. Policy C1 continues the objective of protecting the countryside, and can be accorded substantial weight.

*Conclusions on Policy*

64. Core Strategy policy CS1 establishes the need to review settlement boundaries through the Housing Site Allocations DPD, to meet the broad accommodation of housing set out in the ADPP policies, and, as noted by the Mans Hill Inspector<sup>27</sup>, development on a green-field site adjacent to the settlement boundary is contrary to these policies. Overall, the Council have taken a positive approach to the preparation of plans to actively increase the supply of housing, and the policies for this purpose should be accorded substantial weight. This scheme does not accord with the development plan, and there is no justification for allowing this appeal.

### ***Character and Appearance of the Countryside***

65. It is a core principle of the NPPF to recognise the intrinsic character and beauty of the countryside, with NPPF para 109 providing protection for valued landscapes, alongside Core Strategy policy CS19, which controls development in the context of the relevant landscape character assessment.

66. The proposal envisages development in the middle and higher valley slopes, which, despite some similar incursions at the adjacent Dunston Park, is unusual in the area. In the present context, where the valley floor is at 65m AOD,

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<sup>25</sup> CD8/CAB/2 para 66

<sup>26</sup> *Gladman Developments Ltd v Wokingham Borough Council* [2014] EWHC 2320 (Admin)

**CD7/CAB/9**

<sup>27</sup> **CD7/CAB/8**

development at 105m AOD would rise above the settlement to such a degree as to harm both its setting, and that of the nearby AONB.

67. The site is predominantly green-field, surrounded on its north and east boundaries by open countryside. It is separated from Thatcham by the A4 road and Floral Way, which are bordered by strong tree and hedge belts, so as to separate the site both visually and physically from the town. It surrounds Siege Cross Farm, which retains a rural character, and, apart from electricity poles which remain in breach of a planning condition, there are no urban features on the land. It is countryside, not urban fringe.
68. The Guide for Landscape and Visual Impact Assessment advises<sup>28</sup> that the historic context forms part of the landscape quality. Analysis of historic maps<sup>29</sup> shows that Big Gully, Long Grove Copse, surviving hedgerows, and pasture and fields around Siege Cross Farm remain remarkably intact and all form part of the historic settlement. Whilst it is argued that the historic features would be retained, they would no longer be in context, being severed from one another. Similarly, it is necessary to have regard to the geological landscape, noting that only 5% of the land in this area is grade 2<sup>30</sup>, whereas most of this site falls into the category of best and most versatile land<sup>31</sup>. Arable land and pasture is a key characteristic of this area, and, in particular, there is a need to conserve and restore pasture land<sup>32</sup>.
69. The site forms part of the setting of the Area of Outstanding Natural Beauty (AONB), making, in the words of its managing unit<sup>33</sup>, a positive contribution to the wider landscape between Thatcham and the AONB, and for which there is both a statutory<sup>34</sup> and policy<sup>35</sup> requirement to have regard. There would be an adverse effect on views of the AONB from public vantage points, including across the Kennet Valley, where the development would be seen creeping up the northern slopes.
70. The appeal site forms part of area 14F in the Council's Sensitivity Report of 2009<sup>36</sup>. Whilst this area has medium sensitivity to change, a number of the identified characteristics are particularly evident in this portion, giving it enhanced importance, including the historic farmstead, proximity of woodland, and visibility across the valley. Proposals to reinforce the landscaping would only serve to partially conceal the housing, and would take an extended period to become effective. The development would remain visible from the west, north east and south, and from elevated views on Greenham Common and the ridge.
71. The land demonstrates more than ordinary qualities, to make it a valued landscape in terms of NPPF para 109, and the adverse impact of the development would be contrary to Core Strategy Policies CS19 and ADPP5, and to the statutory duty to conserve and enhance the setting of the AONB.

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<sup>28</sup> Paras 5.19, 5.20 and Box 5.1 5<sup>th</sup> bullet **CD5**

<sup>29</sup> BK3 of Ms Kirkham's evidence **CA3**

<sup>30</sup> National Area Character Profile **CD5/A/1** page 26

<sup>31</sup> 31.7% grade 2 and 45.9% grade 3a

<sup>32</sup> Berkshire Landscape Character Assessment paras 2.12 and 2.14.

<sup>33</sup> **TA3**

<sup>34</sup> Countryside and Rights of Way Act 2000 s85 **CD6/AB/14**

<sup>35</sup> ADPP5 first bullet **CD6/AB/1**

<sup>36</sup> **CD6/AB/12**

## **Education**

72. The appellants acknowledge<sup>37</sup> the proposal does not demonstrate that the impact on secondary school provision<sup>37</sup> can be mitigated. It is calculated that the development would generate the need for 94 secondary school places, plus future primary school leavers. Whilst the Council have a duty under the Education Act to meet the educational needs of their area, this must be achieved in a planned and financially efficient manner. To this end, the Council are preparing a strategy for secondary education, which is not yet complete, and the timetable for which cannot be at the whim of a new large scale windfall development.
73. 94 children cannot be accommodated, and Community Infrastructure Levy (CIL) payments would not provide the necessary funding. Section 106 contributions are offered, but based on an outdated formula and not complying with the CIL pooling restrictions.
74. It is the appellants' claim that a huge shortfall already exists in the area, so that this scheme would not have a significant extra impact. However, that shortfall largely arises in Newbury, rather than Thatcham. As it is, there are indications that it would be possible to meet the currently projected deficit over the next five years by restricting entry to Kennet School to those within the catchment. Whilst the cumulative shortfall rises by 2026, the Council is working on its strategy to overcome this, and is currently concerned about the impact now, and in the near future. It will be possible to manage and accommodate demographic growth in Thatcham, but not the unforeseen impact of pupils from the appeal development. If this scheme went ahead, then current pupils would be displaced from the School, with a harmful social effect, and the environmental and financial cost of transporting children out of the area. It would not meet the sustainability criteria in para 7 of the NPPF.
75. There is a need to ensure, in a plan led system, that development is coordinated with the provision of infrastructure. Para 5.24 of the Core Strategy, supporting policy CS5, notes that development should not be permitted unless essential infrastructure can be completed in pace with the new development. The Council will look at ways to mitigate the risk that the required infrastructure will not be in place, as set out in policy CS5 and as demonstrated in its approach to the Henwick Park (Appeal B) scheme, but cannot do so for a proposal of this scale. It is contrary to Core Strategy policy CS5, and to paras 7, 17 and 72 of the NPPF, and these conflicts weigh heavily against it.

## **Finance of Infrastructure**

76. The appellants accept the need for the provision of a primary school at a cost of £4.8m, but complain that they would also pay about £2.0m under the CIL regulations, characterising this as 'double dipping'<sup>38</sup>. This argument is flawed, because there is no provision in policy for a discount to be applied in these circumstances, and financing of a school from both discounted Section 106 contributions and CIL receipts would, itself, be double dipping.

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<sup>37</sup> Mr Kinsman's evidence para 6.38 **CD1/A/11**

<sup>38</sup> PPG 25-093

77. Relevant infrastructure in terms of the CIL regulations is that published on the Council's Regulation 123 List<sup>39</sup>, with specific exclusions for the delivery of facilities or infrastructure required directly to serve any large scale development. There is nothing in the regulations to prevent this being financed by specific Section 106 planning obligations, a point also referred to in the PPG<sup>40</sup>. There is no provision for reducing the amount of CIL payments to reflect this contribution, nor to adjust the level of payment made under a Section 106 obligation. This could only arise if the planned infrastructure failed to satisfy the tests in CIL Regulation 122, or there were viability issues, neither of which has been raised by the appellants. As it is, the scale of this development represents a step change in the need for infrastructure, not the incremental impact referred to in Topic Paper 3 of the Planning Obligations SPD. The primary school would be a "new school building required directly as a result of the development"<sup>41</sup>.
78. CIL Regulation 123 provides specific protection against "double dipping" by preventing the collection of contributions for items which are already identified on the Council's list. As the education needs of the development are specifically excluded from this list then there is no likelihood that the CIL receipts could be used for this purpose, so "double dipping" could not occur. The developer would not be paying twice for the same element of infrastructure, ensured by the Council's use of the Agresso system of recording payments and receipts from different sources.
79. Nor is there a case to offset CIL payments by arguing that those arising from this development may finance the same type of infrastructure elsewhere, mitigating other development. The education needs of this scheme are specifically excluded from the regulation 123 list, so that payment for the same type of infrastructure cannot arise. The argument that the addition of CIL and Section 106 payments would be excessive and contrary to CIL regulation 122 is suggesting that the CIL rate has been set too high, which was a matter for the Charging Schedule examination process.
80. The Council do not have alternative sources of finance available, there being funding only for demographic growth. The new homes bonus, for instance, is part of the Council's general revenue stream, and not available for new capital expenditure, nor would its payment arise at the beginning of the scheme. Similarly, the development would start generating an education need before all of the CIL contribution had been paid.

### ***The Planning Balance and Conclusions***

81. In addition to the matters discussed above, regard must be had to the effect of the development on the setting of the two listed buildings in Siege Cross Farm. Whilst this was not a ground of refusal of the application, the Council acknowledge that there would be less than substantial harm arising in terms of para 134 of the NPPF, being a matter to which considerable weight and importance should be attached in a balancing exercise<sup>42</sup>.

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<sup>39</sup> **CD6/AB/25**

<sup>40</sup> PPG 25-094

<sup>41</sup> Planning Obligations SPD Page 10 **CD6/AB/23**

<sup>42</sup> see *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* [2014] EWCA Civ 137 **CD7/A/13**

82. The potential benefits of the scheme are recognised, including the provision of market and affordable housing, although, in the latter case, it would merely be policy compliant. Against this would be the social harm arising out of the impact on education in the area, and, despite the provision of open space on the site, the environmental effects on countryside and landscape. Any economic benefits would be outweighed by the cost of resolving the educational difficulties.
83. Overall, there are no material considerations to outweigh damage arising out of the scheme and the conflict with development plan policy. Even if the tilted balance in para 14 of the NPPF were applied, the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

## THE CASE FOR THE APPELLANTS

84. The summary below is a précis of the appellants' closing statement at the appeal. The full text may be found at document **A32**.

### ***The Five Year Housing Land Supply***

#### *The Objectively Assessed Need (OAN)*

85. Para 47 of the NPPF sets out the steps necessary to boost significantly the supply of housing, with the Local Planning Authority required to use their evidence base to make sure that their Local Plan meets the full objectively assessed need (OAN) for market and affordable housing.
86. Whilst West Berkshire has a post NPPF Core Strategy, the housing requirement is not based on the OAN, but on the South East Plan, which the examiner acknowledged was not able to plan for all need and demand<sup>43</sup>. Both the courts<sup>44</sup> and the Planning Practice Guidance (PPG)<sup>45</sup> have since confirmed that the development plan must be based on the objectively assessed need for housing. The Core Strategy is patently flawed in this respect, and inconsistent with para 47 of the NPPF.
87. NPPF para 47 also requires that the Council should be able to demonstrate a five year supply of housing land against the OAN, with the additional buffer of 5%, or 20% where there has been a record of persistent under delivery.
88. The Mans Hill Inspector<sup>46</sup> recognised that the Core Strategy requirement was not an NPPF compliant figure, whilst the Firlands Inspector<sup>47</sup> went further by concluding that the Core Strategy no longer provided an appropriate basis for calculating housing supply. For the purposes of that appeal, an OAN of 833 dpa was adopted, which, in being based on the Council District, rather than the wider Housing Market Area, was found to be a reasonable approach<sup>48</sup>.

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<sup>43</sup> **CD8/CAB/2** para 25

<sup>44</sup> City and District of St Albans v Hunston Properties Ltd and SSDCLG [2013] EWHC 1283 (**CD7/AB/4**) and Gallagher Estates v Solihull MBC [2014] EWHC 1283 (**CD7/AB/2**)

<sup>45</sup> PPG 3-36

<sup>46</sup> **CD7/CAB/8** para 17

<sup>47</sup> **CD7/AB/1** para 26

<sup>48</sup> **CD7/AB/1** paras 28-29

89. Having lost that appeal, and the subsequent High Court challenge<sup>49</sup>, the Council acknowledged that the requirement of 525 dpa in Core Strategy policy CS1 was no longer reliable, preferring instead a figure of 595 dpa<sup>50</sup>, being a reduction of the 665 dpa in the SHMA to reflect the constraints in West Berkshire. However, this is clearly at odds with the decision in the Hunston case<sup>51</sup>, which sets out that the housing need must be arrived at objectively as the first part of the process, until such time as the Local Plan produces a constrained figure. Whilst this requirement remained in Ms Peddie's appeal statement, it was not supported by other Council witnesses.
90. The Council sought to criticise the appellants' approach because it had not assessed the OAN on the basis of the Housing Market Area, quoting Oadby and Wigston<sup>52</sup> and St Modwen<sup>53</sup> cases. However, Oadby was an example of an Inspector rejecting a SHMA based figure relating to an apportionment of housing needs between administrative areas which had not been subject to independent scrutiny. It does not support a general proposition that an OAN can never be reached following an exercise based only on the Local Planning Authority area<sup>54</sup>. In the present case, the Berkshire SHMA includes a Bracknell adjustment to remove 43 dpa from West Berkshire<sup>55</sup> as part of an exercise looking at an economic led projection. This is not legitimate at this stage for use in a planning appeal seeking an NPPF compliant OAN, and reinforces doubt about the reliability of the SHMA figure of 665 dpa. Nor has the Council offered evidence that the SHMA apportionment has been agreed by West Berkshire or any of the other constituent authorities. In the St Modwen case, the difference between the joint SHMA figure, and the Council's OAN considered in isolation, was not material to the outcome of the appeal<sup>56</sup>, and the circumstances did not match the present case.
91. NPPF para 159 requires a SHMA to be based on up to date and relevant evidence. In due course the current SHMA will be tested at examination, but this is unlikely to be before 2019/2020, and there will probably be updates in the meantime. The weakness of the SHMA was identified in the Stanbury House appeal decision<sup>57</sup>, which applied a 10% uplift to the figures for Wokingham. Doubts also arise over the Council's use of the 2013 Cambridge Econometrics forecasts for jobs growth, when the higher 2015 forecasts were available before publication of the SHMA. It is true that the latest, post Brexit, forecasts return to a lower figure, but this merely reinforces the need to take account of a range of forecasting houses, as the appellants have done by averaging three sets of figures. Whilst the Council have had regard to the Local Economic Partnership's Strategic Economic Plan, this should not have been at the expense of the accuracy of the OAN, and the extract at **A10** shows that it has been based on

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<sup>49</sup> **CD7/AB/3**

<sup>50</sup> Housing Land Supply Statement, February 2016 **CD8/AB/2**

<sup>51</sup> **CD7/AB/5** paras 25 and 26

<sup>52</sup> Oadby and Wigston BC v SSDCLG and Bloor Homes Ltd [2015] EWHC 1879 **CD7/CAB/10**

<sup>53</sup> St Modwen v SSDCLG and East Yorkshire Council [2016] EWHC 968 **CD7/CAB/3**

<sup>54</sup> see Lindblom LJ at para 39 Oadby and Wigston BC v SSDCLG and Bloor Homes Ltd [2016] EWCA Civ 1040 **A3**

<sup>55</sup> **CD8/AB/1** page 203 para 5.179

<sup>56</sup> **CD7/CAB/3** paras 62-64

<sup>57</sup> **CD7/AB/7** paras 30-42

only one modelled perspective. It is also the case that the SHMA is based on the 2012 household projections, despite the availability of the updated 2014 figures.

92. The PPG makes clear<sup>58</sup> that the household projections are trend based and may reflect suppression by under-supply and worsening affordability, and that it is necessary to undertake sensitivity testing of alternative assumptions. Mr Usher's evidence<sup>59</sup> demonstrates suppression between the 2008, 2012 and 2014 rates in the 25-34 and 35-44 age groups. The SHMA does not follow the PPG advice by dealing with this suppression at the outset, but makes an adjustment in the market signals section which, as noted by the Wokingham Inspector<sup>60</sup> does not make apparent that the uplift is proportionate. The Council also acknowledge a history of under-delivery<sup>61</sup>.
93. The appellants have offered three alternative means of making the necessary adjustment<sup>62</sup>, including the LPEG approach which supports an increase at the outset for those in the 25-44 age group to make up half the difference with the 2008 projections. In line with the PPG and LPEG methodology, 10 year migration trends have been used, and an allowance has been made for vacant and second homes. The overall result is a demographic led OAN of 570 to 610 dwellings per annum. To this an addition is made for job growth assumptions, based on the range of forecasts described above, adjusted by economic activity rates published by the Office for Budget Responsibility, which, despite the criticisms of the Council, provide robust statistical data. The appellants' use of separate adjustments for men and women is justified because the vast majority of single parent households are headed by a woman.
94. The overall result is an objectively assessed need in the range 750-870 dpa<sup>63</sup>, which includes a market signals adjustment of 10%. This is in line with the outcome of the LPEG methodology, which produces a figure of 780 dpa. The SHMA assessment at 665 dpa is a suppressed figure and does not provide an appropriate basis for establishing the housing land supply position.

#### *Housing Land Supply*

95. In considering whether a 5 or 20% buffer should apply, the Cotswold case<sup>64</sup> recognises that it is a persistent record of under delivery, rather than necessarily a failure to meet specific targets, which is at issue, and the decision maker is entitled to choose an appropriate measure. In this case, there are recognised limitations to the Core Strategy figure, which policy CS1 notes should be reviewed if the SHMA indicates a higher figure. It is reasonable that the performance since 2013 should be assessed against the SHMA OAN, and, on this basis, the Council have failed to meet the level of need in 6 of the last 10 years, with an overall under-delivery of 658 homes. Even if the Core Strategy figure was used throughout, the target was missed in 5 of the 10 years, with an overall under-delivery of 238 homes. Taken over the last 5 years alone, the shortfall amounts to 753 and 333 homes respectively, depending whether the SHMA

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<sup>58</sup> ID2a-017

<sup>59</sup> **CD1/A/12** Figures 4.2 and 4.3

<sup>60</sup> **CD7/AB/7** para 17

<sup>61</sup> Mr Ireland's proof para 6.51 refers to 26% under-delivery between 2013-16

<sup>62</sup> **A30** revised Table 5.1

<sup>63</sup> See table 5.1 at document **A30**

<sup>64</sup> Cotswold DC v SSDCLG and others [2013] EWHC 3719 paras 47-49



figure is used for the last 3 years, and the Council predict a further under-supply in the current year. The failure results from the delay in bringing forward a local plan and adopting a site allocations DPD, and poor performance of strategic sites, rather than any recessionary effect. There is a record of persistent under-delivery and a 20% buffer is justified.

96. The two main allocated strategic sites are Sandleford Park and Newbury Racecourse. In the case of Sandleford Park there was an expectation of housing delivery by now<sup>65</sup> but there have been difficulties with the transport assessment and the planning statement<sup>66</sup> suggests not all owners are willing to sign the Section 106 Agreement. The Supplementary Planning Document seeks a comprehensive approach to the development, so that there is no indication that the Council would be willing to permit a current application for part of the site before the overall outline permission is granted. There are also unresolved issues surrounding educational provision. It is not realistic for planning permission to be granted during 2016, and the Council's programme of delivery is not likely to be achieved.
97. With respect to Newbury Racecourse, phases of the development are underway, but it would be necessary for the developer to double their rate of output to about 230 dwellings per year in order to achieve the Council's expectations. This is unrealistically high, and far in excess of the developer's site average of 47 dpa. Whatever the contractual obligations, it is unlikely to be the interests of either the developer or the landowner to flood the market and suppress values.
98. Reference is made to two sites which were granted permission in 2007 and technically implemented, but not further developed. In the case of J&P Motors the land has commercial occupiers, with a retrospective permission for retail granted in 2011. The Council draw attention to a residential developer who is currently interested in the site, but subject to amending affordable housing obligations, which may not be acceptable, and calls into question the future viability of the project. At Lakeside in Theale there is currently a planning appeal concerning a revised scheme, with outstanding issues and no certainty that permission will be granted, nor that the 2007 scheme represents a realistic fallback position. In addition, the proposed rate of delivery from Council owned sites at Pound Lane and Market Street is in doubt. In the latter case, the scheme is complex, and part of the site outside their ownership, so delay seems inevitable.
99. The appellants also exclude sites identified in the Site Allocations DPD where there is little prospect of delivery within five years. The Examination of the plan was only concerned about whether the sites were deliverable during the plan period, not specifically the next five years.

### *Conclusion*

100. Based on the foregoing, and taking a conservative approach, the appellants consider that the OAN is 750 dpa, producing a five year requirement of 5306 dwellings when the shortfall is included and a 20% buffer applied. They assess the deliverable supply over this period to be 3699 dwellings, resulting in a 3.49 year supply.

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<sup>65</sup> Core Strategy Examiner's report para 89 **CD8/CAB/2**

<sup>66</sup> **CD8/A/8** page 10 of the Sandleford Park IDP

## **Education**

101. The Council's 2013 Infrastructure Delivery Plan<sup>67</sup> noted that the existing secondary school in Thatcham is full, and proposed creating additional space to allow its expansion by relocating the adjacent primary school to a new site, to be funded by the Community Infrastructure Levy (CIL). To help implement this scheme, the appeal application created the potential for a new, two form entry primary school on the site. The Council promptly rejected this proposal, but accepted that the one form entry primary school proposed in the application would overcome the need for primary places to serve the development. The outstanding issue is the adequacy of secondary school education.
102. Core Strategy policy ADDP1 refers to avoiding intensive uses within areas which lack sufficient supporting infrastructure, facilities or services or where opportunities to access by public transport, cycling and walking are limited. However, it is counter intuitive to suggest that land adjacent to Thatcham, which is at the top of the settlement hierarchy, should be such a location. Core Strategy policy CS5 notes that the Council will identify requirements and seek to coordinate infrastructure delivery, and delay in the provision of education facilities would run counter to the NPPF requirement to boost the supply of housing. Yet, whilst the education authority has been aware of the need for increased provision since September 2012, and two Infrastructure Delivery Plans have been published in the intervening period they still indicate that a further 18 months or 2 years will be necessary before identifying a solution. Meanwhile, they seek to resist substantial further development, referring to para 5.24 of the Core Strategy which indicates that schemes should not be permitted unless essential infrastructure can be completed in pace with the new development.
103. The evidence shows<sup>68</sup> that there are currently about 49 places at the Thatcham secondary school (Kennet School) allocated to non-catchment pupils. Restricting entry to catchment pupils alone would accommodate the increased demand from the appeal site for the first three years of completions. Contrary to the Council's suggestion, pushing back pupils to their own catchments would be likely to reduce, not increase, travel requirements, and the appeal site is within easy walking distance of the school. The real reason why the Council would resist this approach is because it would reduce their future ability to meet the known demographic increases, but this would be a short term effect, while they establish a secondary school strategy, and hardly a reason to refuse housing needed now to boost supply.
104. The total number of secondary school places required by the development, in the order to 94 on completion of the scheme, could not be wholly accommodated at Kennet School, even taking account of push-back. However, this is a relatively insignificant shortfall in the wider context of school place planning. The school lies within Secondary Education Planning Area 12 covering Thatcham and Newbury, which is forecast to have a total shortfall of 878 secondary places by 2022/3, rising to 1313 in 2025/6. The forecast shortfall at Kennet School is 502 by 2025/6.

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<sup>67</sup> **A25**

<sup>68</sup> Appendix JK8 of Mr Kinsman's proof **CD1/A/11**

105. There are means of funding the increased school provision, including the CIL charge, the New Homes Bonus or central government support. Perversely, the Council have excluded Newbury and Thatcham secondary schools from a revised CIL Section 123 list, creating uncertainty about educational funding, but the submitted Section 106 Undertaking provides a fall-back if further payments are needed. In the case of Henwick Park (Appeal B) the Council are content that educational provision would be adequately covered by the CIL contribution, although variations in the number of places required (30 v 94) do not justify this different treatment.

### ***The Community Infrastructure Levy and Double Dipping***

106. There is a lack of realism in the Council's approach to secondary educational funding. Whilst the Council's 2013 Infrastructure Delivery Plan (IDP)<sup>69</sup> envisaged the use of CIL payments, the 2016 version<sup>70</sup> had reverted to the use of Section 106 obligations, despite the Council having exceeded the limit of five contributions, and thereby likely to fall foul of the pooling restrictions.
107. As it is, the Council's CIL Regulation 123 list includes generic types of provision, including primary and secondary education, but excludes certain types of infrastructure, such as on or off-site facilities or infrastructure required directly as a result of large scale development, paid by Section 106 contributions. It is questionable whether these exclusions are contradictory to the generic categories, but this is not a point put forward by the appellants, who accept that the on-site primary school may be funded by a planning obligation without breaching the CIL regulations. If the appellants are wrong on this point, and the matter is not resolved by proposed amendments to the CIL list, then there would remain the option to fund the school by CIL payments. It should not be a point to count against the scheme.
108. Double dipping, or the liability to pay twice for the same item of infrastructure, is discouraged at paras 25-093 and 095 of the PPG, and is likely to arise in this case because the developer will have provided the on-site primary school and also made a CIL payment. Even if the exclusions in the CIL list cover the primary school on the site, and the Council are able to ensure that no part of the CIL contribution would go to this project, there would remain a CIL payment to generic infrastructure, which could include primary schools elsewhere. This would amount to paying twice for primary education, falling into the category of "actual or perceived double dipping" identified in the PPG.
109. The Council have not so far made payments out of the CIL fund, and when they do, it will be up to them to decide their priorities and allocate sums accordingly. However, having regard to the number of educational projects marked as critical in the 2016 IDP, the appellants estimate that about £1,250,000 of the assessed £2,000,000 CIL payment would be likely to go on primary and early years education. It is therefore suggested that the Section 106 obligation to pay £4,060,800 for building the primary school should be reduced by this sum, amounting to 31% of the overall cost, in order to avoid double dipping. On a similar basis, the secondary school contribution, if deemed necessary, should be reduced by 10.5%. It should be noted that, even with this reduction, the overall

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<sup>69</sup> A25

<sup>70</sup> CD6/AB/26

contribution to education costs would exceed the normal CIL requirement, which should be viewed as a benefit of the scheme.

110. For these reasons, there is no breach of Core Strategy Policies CS5 or ADPP1. On the contrary, the scheme will add choice in the form of a highly accessible primary school and the likelihood of journey reductions for secondary schooling, whilst helping to fund secondary school places.

### **Landscape**

111. There is no ancient woodland on the site, and only 338 of the 3064 linear metres of hedgerow would be removed. The scheme would provide 14.9ha of open space including 1.82ha woodland, and there would be a net bio-diversity gain. Whilst 74% of West Berkshire is in the AONB, this site falls within the remaining 26%, much of which is urban, and it has never received a local landscape designation. In this context, where housing land is needed, it is of lesser environmental significance, being neither a remote nor tranquil location, alongside two busy urban roads. There is no indication that local people attach special value to the land, which is not overlooked, and has no public access or footpaths crossing it. The Council's landscape witness confirmed she had no in-principle objection to development of the appeal site.
112. Whilst the site surrounds the historic farmstead at Siege Cross, the functional link between the house and the land has been lost, and the listed barn has a commercial use. Other buildings have been introduced, and the fields re-organised, whilst this type of group is not an unusual feature in the area. The layout of the development is sympathetic to their setting and the Council's heritage adviser raised no in-principle objections to the proposal, identifying only a negligible degree of less than substantial harm to the heritage assets. It is agreed that, even giving that level of harm significant weight, the application of para 134 of the NPPF does not suggest that the development should be restricted. There is no material breach of Core Strategy policy CS19, which, in any event, does not reflect the cost-benefit approach of the NPPF. Reference was also made to the quality of agricultural land in adding to the landscape value, but the NPPF does not ascribe landscape value on the basis of soil grading, and this did not form a part of the reasons for refusal of the scheme.
113. The Council's evidence ignored their broader spatial strategy. The plain and straightforward reading of policy ADPP1 indicates an in principle acceptance of development on the edge of the identified settlements, including green-field sites. It would not be right to infer that the allocation of Sandleford Park as a strategic site in the Core Strategy was because of the rejection of Siege Cross; as the Inspector made clear in his report<sup>71</sup>, it was Thatcham that was rejected because of the preference for Newbury as a focus for growth in the South East Plan.
114. It is also the case that the site has previously been considered suitable for development, including by the Inspector of the Newbury Local Plan 1991-2006<sup>72</sup>, whilst the SHLAA and SEA/SA appraisal<sup>73</sup> noted that it would have a neutral effect on sustainability, without any significant effects. Despite concluding that it

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<sup>71</sup> CD8/CAB/2 paras 12-13

<sup>72</sup> A22

<sup>73</sup> THAT 008 at CD8/CAB/6

would not conserve and enhance the local character of the built environment, it was recognised that landscaping and sensitive design could reduce the impact of the development and that a Landscape and Visual Impact Assessment (LVIA) would be required.

115. The LVIA was carried out, with a large number of identified views, including across the valley from Greenham Common, and it is apparent that there are very few around Thatcham from which the site can be seen, and then in the context of the existing development of Thatcham. The site is visually well contained, with only limited visibility from parts of footpaths.
116. In considering the potential for a gap designation between Thatcham and Upper Bucklebury, the Newbury Local Plan Inspector noted<sup>74</sup> that the heavily wooded escarpment above the site provided a strong contrasting separation, without intervisibility between the settlements. This remains the case, and the development would not erode the sense of separation. Nor was Pipers Way viewed as a defining boundary beyond which development should not take place. The urban area extends further east than the site, and the Local Plan Inspector noted parallels with Dunstan Park, to the west, although, in the present case, there would be the opportunity to create a wooded edge to the settlement.
117. It is not accepted that the proposals would rise well above the topographical limits of Thatcham. Ms Toynes Rebuttal Statement<sup>75</sup> makes clear that there is already development above the 95m AOD contour, much of which is closer to the nearby settlements such as Cold Ash. It is not correct to suggest that all development above this contour would have an unacceptable effect. As it is, the majority of the proposed development would lie between 80 and 110 AOD, but, at the higher part of the site, the topography falls away and becomes enclosed by the ancient woodland. With suitable mitigation measures, the wooded setting of Thatcham would be retained.
118. The Council's witness accepted that the site lies in an area of medium sensitivity to change as do the strategic sites at Sandford Park and Newbury Racecourse. It would therefore be inappropriate to suggest that policy CS19 is offended on this account. Whilst the Council sought to demonstrate that, within this category, the values relating to the appeal site are higher than in other cases, the proximity of two busy roads and residential and industrial development would reduce its value by comparison with the wider landscape area.
119. Therefore, the proposals are capable at the design stage of fully according with Policies CS14 and CS19, and there is no breach of policy ADPP5. It is also the case that the provision of open space would more than accord with policy RL1, and that there would be a link to the adjoining residential area across new and safe crossings, to comply with the second bullet point in policy ADPP3.

### **Other Matters**

120. Following flooding in 2007, the Council and Thames Water carried out a study to identify attenuation measures. The appeal scheme introduces further benefits by analysing the capacities of the existing ditches around the site and proposing a system of new ditches and swales to reduce run-off, and further detailed work

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<sup>74</sup> 3.9.897 of **A22**

<sup>75</sup> LT 12 of **A8**

will follow. As the Flood Risk Assessment identifies<sup>76</sup>, the existing field run off rate of 410 litres per second will be reduced to 293, to the benefit of the system south of the A4 road. This will be at no cost to the public purse, and the Section 106 undertaking secures the long term maintenance of both this, and the management of the open space. In these respects the development complies with Core Strategy policy CS16 and the first bullet point of ADPP3, and the potential benefits for a town where flooding is a known issue are a positive feature, ignored by the Council in their planning balance.

121. With respect to the impact on transport, the scheme would introduce a significant reduction in peak hour congestion, with junction improvements to diminish queue lengths, which are otherwise set to rise, and introducing spare capacity in Floral Way and Pipers Way at no public expense. The Pipers Way scheme in particular can only be achieved by using land belonging to the site. There will also be public transport improvements. There is no dispute that the proposals will comply with para 32 of the NPPF, and encourage sustainable transport in accordance with policy CS5, CS11, CS13 and CS14. They will meet the objective of ADPP3 by upgrading the A4 corridor and improving connections to and from the town centre and the railway station. Real weight should be attached to the transport benefit of the scheme which, again, is not a matter included by the Council in their planning balance.
122. The Section 106 obligation secures 40% affordable housing, in accordance with policy CS6. The latest Annual Monitoring Report<sup>77</sup>, at Table 3.21, shows a reduced performance across the District against pre-2011 completions, including a net loss of 15 units in the last year recorded, 2014/15. The Housing Site Allocations DPD identifies only one site in Thatcham which, at best, will only produce 36 affordable units over the next 17 years. In this context, the provision of 198 affordable homes on the appeal site would be a significant benefit.

### **Development Plan**

123. It is likely that the Council stretched the meaning of policy ADPP1 beyond reasonable interpretation because reliance on Local Plan policy HSG1 would have called into question the little, if any, weight that could be attributed to this policy, both because it is addressing development needs 1991-2006, being adopted 14 years ago, and in the absence of a robust five year housing land supply.
124. The Council contend that the proposals breach policy ADPP3 because the development of this site is not part of the balance of 900 homes to be delivered through the Site Allocations DPD. However, ADPP3 does not preclude development on land adjacent to Thatcham, nor could it sensibly do so in the context of the overarching terms of ADPP1. Both these policies provide a degree of flexibility, as the Core Strategy Inspector intended. In addition, the figure of 900 homes is based on policy CS1 and the objective of at least 10,500 houses which, as the Council accept, is inconsistent with para 47 of the NPPF. Nor has any real harm been identified in exceeding 900 dwellings, and significant environmental, economic and social gains would arise, including a contribution to improving the town's services and facilities, which is a key objective of ADPP3.

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<sup>76</sup> page 21 of **CD2/A/22**

<sup>77</sup> AMR January 2016 Table 3.21 **CD8/B/1**

125. With respect to policy C1 of the Site Allocations DPD, it has proceeded through examination and is entitled to more than the limited weight afforded by the Firlands Inspector. However, it is part of a DPD which is the daughter document of the outdated Core Strategy. The extent of settlements does not reflect an up to date OAN assessment which complies with the NPPF, so that full weight cannot be attributed to policy C1 boundaries, which will be subject to review as part of the new Local Plan. In any event, there is no indication of any significant harm arising from any breach of policy C1, or Local Plan policy HSG1, which it will replace. On the contrary, the proposals would improve Thatcham in terms of housing, education, transport, open space and drainage facilities.

### **Conclusions**

126. Taken as a whole, the proposals accord with the objectives of the spatial development plan policies, and planning conditions can ensure compliance with other development management policies. Only the vintage policy HSG1 and emerging C1 would be breached, but they are entitled to less weight for the reasons given.

127. With inadequate housing supply and the government's imperative to boost significantly the supply of housing, substantial weight should be given to the market and affordable housing provision. The additional open space, transport and drainage benefits, and the new school and CIL contributions, all serve to demonstrate how a development on this scale can both strengthen and bring additional needed facilities and services to Thatcham. The limited environmental disadvantages of the loss of green-field land, reduction in the supply of the best and most versatile agricultural land, and negligible harm to heritage assets is acknowledged, but, applying the tilted balance, they do not come close to significantly and demonstrably outweighing the benefits of the development. Permission should be granted.

## **THE CASES FOR THIRD PARTIES**

### ***Those Giving Evidence at the Inquiry***

128. Three parties made submissions to the Inquiry, and the text of their speeches may be found at documents **TA1**, **TA2** and **TA4**. Mr Goodwin, as Flood and Water Course Warden for Cold Ash Parish Council, noted that the land below the site was flooded in 2007, and that the site should be left undeveloped and allowed to flood in order to protect the town, following the Dutch practice of flood control. However, if it were to be developed then the ownership and long term maintenance of the flood mitigation measures was crucial, and should be resolved before permission was granted. Reference was made to a number of specific issues arising in this location, and the need for a technical solution.

129. Mr Crumly spoke on behalf of Thatcham Town Council. He noted that Thatcham has limited amenities and services compared to other towns in the area, and this development would be likely to generate greater use of vehicles. There had been extensive building in Thatcham between the 1970s and 2000s and there was a need to suspend development to allow local infrastructure to catch up, including educational and medical services. The emerging Site Allocations DPD had allocated only one site of 89 houses in Thatcham, and the Council had rejected the inclusion of Siege Cross, which is outside the settlement boundary, when it

voted on the plan in 2015. Mr Crumly also endorsed the concerns about flooding, and the need to ensure appropriate measures would be in place.

130. Mr Cole, on behalf of Thatcham Town Council, noted an overwhelming public opposition to the scheme. In addition to the effect on the likelihood of flooding in Thatcham, there was concern about the impact on Kennet School, which would rise to nearly 2000 pupils and become one of the largest secondary schools in the country. There was also a shortage of pre-school places in the area, and medical practices were already at or over capacity. The development would exacerbate existing road delays, especially if all the traffic was to be funnelled on to Floral Way, and there would be an increase in queuing by vehicles leaving Dunstan Park and those approaching the station in Pipers Way.

### **Written Representations**

131. 52 interested parties, all in opposition to the scheme, made representations to the Council in response to the planning application, and there were 9 submissions to the Planning Inspectorate following the appeal application. In addition to the matters dealt with in the appeal, and the points raised by those speaking at the Inquiry, concerns included: - i) the absence of on-site retail and the resulting increase in travel, ii) a preference for brownfield rather than green-field development, iii) a lack of employment opportunities, iv) strain on police facilities, v) creating a precedent for future development, vi) exacerbating existing power supply difficulties, vii) an increase in pollution and traffic noise, viii) questions about the adequacy and viability of public transport, ix) high density of development out of keeping with the locality, x) potential parking difficulties.
132. The North Wessex Downs Area of Outstanding Natural Beauty managing body wrote to the Planning Inspectorate on 23 November 2016 (**TA3**) as they were not able to attend the Inquiry. They noted that the appellants' LVIA inaccurately described the site as urban edge when it is clearly rural in character, making up part of the open countryside setting of the AONB, which would not remain clearly separated from the urban area if the development proceeded. They noted the statutory duty under the Countryside and Rights of Way Act to have regard to the effect on the AONB, and the Position Statement on setting making clear that any change to views into or out of the AONB should conserve or enhance the natural beauty of the landscape. The development would not relate to the existing pattern of landscape, and it would have a harmful effect on views towards the AONB from public vantage points. An appeal in Uffington (**A28**) decided that the harm to the setting of the AONB in that case would outweigh any benefits of meeting the five year housing land supply.

### **PLANNING CONDITIONS (IN THE EVENT THAT THE APPEAL IS ALLOWED)**

133. In recommending the schedule of conditions shown at Annex 3, regard is had to the Council's draft list<sup>78</sup>, the discussions at the Inquiry, and the advice in Planning Practice Guidance. The numbers in brackets below refer to the condition numbers in Annex 3.

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<sup>78</sup> CA2



134. A phasing plan and strategic layout plan are required to enable the submission of reserved matters applications for different parts of the site, and to coordinate the overall form of the development (4), with landscape (5) and ecological (9) strategies for the benefit of appearance and bio-diversity, respectively. Similarly, the scale of development and general distribution of uses should conform to the application proposals (8), also for the appearance of the development and its surroundings. The application drawings are specified (7), for the avoidance of doubt but, whilst access is not a reserved matter, the application lacks detail about the internal access arrangements, which should therefore be submitted (6).
135. Conditions are included to require the maintenance of a buffer zone on the eastern boundary to protect the adjoining ancient woodland (10), and to carry out measures to mitigate the ecological impact of the development (11 and 12). There is a history of flooding in Thatcham on lower ground south of the site, so that flood mitigation measures are required (13). Existing trees and vegetation to be retained should be protected during development to maintain the appearance of the estate (14-16), whilst provisions are needed to protect the amenity of adjoining occupiers during construction (17-19).
136. Measures to investigate and mitigate any potential ground contamination are provided because of the possibility of chemical use associated with former activities on the land, including pesticides and the airfield operation (20-24). Noise and odour control conditions are included to ensure residential amenity (25 and 26), whilst water sources should be available in the event of a fire (27), and the appearance of the development would be served by control over the use of flood lighting at the school (28). Environmental and sustainability measures include the provision of cycle (29) and refuse/recycling (30) storage, along with energy measures for the non-residential buildings (31). For the same reasons it is necessary to require the submission of travel plans (38 and 39), and to create the potential for a future bus route through the estate (36 and 37). Further details of the new junction arrangements (32), along with a range of off-site highway works (33-35), are required to maintain highway safety and the free flow of traffic.
137. The possibility of a shortage of water supply, and potential harm to nature interests by water extraction, have been raised by Thames Water and Natural England, with a request for a condition preventing development until feasibility studies have been carried out. Any remedy would be outside the control of the developer and, whilst a Grampian style condition could be applied, the submitted evidence falls short of a strong case that significant harm would arise, or that any outstanding issues could not be resolved by other statutory powers. Having reviewed the situation, the Council at the Inquiry agreed to withdraw their request for such a condition, and it is recommended in this report that the need for it has not been proved. Correspondence surrounding this matter is appended to the draft conditions in **CA2**. A condition requiring the approval of levels details would duplicate information shown on the parameters plan, and any requirement for the installation of street furniture to facilitate a bus route should be notified during the development of the scheme, rather than in perpetuity, which would be unduly onerous.
138. In addition to the identified reserved matters, a number of conditions require action prior to the commencement of development. Those relating to the overall planning and operation of the site are necessary to ensure a coordinated form of

development, whilst protection of trees and investigation of contamination should occur before potential harm could arise through building works. A safe form of road access, and protection of the amenity of adjoining residents, should be secured before construction works commence.

Richborough Estates

## **INSPECTOR'S CONCLUSIONS**

139. Numbers in square brackets refer to previous paragraphs in this report.

### **The Main Considerations**

140. The following main considerations were suggested to the parties at the beginning of the Inquiry: i) whether the proposal complies with spatial policies in the development plan and, if not, whether the application of those policies is outweighed by other considerations, including the need to demonstrate a five year supply of deliverable housing land, ii) the weight to be allocated to the emerging Site Allocations DPD, and whether permission for the proposal would undermine its preparation, iii) the effect on the character and appearance of the countryside, and the setting of Thatcham and Upper Bucklebury, and of the Area of Outstanding Natural Beauty, iv) the impact on the supply of secondary education places, and v) the degree to which any necessary infrastructure should be financed by the Community Infrastructure Levy.
141. No objection to the choice of these considerations was raised, but the Council subsequently withdrew their concern about prematurity to the Site Allocations DPD on the ground that the plan had proceeded a considerable way towards adoption, to diminish its vulnerability to change. There is no reason to disagree with the Council on this point and the second consideration is therefore amended as follows: ii) the weight to be allocated to the emerging Site Allocations DPD.
142. A substantial portion of the Inquiry time was spent on the assessment of housing land supply in West Berkshire. As this aspect informs the evaluation of development plan policy, it is dealt with first.

### **Housing Land Supply**

143. The Inquiry dealt with housing land supply in a combined session of Appeals A and B. Each of the appellants produced their own proofs and gave evidence separately, but took a broadly similar approach to the matters raised, confirmed in a statement of common ground at **CD1/A/5**. They are referred to jointly as "the appellants" in this part of the report.

### **Assessment of Need**

144. The objective to provide for at least 10,500 houses (525 dwellings per annum), in Core Strategy policy CS1 was based on the South East Plan, and was recognised by the Examining Inspector as not representing the objectively assessed need (OAN) set out in para 47 of the NPPF. The policy envisaged that this figure would be updated once a Strategic Housing Market Assessment (SHMA) had been undertaken, and this was issued in February 2016. It was prepared for the wider Housing Market Area (HMA) in conjunction with surrounding Authorities and the Thames Valley Berkshire Local Enterprise Partnership (LEP). The SHMA assessed a need for 665 dwellings per annum (dpa) in West Berkshire, and, despite earlier indications of preferring a lower figure to take account of development constraints, this was the level supported by the Council at the Inquiry. The appellants dispute the findings of the SHMA,

assessing an OAN ranging between 750 and 950 dpa<sup>79</sup>. A useful summary of the respective positions of the parties is contained in the table at document **A9**, the final version of which reflects a number of agreed adjustments made during the course of the Inquiry. [25-29, 86-89]

### *Demographic Assessment*

145. Dealing first with the demographic assessment (stage A of table **A9**), the starting point for the SHMA was 537 dpa derived from the 2012 projections published by the Department of Communities and Local Government (DCLG). Whilst the 2014 figures are now available, showing a reduction to 391 dpa, the Planning Practice Guidance (PPG) recognises that housing assessments are not automatically rendered out of date every time a new projection is issued, and the Council assert that the updated estimates have a limited impact on the overall result<sup>80</sup>. The appellants use the updated figures, which are then adjusted to take account of evidence of household suppression and migration trends, to produce an overall demographic led total of 570-610 dpa (Appeal A) and 584 dpa (Appeal B). These levels are not substantially different from a comparably adjusted figure in the SHMA of 583 dpa. Whilst there is fundamental disagreement about the methodology used to reach these results, discussed further below, the similarity of outcome diminishes the extent to which the alterations sought by the appellants would have a material effect on the assessment of demographic led OAN. [31, 32, 92-94]
146. The projections demonstrate a declining rate of household formation in the 25-34 age group when compared with earlier data and, to a much lesser extent, in the 35-44 band. The SHMA indicates that there may be a range of socio-economic reasons for this trend but acknowledges that a lack of availability of suitable accommodation is a factor that should be addressed. It is the appellants' view that the PPG intends that this should be dealt with as an adjustment to the initial demographic demand, rather than as a response to market signals, which appears later in the calculation. Reference is made to a number of previous appeals and local plan examinations which have adopted this approach, as well as the Local Plans Expert Group (LPEG) in their report to Government of 2016. [32, 40, 92-94]
147. These points are noted, but even if it is the intention of the PPG to separate these elements of the calculation, the guidance also makes clear that there is no definitive approach to calculating OAN, and there is some strength to the Council's concern about the likelihood of double counting, because the various influences on housing demand are interlinked. It is not accepted that the SHMA has failed to take account of relevant factors, nor that its methodology is fundamentally flawed in these respects. [93]
148. The population and household projections which form the basis of the OAN take account of recent trends in migration patterns, but there is the contention that those used in the SHMA were heavily influenced by the 2008 recession, and that a longer timescale would give a more reliable indication. However, it is also the case that the projections used in the SHMA were sensitivity tested against 10 and 12 year timescales and the outcome did not prove that the 2012 figures unduly

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<sup>79</sup> See document **A9**. Mr Veasey indicates OAN would rise to 1708 dpa if all affordable housing needs were taken into account.

<sup>80</sup> Mr Ireland's proof of evidence, paras 6.1-6.12

suppressed migration trends, although an additional allowance was made for London migration. The evidence falls short of proving that the SHMA has significantly underestimated the level of in-migration. [32, 93]

### *Economic Growth*

149. Turning to the second component of the calculation (stage B in the table at **A9**), the disagreement about the anticipated level of economic growth in West Berkshire forms a significant part of the difference between the parties' OAN estimates. The SHMA used data from Cambridge Econometrics September 2013 forecasts, indicating an average rise of 522 jobs per annum (0.5% increase) in West Berkshire. However, prior to the issue of the SHMA, the November 2015 forecasts had become available, showing an average rise of 790 jobs per annum, but this was not reflected in the SHMA analysis. The appellants also criticise the use of only one source of data, whereas their estimates are based on an average of the three main forecasting houses. [34, 91]
150. There is validity in these concerns. The Inspector at the Stanbury House appeal<sup>81</sup>, dealing with the same SHMA, questioned the use of only one source, noting that the Cambridge Econometrics forecasts appeared relatively conservative by comparison with those issued by Oxford Economics and Experian, a point echoed in the SHMA itself<sup>82</sup>. It is also the case that the estimate on which economic projections were based was already two and a half years out of date by the time the SHMA was issued, and the latest figures should be used where possible. Late adjustment for the 2015 forecast could have had a significant effect on the OAN. [33, 34, 91]
151. However, there are extenuating circumstances. The Cambridge Econometrics forecast was chosen to align the SHMA with the Strategic Economic Plan, prepared by the Thames Valley Berkshire Local Enterprise Partnership. Whilst, as noted by the Stanbury House Inspector, such an alignment should not be at the expense of the accuracy of the OAN, the PPG recognises the value of such an arrangement. Similarly, the SHMA took account of local economic circumstances in assessing the level of growth. The Inquiry also heard that the latest Cambridge Econometrics forecast, of November 2016, reversed the increase shown in 2015, by estimating an average jobs growth of 527. An Oxford Economics forecast of October 2016 showed a similar level (513), although an Experian forecast from the same month estimated the level at 765. [33, 34, 91]
152. Taken together, there is clearly a wide variation of results, whether between forecasting houses or over time, and reliance on one forecast could give a misleading impression. However, having regard to the breadth of the Council's local research and consultation, and because the Cambridge Econometrics forecast of 2013 does not appear substantially different from two out of the three current forecasts, the evidence falls short of proving that the basis of the SHMA employment estimate is unduly pessimistic in its approach. Similarly, whilst there is dispute about the source of and quality of data to set activity rates, commuting ratios and whether double jobbing should be taken into account, the alternative evidence does not prove that the SHMA is wrong on these points. [31, 33-37, 93]

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<sup>81</sup> APP/X0360/W/3097721, issued 20 June 2016, **CD7/AB/7**

<sup>82</sup> **CD8/AB/1**, para 5.48

153. The appellants draw attention to the balancing of jobs within the HMA, resulting in a reduced housing requirement in West Berkshire, on the ground that this is an application of policy rather than reflecting the unadulterated assessment of need. However, the SHMA assesses need throughout the HMA and it does not seem to run counter to the advice in the PPG if appropriate adjustments are made between authorities provided they are agreed in the duty to cooperate. The SHMA was jointly commissioned and regularly consulted on by the constituent authorities and there is no reason to suppose that this was not an agreed position. The Council draw attention to the outcome of the St Modwen case<sup>83</sup> in support of their position. [36, 90, 91]

#### *Market Signals*

154. Section C of the table at **A9** refers to the response to market signals, and the PPG sets out the criteria for assessing whether an adjustment is necessary. Mr Ireland's evidence<sup>84</sup> summarises the measures taken in the SHMA to assess each criterion, leading to the conclusion that there were affordability pressures in West Berkshire, but not unduly pronounced by comparison with other parts of the region. The SHMA increased the initial DCLG figure (537 dpa) by 13.5% to improve affordability, addressing the suppression of household formation observed in the younger age groups. A further 9.1% upward adjustment was made to accommodate future migration. [31, 38, 40, 92]

155. The appellants dispute the principle behind this methodology, noting that the PPG deals with affordability as a separate element after demographic trends have been considered. However, for the reasons previously given, it is not accepted that the SHMA is necessarily wrong in this respect. Any adjustment to address affordability is, by its nature, approximate, and it is necessary to monitor the effect in later iterations of the OAN calculation. However, on the basis of the present information, the proposed uplift does not seem unreasonably low, and would not be out of keeping with the conclusions of the Inspector at the Stanbury House appeal<sup>85</sup> when dealing with the same issue, albeit in a different Authority. [92-94]

#### *Affordable Housing*

156. With respect to the level of affordable housing (section D of the table at **A9**), the SHMA assesses a need for 189 affordable dwellings per annum in West Berkshire which, at a delivery rate of 30%, would generate an overall need for 630 dpa. This is based on a threshold of 35% of gross income being spent on housing costs, which the Council point out<sup>86</sup> is very similar to the 34% of income spent on rent nationally identified by the Survey of English Housing, and the threshold advised to registered providers by the Homes and Communities Agency. Although the 30% rate of delivery would be higher than is presently achieved, a larger proportion of future sites will be on green-field land, where there is more likelihood of reaching the target of 40% affordable housing in policy CS6. [38, 39]

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<sup>83</sup> St Modwen Developments Ltd v SSCLG and East Riding of Yorkshire Council [2016] EWHC 968 (Admin) **CD7/CAB/3**

<sup>84</sup> Mr Ireland's proof of evidence para 5.73

<sup>85</sup> APP/X0360/W/3097721, issued 20 June 2016, **CD7/AB/7**, para 42

<sup>86</sup> See Mr Ireland's proof para 6.39

157. The appellants note that the 35% threshold of gross income is significantly higher than the 30% net income referred to in the definition of affordable rents in the Core Strategy. In West Berkshire it would secure only a one bedroom dwelling on the private rental market, leaving little disposable income, and there is limited evidence to support the assumption that 90% of owner occupiers would be able to finance any shortfall in their accommodation costs out of their own resources. A safer set of assumptions<sup>87</sup>, indicate, for instance, that a 25% gross income threshold would generate a need for 427 affordable dwellings, which, at a more realistic 25% rate of delivery, would require a total of 1708 market and affordable homes per annum. [39]
158. However, whilst a case may be made for a higher level of provision than that shown in the SHMA, it is also true, as pointed out in the Kings Lynn judgement<sup>88</sup>, that the calculation of unmet affordable housing need will often produce a figure with little prospect of being delivered in practice. The NPPF distinguishes between the obligation to meet general housing demand and the requirement to address affordable housing need, and the PPG advises only that an increase in the total housing should be considered where it would help to deliver the required affordable homes. In the present case, the Council have addressed the need for affordable housing, and the evidence does not show that the criteria used are either so adrift of normal practice, or that the expectations of the level of delivery are so unrealistic, as to justify rejecting the SHMA figure on these grounds. [38, 39]

#### *Local Plans Expert Group*

159. Reference is made to the report to Government of the Local Plans Expert Group (LPEG) of March 2016 which, amongst other matters, recommended codifying the calculation of OAN for the benefit of consistency and to streamline plan preparation. The appellants draw support from a number of the conclusions reached by this group, and have prepared an OAN based on its recommendations, in parallel with their own calculations, indicating an OAN of 771 dpa. [40, 93, 94]
160. The LPEG report is under consideration by DCLG, and at the time of writing there is no indication whether its recommendations are to be adopted, in whole or in part. It is also recognised that some aspects of the proposed methodology have been the subject of criticism, particularly in respect of possible double counting<sup>89</sup>. At this stage it is not possible to give substantial weight to the relevant LPEG proposals, but it may be, during the course of these appeals, that this is a matter which the Secretary of State will reappraise in the light of any progress towards adoption of a standard methodology. [40]

#### *Conclusions on Housing Need*

161. The SHMA is a comprehensive document which seeks to explain and justify the basis on which the OAN is calculated. It was prepared in conjunction with the constituent local authorities and the Local Enterprise Partnership, and, whilst the appellants' claimed shortcomings in the consultation process are noted, there

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<sup>87</sup> See Table 5.8 of Mr Veasey's evidence, **CD1/B/11**

<sup>88</sup> Kings Lynn and West Norfolk v SCLG and Elm Park Holdings Ltd [2015] EWHC 2464 (Admin), **CD7/CAB/5**, para 32

<sup>89</sup> Mr Ireland's supplementary proof, 12.6 refers

were opportunities for the involvement of interested third parties. It has not been tested at a Local Plan Examination, and its conclusions are susceptible to critical examination, but it is, nonetheless, entitled to substantial weight. [41]

162. Whilst the guidance gives considerable scope for reaching the alternative conclusions put forward by the appellants, those conclusions fall short of proving that the SHMA is fundamentally flawed in its methodology or results. It is true that its length of preparation has meant that parts of the data are now of some age, but any variation from up-to-date figures is not of such significance as to invalidate the results. There are grounds to consider that 665 dpa is an adequately realistic measure of OAN in West Berkshire for the purpose of the present appeals.

### **Land Supply**

#### *The Buffer*

163. NPPF para 47 sets out the need to increase the supply over the OAN by 5% or, where there is a record of persistent under delivery, 20%. In order to ensure choice and competition in the land market, and to provide a realistic prospect of achieving the planned supply. At the time of considering the Core Strategy, in 2012, the Inspector noted that there had been an under supply against the targets in 7 of the preceding 12 years. However, he recognised the effect of the recession from 2008 and that there had been a strong level of delivery in the earlier part of the period, and decided that there was not evidence of persistent under supply, so that a 5% buffer should apply. The appeal at Mans Hill<sup>90</sup> reached a similar conclusion in February 2015, noting that, whilst the Council's record did not paint a glowing picture of housing delivery, the circumstances had not changed so substantially in the intervening period as to justify a different outcome. The Inspector at Firlands Farm<sup>91</sup> in July 2015 also took account of strong delivery in 2004/5 and 2005/6, and favoured a 5% buffer. [42-45, 95]
164. Since these decisions, the SHMA has been issued indicating an OAN of 665 dpa, and it is the appellants' contention that the recent past record should be looked at in the light of this figure, rather than 525 dpa shown in the Core Strategy. The Council note that the Uttlesfield appeal<sup>92</sup>, and references quoted within it, rejected this approach, and that it would not be reasonable to expect the planning authority to meet a level of which they were unaware until the issue of the SHMA. However, the guidance does not set a particular rule on this point, and a decision is subject to the circumstances applying. In this case, it was clear that the Core Strategy figure did not represent an assessment of need measured in accordance with the NPPF; the Core Strategy Inspector anticipated that the real figure would be higher<sup>93</sup>, and that it would be necessary for an early reappraisal. It is also the case that much of the base data which informed the SHMA came from 2012 and 2013, rather than representing a recent change of circumstances at its issue in 2016. It is reasonable to assess performance against the requirement of 525 dpa up to 2012/13 but 665 dpa thereafter. [42-45, 95]

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<sup>90</sup> CD7/CAB/8

<sup>91</sup> CD7/AB/1

<sup>92</sup> APP/C1570/A/14/2213025, para 15.16, Appendix 7 of Ms Peddie's proof

<sup>93</sup> CD6/B/1 para 30



165. The parties also differ in the length of time over which the assessment is made. Whilst the PPG recommends the use of a longer time scale to even out the effect of the economic cycle, the very strong performance in the period up to 2005/6 is of diminished relevance now, and its inclusion has a disproportionate effect on the overall result. A 10 year period provides a reasonably balanced assessment. [42-45, 95]
166. On this basis<sup>94</sup>, the figures show a deficit in 6 out of the 10 years, all of which have occurred within the last 7 years, and a cumulative under-supply over this period of 658 units (which would rise to 1197 if 2006/7 were removed from the equation). It is certainly true, as noted by the Core Strategy Inspector, that the 2008 recession had a significant influence over part of this period, but there has been a reducing effect since the adoption of the plan in 2012. There are grounds to consider that there is a record of persistent under delivery and that a buffer of 20% is now justified. [42-45, 95]

#### *Deliverable Housing Land*

167. The Council's evidence<sup>95</sup> indicates deliverable sites for 4,902 dwellings, whereas the appellants estimate 3,420 and 3,520 in Appeals A and B respectively. Document **CAB3** records the common ground between the parties, and identifies in Table 2 the list of sites which are in dispute. A large portion of the difference arises out of disagreements about the likely delivery rates from the two major strategic sites identified in the Core Strategy: Sandleford Park and Newbury Racecourse.
168. The Inspector for the Housing Site Allocations DPD questioned<sup>96</sup> the likely output from Sandleford Park, noting that the project is relatively complex and the trajectory may be overly ambitious. Current information reinforces this concern. There is no indication that the intention to decide the planning applications on this site by the end of 2016 has been achieved, and there appear to be difficulties in ensuring a comprehensive form of development. The associated supplementary planning document<sup>97</sup> makes clear that the outline planning for the whole of the site should be dealt with in a single application to ensure a coordinated approach and the timely provision of infrastructure, but there are indications of a lack of agreement between the owners of the site, and a likelihood that Section 106 obligations will not be easily or quickly put in place. The appellants also point to a number of access concerns identified by the Council's Highways department<sup>98</sup>. There is limited information about the detailed progress towards development of the site but, on the basis of the submitted evidence, there appear to be a number of potential impediments to early development which raise significant doubts about whether the Council's trajectory is deliverable. Whilst the forecast put forward by the appellants in Appeal B is the more cautious, that proposed in Appeal A appears realistic and is adopted in this report. This would diminish the Council's estimate by 240 homes. [47, 96]

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<sup>94</sup> See, for instance, Table 1, page 71, of Ms Cohen's proof **CD1/A/15**

<sup>95</sup> Table at 6.24 of Ms Peddie's proof

<sup>96</sup> **CD8/A/7**

<sup>97</sup> Sandleford Park SPD, 2015, Policy S1, **CAB8**

<sup>98</sup> **CD8/A/9-11**

169. The second strategic site, Newbury Racecourse, is in the course of development, being about halfway through a 10 year build programme, with the first phase complete, the second under construction, and proposals to start the third sector imminently. The point of dispute is whether the anticipated rate of future delivery is achievable. Figures supplied by the developer<sup>99</sup> point to an average rate of 125 dwellings completed per annum in each full year up to 2016/17, whereas the programme requires a step change to an average rate of 233 dpa for the 4 full years following. Whilst this level was achieved in 2014/15, it was surrounded by years of much lower delivery. There is reason to share the doubt about maintaining this rate over a more extended period, which would exceed the current rate of sales<sup>100</sup>, and would be substantially larger than the company's reported average rate of site delivery<sup>101</sup>. Whilst it is part of the appellants' case that there is an unmet housing need, there is likely to be a limit to the rate of demand within a single location, and there will be competition from Sandleford Park and the sites identified in the Housing Site Allocations DPD during this time. Even if the developer is under an obligation to the landowners to meet this timetable, the details of any agreement are not known, and it seems probable that it would be in neither of the contracting parties' interests to spoil their market by enforcing such an arrangement. The appellants estimate a reduction of 314 units during the course of the 5 year period, which is accepted as a much more likely outcome than the assessment relied on by the Council. [48, 97]
170. Whilst there are existing commercial uses of the J&P Motors site, there is no indication of any legal impediment to the use of the land for housing, it has an implemented planning permission, and there is recent evidence of the involvement of a developer. The Lakeside site in Theale received planning permission in 2007, later implemented, but without development proceeding, and a replacement application is currently at appeal. Nonetheless, the appellants' evidence falls short of proving that the existing permission does not represent a viable fall-back position, and a significant sum has already been paid to meet Section 106 obligations. On balance, there seems to be a reasonable prospect that both of these sites will deliver housing within the five years. [49, 50, 98]
171. The Council include sites identified in the emerging Housing Site Allocations DPD, which, although not adopted, is some way through the Examination process and there is no indication that the identified land will not be allocated. Attention has been drawn to the Wainhomes<sup>102</sup> judgement, which cautioned against the assumption that such land would be deliverable without specific evidence, but submissions from the Council<sup>103</sup> indicate that each of the owners of the disputed sites has been contacted and expects housing development to be carried out within five years. In the circumstances, there are not substantial grounds for reducing the expected delivery from this source. [51, 99]
172. Market Street Newbury is a complex, town centre scheme involving a high density of development on a confined site with level differences. However, it is mainly owned by the Council, with a developer in train, and there is progress towards resolving planning and obligations issues, and to relocate the present

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<sup>99</sup> Ms Peddie's proof Appendix 3

<sup>100</sup> Indicated in document **CAB7** as "1 house and 1-2 flats per week"

<sup>101</sup> Document **B7**

<sup>102</sup> Wainhomes Holdings Ltd v SSCLG [2013] EWHC 597 Admin, **CD7/B/4**

<sup>103</sup> **CAB6**

bus station. Part of the land is in third party ownership, but there is no evidence that any failure to secure this property would prevent a scheme from proceeding. Delivery of 232 units from this site within 5 years does not seem to be an unreasonable expectation. The Pound Lane Depot site is also owned by the Council. It was rejected for inclusion in the 5 year supply at the Mans Hill appeal, on the grounds of uncertainty about the proposed use, and costs of ground remediation. However, a planning permission for 47 units has now been granted subject to a Section 106 agreement and, whilst there has been some delay in this respect, there is not a substantial reason to exclude the site. There is limited information about two small sites in dispute, but the total difference, 4 dwellings, would not have a material effect on the overall calculation. [52, 53, 98]

173. In summary, there is sufficient doubt about the likelihood that all the anticipated units will be delivered at Sandleford Park and Newbury Racecourse to indicate that they cannot be considered to be fully deliverable in terms of the definition in footnote 11 of the NPPF. For the purposes of these appeals, the Council's five year housing supply estimate is reduced by 554 dwellings, from 4,902 to 4,348.

#### Conclusion on Housing Land Supply

174. The parties agree<sup>104</sup> that an OAN of 665 dpa, along with the accumulated deficit, would produce a 5 year requirement for 3,742 dwellings. With a 20% buffer, the figure would rise to 4,490, or 898 per annum. A delivery of 4,348 would therefore equate to 4.84 years supply.

#### **Development Plan Policy**

##### *Whether the proposal complies with the development plan*

175. With respect to the principle of the development of this site, being green-field land outside the settlement boundary, the Council's reason for refusal refers to three Core Strategy policies: CS1, ADPP1, and ADPP3, and saved Local Plan policy HSG1.
176. The proposal does not comply with any of the 4 categories of land which CS1 identifies for future housing development. In particular, it is not one of the sites which have been chosen in the Site Allocations DPD referred to in this policy. However, the wording is not wholly prohibitive of development outside these categories. [12, 58]
177. The location would meet a number of the criteria in ADPP1, including that it is adjacent to one of the main urban areas in the settlement hierarchy and, whilst there are questions about its suitability in terms of infrastructure and environmental impact, which will be considered further below, the Council do not argue that the site is inaccessible. However, the final part of this policy specifies only limited development in areas below the settlement hierarchy, including open countryside. It is the appellants' view that, in being adjacent to an urban area, the site falls within the settlement hierarchy and is therefore excluded from this aspect of the policy. [13, 59]
178. However, although the policy refers to the potential for development adjacent to a settlement, this is in the context of CS1, where such land would be allocated in

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<sup>104</sup> See Mr Tustain's proof, Table 15 (**CD1/B/10**) and Ms Peddie's proof, tables at paras 6.15 and 6.21

a development plan document. It distinguishes land adjoining a settlement from the settlement itself, and the District Settlement Hierarchy table refers only to the settlement. Therefore, the land falls below the settlement hierarchy. Despite its proximity to the town, it is composed of agricultural fields with the characteristics of open countryside, and is subject to the final bullet point of policy ADPP1, which allows only limited development which addresses identified needs and maintains a strong rural economy. The proposal would not comply with this aspect of the development plan. This conclusion is different from that reached by the Inspector at Firlands Farm<sup>105</sup>, but is arrived at in relation to the particular points raised in the present appeal. [13, 60]

179. Policy ADPP3 indicates that approximately 900 homes are to be provided in Thatcham during the plan period, two thirds of which had already been committed or completed at the time of publication. The remainder would be allocated through the Site Allocations DPD. It is clear<sup>106</sup> that the relatively limited growth of Thatcham arises out of a local desire for retrenchment after a period of rapid development, to allow the infrastructure to catch up. However, the Inspector's Examination report notes that higher growth may become necessary if additional housing is required, and the Core Strategy sets the delivery target as a minimum figure. 900 homes should not be viewed as a ceiling, and the wording of ADPP3 does not directly restrict development to this level. [13, 59, 124]
180. Local Plan policy HSG1 is a permissive policy which identifies the settlements within which new housing will be allowed, including Thatcham. It does not specifically exclude housing in other areas, but the accompanying text notes that development outside settlement boundaries would only be permitted in exceptional circumstances, which is taken to exclude the appeal proposal. However, some caution must be used in this interpretation, because, to the extent that the supporting text is creating policy, it is entitled to lesser weight than the policy itself. The replacement policy C1 in the emerging Site Allocations DPD resolves this issue by including a presumption against new residential development outside settlement boundaries. [11, 62]
181. There is no reason to consider that the other identified policies (referring to infrastructure, affordable housing, transport and environmental issues) are not applicable to the appeal scheme.

*The emerging Site Allocations DPD*

182. The DPD has passed a considerable way through the Examination process, with amendments in respect of the Inspector's initial report being subject to a further round of public consultation. Whilst objections remain, the principles of those matters pertinent to this appeal have largely been established and there is reason to consider that the policies will be adopted as part of the development plan in the first half of 2017. The emerging plan is entitled to considerable weight in accordance with NPPF para 216, although subject to the limitations discussed below. [15, 62, 125]

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<sup>105</sup> **CD7/AB/1**

<sup>106</sup> See Inspector's Examination report paras 64-67 **CD8/CAB/2**

### *The weight to be attributed to policies*

183. Material considerations may lead to a lesser weight being allocated to development plan policies, including when they are deemed out of date, or inconsistent with the policies of the NPPF. An intention to protect the rural areas by restricting development outside defined settlement boundaries is not inconsistent with the NPPF, which recognises the inherent character and beauty of the countryside. However, those boundaries should reflect the need for land to allow necessary growth, including a wide choice of homes.
184. The housing requirement which informed policy HSG1 was implementing a Structure Plan which is no longer in force, and the policies of the Core Strategy are not based on an objective assessment of need which accords with the NPPF. As such, those aspects of the identified policies which seek to restrict development to the present settlement boundaries are not up to date, and their weight is diminished accordingly. The emerging Site Allocations DPD will amend the settlement boundaries to provide more housing land but, as a daughter document of the Core Strategy, not in relation to a current assessment of housing need. [56, 62, 63, 123]
185. Para 49 of the NPPF indicates that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. There is no dispute between the parties that policies CS1, ADPP1, ADPP3 and HSG1 are relevant policies in this context and, in the absence of a five year supply, the policies are not up to date for this reason also. [13, 55]

### **Conclusions on the first and second main Main Considerations**

186. The process set out in the Core Strategy, where future development land will be identified through the Site Allocations DPD, reflects the need for a plan led system supported by the NPPF. The appeal proposal would be outside this mechanism and also contrary to the specific restrictions on development in the countryside imposed by ADPP1, and, with the reservation noted above, HSG1, reinforced by the weight given to emerging policy C1.
187. However, the policies do not reflect current housing need, and the Planning Authority is not able to demonstrate a five year supply of deliverable housing land. The NPPF seeks to boost significantly the supply of housing and the policies are not up to date in achieving this objective. Whilst there remains a need to secure a sustainable form of development, the weight attributed to the policies is reduced to the extent that a location outside the settlement boundary is not, of itself, an overriding reason to dismiss the appeal.

### **The Character and Appearance of the Countryside**

#### *The Effect on the Landscape*

188. The site rises approximately 30m from the A4 road to halfway up the undulating northern slope of the Kennet valley. It displays many of the characteristics of the local countryside<sup>107</sup>, with irregularly shaped fields bounded by hedges, and a historic grouping of farm buildings. Adjacent to the western boundary, and to the north of the site, are blocks of ancient woodland. It is part of Area 14F in the

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<sup>107</sup> Berkshire Landscape Character Assessment, Final Report, 2003, **CD6/AB/9**

Council's Landscape Sensitivity Study<sup>108</sup>, being important to the setting of north Thatcham, and assessed as having a medium sensitivity to change. It also formed the western portion of Area 9 in the Council's assessment of strategic development sites<sup>109</sup> in preparation for the Core Strategy, where landscape constraints were identified. The substantial development then proposed would have had a major adverse landscape impact, but a scaled down site might have been acceptable.

189. With respect to the present proposal, both main parties have carried out Landscape and Visual Appraisals<sup>110</sup> in accordance with the Landscape Institute's current guidelines, with conclusions differing in the overall perception of the qualities of the site, and the degree of impact of the proposed development.
190. In assessing the parties' respective opinions, it is recognised that the land has the appearance of open countryside, rather than being either a transition between town and country, or having the characteristics of a rural fringe location. It is true that the Colthrop Industrial Estate forms a backdrop to many of the views from the rising ground in the interior of the site, and that there is some influence from the traffic in the surrounding roads. However, whilst the appellants are correct in their assessment that the land is well contained, this also means that the surrounding vegetation creates a definite edge to the urban area, and any influence of noise and activity diminishes away from the road boundaries. The present use of the land does not detract from its rural appearance: the functional separation of the farm buildings from the surrounding fields is not especially apparent on the ground, and the occasional use as an airfield, and a utilities training area, have limited effect. [67, 112]
191. Similarly, the potential for mitigating the impact of the new development should not be overstated. The retention of landscape elements, including hedges, would help the appearance of the new estate and the maintenance of bio-diversity, and landscape reinforcement and new planting on the perimeter would partially screen and soften the view of the buildings. However, this would not retain or replicate any of the present rural character of the land, nor would it provide a transition between the existing built up areas and the surrounding countryside. The type and density of development would have a distinctly suburban character, wholly different from its present openness. It is doubtful whether any reduction in the scale of the buildings below those proposed would result in a significant lessening of this urbanising effect. [70]
192. On the other hand, the present containment of the site by boundary planting limits the degree to which its rural character contributes to the area. Any significant visual effect on local residents from its development would apply to relatively few properties, and a view of the estate at the new entrance would not be wholly out of keeping with the prevailing residential scene. The degree of screening would also diminish the impact on adjoining roads, so that there would be limited change to the perception of Thatcham when entering along the A4, or passing north through Floral Way. It is certainly true that the new housing would

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<sup>108</sup> An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire, Summary Report: Thatcham, 2009, **CD6/AB/4**

<sup>109</sup> West Berkshire Core Strategy: Landscape Assessment of Potential Strategic Development Sites, 2009, **CD6/AB/5**

<sup>110</sup> **CD2/A/19** and Ms Kirkham's statement and Appendix BKB

be visible from the right of way to the west of the site, although for a limited distance because of intervening woodland, and from the permissive footpath to the north east. However, in other respects, the development of the site would have relatively little influence on views in the near vicinity. [115]

193. Attention has been drawn to the visibility of the land when seen from the southern side of the valley, in the vicinity of Greenham Common and its recreational areas. At present, the large, light coloured roofs of the Colthrop Industrial Estate are a prominent landmark at the bottom of the valley, with the fields of the site rising above, towards the wooded ridge near Upper Bucklebury. The proposed development would create a visible extension of the town northwards in this location. However, it would not be especially discordant in this respect. The residential areas to the west already extend further north, with parts above the 105m contour which would be the limit of development on the appeal site. An open recreational area is proposed to occupy the spur of higher ground which projects into the interior of the site, which would assist in lessening the impact of the development. In any event, from the across the valley, the site is at some distance and occupies a relatively small part of the visible scene, with a proportionately limited influence on the overall landscape. [66, 69, 70, 115, 116, 117]
194. For these reasons, the long views of the development would not have a major detrimental effect on the landscape appearance of the northern valley, and, by occupying the western portion of Area 9<sup>111</sup>, would have a closer relationship with the town than land to the east. The location of Upper Bucklebury is not clearly apparent from the southern side of the valley, to diminish any effect of closing the gap between the settlements, and the remaining green space would maintain a physical and visual separation on the ground. Overall, the development would not appear as an especially incongruous extension of Thatcham, and there would be limited adverse effect on the setting of the town. [116]
195. It is part of the Council's case that the site is valued landscape, which para 109 of the NPPF indicates should be protected and enhanced. It is certainly true that the Council's landscape studies identified the characteristics of the land and features worthy of preservation. However, the quality of the area, and its sensitivity to change, is not so pronounced as to prove that it has a value above the norm, such as to justify an overriding need for preservation. Rather, whilst taking account of the intrinsic character and beauty of the countryside, and mitigating the effects of change, there is a need to balance its loss against the other requirements for land in reaching an overall judgement. [65, 111]

#### *The Area of Outstanding Natural Beauty*

196. The North Wessex Downs Area of Outstanding Natural Beauty (AONB) is located approximately 450m north of the nearest part of the appeal site, and about a further 100m from the edge of the proposing housing. It is the view of both the Council and the AONB managing body<sup>112</sup> that the development of the site would unacceptably diminish the separation of the AONB from Thatcham, adversely affecting both its landscape setting, and its appearance when seen across the Kennet valley. [69, 132]

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<sup>111</sup> West Berkshire Core Strategy: Landscape Assessment of Potential Strategic Development Sites, 2009, **CD6/AB/5**

<sup>112</sup> **TA3**

197. The AONB Position Statement<sup>113</sup> recognises that there is not a precise extent to the setting of the AONB, and the degree of any effect would depend on the circumstances of the development and its site. Potential harm may include an adverse visual effect, loss of tranquillity through noise or light pollution, and the loss of, or damage to, heritage assets and natural landscape. In the present case, there is no dispute between the main parties that the site cannot be seen from the AONB, or vice versa, and, for the reasons set out above, it is not accepted that the development of the land would have a marked effect on the view from the south side of the Kennet valley. There is no indication that a residential use of the land would be likely to be audible at the AONB, and the more brightly lit element, the school, would be away from its boundary. It is certainly true that there would be a loss of landscape features on the site, and some effect on the setting of its heritage items, but these would be sufficiently remote to avoid a direct impact on the AONB.
198. There is a statutory duty<sup>114</sup> to consider the effect of any development on the setting of the AONB, and the NPPF places great weight on conserving its landscape and natural beauty. The concerns expressed by the Council and the managing body in these respects are taken into account, but the weight of evidence does not show that any significant harm to the AONB would arise from the development of the site.

#### *Heritage*

199. Siege Cross Farm buildings are outside, but surrounded by, the appeal site. The appellants' report<sup>115</sup> provides a description of the heritage assets in the property, including two 17<sup>th</sup> century grade II listed farm buildings, and an unlisted farmhouse and associated buildings, which appear to have an 18<sup>th</sup> century origin, but possibly based on a much earlier farm. The effect on the setting of the listed buildings will be considered below, but the Council's particular concern is the impact which the development would have on the historic landscape and its relationship with the farmstead. [68, 112]
200. It is true that the cluster of rural buildings, set within fields, has the appearance of a traditional farm in a rural landscape, although unsympathetic later extensions, especially on the northern side, have diminished this effect. There is visibility from public areas, the clearest impression being from the footpath to the east of the site, but subject to the time of year and level of foliage. Nonetheless, the development would lead to the loss of elements of the historic landscape, which would be only partially mitigated by the retention of a buffer zone around the buildings. [68, 112]
201. The heritage significance of the two listed buildings, a cow shed and barn, lies in their traditional appearance and historic construction, albeit altered by a later conversion in the case of the barn, along with their contribution to the group value of the farm. To the extent that both the visibility and historical context of the farm relies on its relationship with the surrounding fields, the replacement with housing would have some detrimental effect on the setting of the listed buildings. There is no reason to disagree with the Council's judgement<sup>116</sup> that

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<sup>113</sup> North Wessex Downs AONB Position Statement on Setting, 2012, **CD6/AB/8**

<sup>114</sup> Section 85 of the Countryside and Rights of Way Act, 2000

<sup>115</sup> **CD2/A/28**

<sup>116</sup> See the officers' report **CD3/A/1** para 5.28



this would be less than substantial harm in terms of para 134 of the NPPF. Whether this is outweighed by the public benefits of the scheme is considered below. [81, 112]

### *Agricultural Land*

202. The appellants' agricultural land assessment<sup>117</sup> notes that about 87% of the site falls into the category of the best and most versatile agricultural land. Para 112 of the NPPF indicates that account should be taken of the economic benefits of such land, with a preference for the use of lower quality land. This did not form a reason for refusal of the scheme, and there is no clear evidence that economic difficulties are arising because of a lack of such land in the district. Nonetheless, it is a factor counting against the proposal which is taken into account in the overall assessment. [68, 112]

### *Conclusions on the third main consideration*

203. Core Strategy policies CS14 and CS19, dealing respectively with design principles and landscape quality, include the need to have regard to the distinctive characteristics of the wider area, and ADPP3 refers, amongst other matters, to retaining the historic environment of the town. The site does display some of the recognised distinctive features of the local countryside, including the farmstead in its setting, and this would be lost by the proposed development. There would be some conflict with the development plan in these respects, although to a restricted degree because of the limited contribution that the site currently makes to the character and appearance of the area and the setting of the town. There is a need to protect the AONB, in conformity with policy ADPP5, but no clear evidence that the development would be harmful in this respect.

### **Education**

204. The Education Statement of Common Ground<sup>118</sup> agrees that the new housing would be likely to create a demand for 35 early year pupils, 218 primary and 94 secondary places by completion of the scheme, anticipated to be in the year 2022/23. The Council indicate that there is insufficient primary school capacity to meet this demand, for which reason the proposal includes a one form entry primary school, providing about 210 places. However, the nearest secondary school, Kennet School, is already over capacity, without potential for expansion. As such, there would be insufficient secondary education facilities to serve the housing development, and no means of mitigation currently identified. The Council's decision notice indicates that the scheme would be contrary to Core Strategy policy ADPP1, which discourages intensified residential use where there is inadequate supporting infrastructure, and the requirement in policy CS5 to coordinate the provision of infrastructure and new development. [75, 101]

205. To resolve the difficulty, and prompted by a proposal in the Council's 2013 Infrastructure Delivery Plan, the appellants suggested that a larger, two form entry primary school be built on the appeal site, the extra capacity being available to take pupils from Francis Baily primary school, and thereby release land adjacent to Kennet secondary school to allow its expansion. The Council have rejected this arrangement on a number of grounds, including that it would

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<sup>117</sup> CD2/A/31

<sup>118</sup> CD1/A/5

cause disruption to existing pupils and the new school would be on the far side of the A4 road from the majority of the catchment. Clearly, this is a matter for the Council as Education Authority, although the appellants' proposal is in the spirit of policy CS5 which looks for a cooperative approach to the provision of infrastructure. As it is, the appellants' undertaking includes an obligation to reserve space on site for expanding the new school, if required. [101]

206. The evidence indicates that there will be a shortfall in the overall number of secondary school places in the area by 2020<sup>119</sup>, and, of the four secondary schools in Newbury and Thatcham, the situation at Kennet School is particularly critical. It is already over capacity by 68 pupils, and the shortfall is likely rise to about 326 pupils by 2023<sup>120</sup>, even without the anticipated entry from the appeal site. The Council are conducting a review of secondary education provision to investigate means of increasing capacity, and consider that the present scheme is premature to its conclusions. [74, 104]
207. However, the constraints imposed by secondary education provision in Thatcham have been known about since the preparatory work for the Core Strategy in 2009<sup>121</sup>, and the Council became aware of a sharp increase in primary school entry in 2012. Time estimates for preparing a secondary education strategy have been successively extended<sup>122</sup>, and it was indicated in the Inquiry that it remained "12-24 months" distant. Indeed, Mr Lewis' proof (para 13.5) warns that consultations with stakeholders could add several years to the programme. Overall, the process has become, and looks likely to remain, very protracted. [72, 102]
208. It is difficult to reconcile this process with the NPPF requirement for a proactive drive to deliver necessary infrastructure, including a sufficient choice of school places. Nor is it reasonable that a shortage of school accommodation should create a restriction on new housing development in the District, especially, as indicated elsewhere in this report, because the Core Strategy and Housing Allocations DPD do not reflect the objectively assessed need for housing, and there is a requirement for additional homes within the next five years.
209. Whether or not the appeal scheme proceeds, there will be a necessity in the short to medium term for action to resolve the shortage of school places, whether by the construction of new buildings, adjusting catchment areas, changing admission procedures, or any other means. In this context, the additional intake from this site would be only a proportion of the total future increase in demand, and there is not a compelling reason why it should not be taken into account in the emerging strategy, especially as the full requirement from the development would not be reached until about 2022-3. [74, 103, 104]

#### *Conclusions on the fourth main consideration*

210. The evidence falls short of proving that the proposal would have a harmful effect by being premature to the education strategy, and there would be the opportunity during the development programme to make provision for the

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<sup>119</sup> Mr Kinsman's proof, Appendix JK4, **CD1/A/11**

<sup>120</sup> See Appendix 3 of the Education Statement of Common Ground **CD1/A/5**

<sup>121</sup> Mr Kinsman's proof, 6.9, **CD1/A/11**

<sup>122</sup> See Mr Kinsman's proof paras 6.29, 6.45 and 6.64, **CD1/A/11**

additional numbers of pupils, so as to avoid contravention of Core Strategy policies ADPP1 and CS5.

### Financing Education

211. The appellants' unilateral undertaking (**A17**) makes provision for a range of obligations, the majority of which are not in dispute, and are dealt with below. However, there is disagreement about the scale and necessity for additional contributions to educational provision when the Council operate a charging schedule under the Community Infrastructure Levy (CIL) Regulations.
212. The new single form entry primary school would be built by either the developer or the Council and, in the latter case, a contribution of £4,060,800 would be paid by the developer to finance its construction. The questions arise as to whether the appellants should make such a commitment when there is a CIL charging schedule in place and, if so, whether the contribution should be reduced to avoid double counting of payments. The unilateral undertaking makes provision for the Secretary of State to express a view on this, and to vary the level of obligation accordingly.
213. The Council's Regulation 123 List (**CD6/AB/25**) includes education as a type of infrastructure to be funded from CIL receipts, and, in the normal way, a further contribution would not be taken into account as a reason for granting planning permission. However, the Council's list specifically excludes the delivery of on-site facilities or infrastructure required directly as a result of any large scale development. 'Large scale' in this context is not defined, but a scheme of this size would be considered large in normal parlance, and there is no question that the school is required specifically to serve the new housing, with an intake sufficient to occupy the building. It appears to fall within the excluded infrastructure, and, subject to concerns about the relationship with CIL payments, considered below, the obligation would meet the criteria in CIL Regulation 122. [76-79, 107]
214. However, full payment for the school, whilst also contributing CIL payments, could be viewed as a duplication of costs. Paras 25-093 and 25-095 of the Planning Practice Guidance indicate that there should be no actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure. In this context, the Council point out that they would be precluded from using CIL payments towards the cost of the school, and there would be no risk of double payment for the same item. The appellants, on the other hand, note that education is a significant part of the Regulation 123 list, and that a proportion of CIL payments would be used towards the provision of other primary schools in the District. [76-79, 108]
215. Whether or not the Council are entitled to consider an "item of infrastructure" as limited only to the school in question, it is necessary to achieve a demonstrably fair and reasonable means of exacting contributions from developers. The PPG touches on this by referring to the need to avoid the perception of double dipping. It would seem neither fair nor reasonable that a developer should make full provision for the primary educational needs of the development, and also pay a CIL charge which has the same purpose. It would, in effect, amount to an overpayment for necessary infrastructure, contrary to the tests in CIL Regulation 122. There is no means of adjusting the CIL payment to take account of this, but the Section 106 obligation may be reduced accordingly. [76-79, 108, 109]

216. The Council point out that they will not know how much of the CIL charge will be apportioned to elements of infrastructure until that expenditure has occurred, and, to date, no CIL funds have been committed. However, it is possible to take a pragmatic approach to assessing a level of expenditure so that a development is not unduly delayed. In the present case, the Council estimate that 70% of the CIL charge will be used for education and highways. On the basis that half would go to education, and half of that amount to primary schooling, then a reduction in the contribution equivalent to 17.5%<sup>123</sup> of the CIL charge would be an equitable solution. The appellants estimate the CIL charge to be in the region of £2,000,000, which has not been challenged by the Council, and therefore it is recommended that the primary school contribution in the unilateral undertaking be reduced by £350,000, from £4,060,800 to £3,710,800. It is recognised that this is a substantially smaller deduction than that suggested by the appellants, but the evidence does not provide a conclusive case that over 60% of the total CIL charge would be likely to go to primary education. [76-79, 109]
217. The second point at issue is whether there should be an obligation to make a contribution towards secondary education. The unilateral undertaking includes such a provision, based on a formula previously operated by the Council, but subject to the determination of this appeal. The Council have not sought a contribution because, as previously indicated, there are no specific projects which they consider would mitigate the additional pressure on the school system, and they do not indicate that any general contribution to education would fall below the limit of 5 set out in CIL Regulation 123. [73, 80, 105]
218. There is no reason to disagree with this approach; whilst any solution to the secondary education shortfall will be likely to have financial implications, the absence of a plan to resolve the situation prevents the identification of a specific funding requirement. However, the situation with respect to secondary education is different from that of primary schooling, as the increased demand from the site would represent only a portion of the need which must be addressed, rather than arising solely because of the development. There is no conclusive reason why this aspect should not be funded out of CIL payments. [80, 105]
219. Regard is had to the Council's proposal to alter the Regulation 123 List (**CA7**), including amendments to the exclusions schedule by deleting the reference to "solely" in defining the requirements of large scale development, and adding the expansion of any schools in Thatcham. There is no certainty that the amended list will be adopted, nor that it will be deemed to comply with the limitations on amendments advised by PPG para 25-098 but, if it is, the wording retains flexibility in the manner in which the exclusions may be applied. Its adoption would not alter the conclusion that the absence of a specific funding requirement in this case should not be a reason to prevent the development from proceeding.

*Conclusions on the fifth main consideration*

220. There are grounds to consider that primary education needs should be funded by the developer by the construction of a school on the site, but with an allowance to avoid duplication with CIL payments. Secondary educational demand may be mitigated from the CIL fund without the need for a specific contribution. The

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<sup>123</sup> i.e. 70%x50%x50%

submitted unilateral undertaking would enable the development to comply with Core Strategy policies CS5 and ADPP1 in these respects.

### **Obligations**

221. In addition to the education obligations discussed above, the Unilateral Undertaking (**A17**) includes the following: affordable housing at the rate of 40% of dwellings; payment for off-site highway works; provision of a building for community use; obligations and travel plan monitoring charges; children's play area provision; and management and maintenance arrangements for open space, drainage and play areas. There is no reason to consider that these obligations would not comply with CIL Regulations 122 and 123, so as to be taken into account in determining the appeal.

### **Other Matters**

222. The potential for flooding in Thatcham is a major concern for residents following the damage that arose in 2007, and it is recognised that there are risks involved with developing land which is presently capable of absorbing some of the excess flow within the natural landscape. However, it is also the case that the previous flooding occurred with the land in its present condition, and that the development proposal offers the opportunity to carry out a properly engineered solution to the problem without cost to the public purse. At the Inquiry, the appellants' engineer indicated that the current outflow from the site would be reduced by the increased water storage capacity on the land, and the outline proposals show a mechanism intended to achieve this. [128, 120]

223. A requirement for approval of the details of a scheme may be obtained through the use of a planning condition. The Council do not routinely consult with other parties when considering such submissions, but agreed that there was no reason that they should not do so, and, as there are local groups with an interest in this issue, it is recommended they should be given the opportunity to comment on any detailed design. Such groups would not be taking liability for the final design, and their advice should be treated in that light, but they do have extensive local knowledge which would help to inform the solution.

224. Whilst it is appreciated that there are difficulties of traffic congestion in Thatcham, there is no substantial reason to dispute the appellants' claim that the road alterations agreed with the Highway Authority would adequately mitigate the additional load from the development, and result in some improvements. There is also concern about the capacity of Thatcham to cope with the additional housing. Whilst a smaller centre than Newbury, it falls within the category of Urban Areas with a wide range of services in Core Strategy policy ADPP1, and has local shops and facilities to meet day to day needs. The site is located sufficiently close to the centre to enable access on foot. These, and the other matters raised, do not provide grounds to recommend dismissal of the scheme. [120, 129, 130]

### **Overall Conclusions**

225. The Council resist the scheme because it would take place on undeveloped countryside outside the settlement boundary, quoting a range of adopted and emerging development plan policies which concern the spatial distribution of development in the District. The parties do not dispute that those policies are relevant to the supply of housing and, for the reasons given above, they cannot

be considered up to date. In these circumstances, the decision falls to be taken in relation to the final bullet point in NPPF para 14, which requires that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, or because specific NPPF policies indicate that development should be restricted.

226. It is recognised that the assessed level of housing land supply, at 4.84 years, is not substantially below the 5 year level set in NPPF para 47, and that permission for Appeal B, for instance, could increase the level above this threshold. However, it would be a marginal compliance, vulnerable to any shortfall in the anticipated rate of land delivery, and the Council's policies concerning settlement boundaries would remain out of date by not reflecting a current OAN. Having regard to the need to boost significantly the supply of housing, and the lack of robustness in the Council's position, this aspect does not alter the overall assessment.
227. The addition of nearly 500 homes in an accessible location would contribute to the economic and social sustainability of the area by, amongst other matters, providing a market for local goods and services, and a workforce to enable commercial growth. Up to 198 affordable homes would be a considerable boost to the supply of low cost housing, and there would be the social benefits of increased education choice from a new school with expansion potential, and additional recreational open space and community facilities. Improvements to the road system, and flood control on the site, whilst necessary to make the development acceptable, would also have wider benefits for the locality. The Council do not dispute that the development would be in an accessible location, with the potential to minimise the use of private transport.
228. Set against this is the potential harm arising out of the development, of which the incursion into open countryside, and the effect on the historic landscape, is of greatest substance. The need to protect the countryside, supporting the rural economy and recognising its intrinsic character and beauty, is consistent with the NPPF, and considerable weight may be applied to those aspects of the Council's spatial policies intended to serve that purpose, despite being out of date in respect of housing supply. In addition, policies CS14 and CS19 set out the need to have regard to local distinctiveness and the conservation of the landscape. [57]
229. However, the site makes a limited contribution to the visible rural landscape, and its location, with two sides abutting the town, makes it a logical choice for expansion of the settlement. The proposed housing would not be out of keeping with the prevailing suburban character, and the existing vegetation, on and adjoining the site, would help to contain and soften the impact. It is certainly true that part of the significance of the listed buildings on the site results from their wider rural setting, and there is recognition of the great weight placed on their conservation in the NPPF, and the statutory requirement to have special regard to the desirability of preserving their setting. Nonetheless, NPPF para 134 accepts that less than substantial harm to the significance of a designated heritage asset may be justified by the public benefits of a scheme, and the retention of some open space around the buildings would help to mitigate the loss. Whilst counting against the scheme, the loss of agricultural land is not, of itself, a decisive factor in the equation. [81]

230. Other matters raised, by the Council and by interested parties, mainly relate to the adequacy of local infrastructure to serve a new housing development, and the Core Strategy Inspector recorded<sup>124</sup> a local desire for low growth to allow services in the town to catch up after a period of expansion. However, as the Inspector also noted<sup>125</sup>, new development might contribute to the improved infrastructure and other changes desired by the Council. The present scheme would have the potential to provide direct financial support, in terms of the new homes bonus and CIL payments, and payment in kind by improved educational, open space and community facilities, along with investment in highways and flood control. Core Strategy policy ADP3 does not directly limit the growth of Thatcham to 900 houses, and there is not a substantial case that the additional housing in this scheme could not be adequately accommodated in the town.
231. Taking the matters together, there is reason to consider that the economic and social benefits of the scheme would be of sufficient value to overcome the loss of environmental quality, to justify an overall assessment of a sustainable form of development. In terms of the decision process in NPPF para 14, those benefits would not be significantly or demonstrably outweighed by adverse impacts, and there is no indication that the scheme would contravene any specific NPPF policy indicating that development should be restricted. This finding, subject to consideration of the matter referred to in paragraph 226 above (concerning the implications for the current appeal in the event of Appeal B being allowed), represents a material consideration which, in my judgment, would warrant the granting of planning permission notwithstanding the failure of the proposal to comply with the development plan in the respects referred to above.

## RECOMMENDATION

232. For the above reasons, it is recommended that the appeal be allowed, subject to the conditions in Annex 3.

*John Chase*

INSPECTOR

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<sup>124</sup> CD6/A/2 para 64

<sup>125</sup> CD6/A/2 para 65

## ANNEX 1

### APPEARANCES

#### FOR THE LOCAL PLANNING AUTHORITY:

Ms E Lambert	of Counsel
She called	
Mr N Ireland BA, MTPI, MRTPI	GL Hearn
Ms C Peddie BSc, MSc, MRTPI	Planning Department West Berkshire District Council (WBC)
Ms S Ball BA, MA, MRTPI	Special Projects, WBC
Ms F Simmonds	Education Service, WBC
Mr M Lewis	Education Service, WBC
Mr R Dray BSc, MSc	Planning Department, WBC
Ms B Kirkham DipTP, BLD, CMLI	Kirkham Landscape Planning

#### FOR THE APPELLANTS:

Ms M Cook	of Counsel
She called	
Mr D Usher BA, MA, MRTPI, MIED	Barton Willmore
Ms K Cohen BSc, MCD, MRTPI	Barton Willmore
Mr J Kinsman CEng, MICE, BSc(Eng), ACGI	Educational Facilities Management Partnership Ltd
Ms L Toyne BA, DipLA, DipTP, CMLI	Barton Willmore

#### FOR THE APPELLANTS OF APPEAL B (HENWICK PARK):

Mr C Boyle QC	
He called	
Mr D Veasey BA, DipTP, MRTPI	Nexus Planning
Mr R Tustain BA, DipTP, DMS, MRTPI	Nexus Planning

#### INTERESTED PERSONS:

Mr I Goodwin	Cold Ash Parish Council Flood and Water Course Warden
Mr R Crumly	Thatcham Town Council
Mr M Cole	Thatcham Town Council



## ANNEX 2

### DOCUMENTS

#### A – DOCUMENTS SPECIFIC TO ‘APPEAL A’ (SIEGE CROSS)

##### CD1/A – Appeal Documents

CD1/A/1	Appeal Covering Letter
CD1/A/2	Appeal Form
CD1/A/3	Appellant’s Statement of Case, prepared by Barton Willmore LLP
CD1/A/4	West Berkshire District Council’s Statement of Case
CD1/A/5	Agreed Education Statement of Common Ground
CD1/A/6	Agreed Objectively Assessed Housing Need Statement of Common Ground
CD1/A/7	Agreed Heritage Statement of Common Ground
CD1/A/8	Agreed Landscape Statement of Common Ground
CD1/A/9	Agreed Planning Statement of Common Ground
CD1/A/10	Agreed Transport Statement of Common Ground
CD1/A/11	Mr. Jan Kinsman, Proof of Evidence – Education
CD1/A/12	Mr. Dan Usher, Proof of Evidence – Objectively Assessed Housing Need
CD1/A/13	Mr. Jonathan Smith, Proof of Evidence – Heritage
CD1/A/14	Ms. Lisa Toyne, Proof of Evidence – Landscape
CD1/A/15	Mrs. Kim Cohen, Proof of Evidence – Planning
CD1/A/16	Mr. James Bevis, Proof of Evidence – Transport

##### CD2/A – Planning Application Documents – Original submission

CD2/A/1	Planning Application Form
CD2/A/2	Site Boundary Plan (Dwg No. 1001 Rev D), prepared by Barton Willmore LLP
CD2/A/3	Parameters Plan - Maximum Heights (Dwg No. A123 Rev D), prepared by Barton Willmore LLP
CD2/A/4	Application Master Plan (Dwg No. A126 Rev F), prepared by Barton Willmore LLP
CD2/A/5	Potential Site Access Arrangements from Floral Way (Dwg No. ITB7223-GA-005 Rev C), prepared by i-Transport
CD2/A/6	Gables Way Widening (Dwg No. ITB7223-GA-007 Rev A), prepared by i-Transport
CD2/A/7	Potential Site Access Arrangements from Bath Road (Dwg No. ITB7223-GA-008 Rev I), prepared by i-Transport
CD2/A/8	Proposed Floral Way Signalised Junction (Dwg No. ITB7223-GA-009 Rev C), prepared by i-Transport
CD2/A/9	Proposed Site Access Arrangements HGV U-Turn Swept Path Analysis (Dwg No. ITB7223-GA-012 Rev A), prepared by i-Transport
CD2/A/10	Illustrative Site Layout (Dwg No. 1032 Rev F), prepared by Barton Willmore LLP
CD2/A/11	Planning Statement, prepared by Barton Willmore LLP
CD2/A/12	Design and Access Statement – Revision J, prepared by Barton Willmore LLP
CD2/A/13	West Berkshire District & Thatcham Housing Requirements Assessment, prepared by Barton Willmore LLP
CD2/A/14	Economic Benefits Assessment, prepared by Barton Willmore LLP
CD2/A/15	Transport Assessment, prepared by i-Transport
CD2/A/16	Framework Travel Plan, prepared by i-Transport
CD2/A/17	Framework School Travel Plan, prepared by i-Transport
CD2/A/18	Education Strategy, prepared by EFM
CD2/A/19	Landscape and Visual Appraisal, prepared by Barton Willmore LLP
CD2/A/20	Ecological Impact Assessment, prepared by AMEC
CD2/A/21	Habitats Regulations Assessment, prepared by AMEC

CD2/A/22	Flood Risk Assessment, prepared by WSP
CD2/A/23	Services Appraisal Report, prepared by WSP
CD2/A/24	Air Quality Assessment, prepared by WSP
CD2/A/25	Noise Impact Assessment, prepared by WSP
CD2/A/26	Mineral Sterilisation Report, prepared by WSP
CD2/A/27	Phase 1 Ground Investigation Report, prepared by WSP
CD2/A/28	Heritage Statement, prepared by CgMs
CD2/A/29	Energy Statement (including Code for Sustainable Homes and BREEAM Pre-Assessments), prepared by Silver
CD2/A/30	Agricultural Land Assessment, prepared by Reading Agricultural Consultants
CD2/A/31	Tree Survey & Tree Retention/Removal Outcomes, prepared by Forbes-Laird Arboricultural Consultancy Ltd
CD2/A/32	Statement of Community Involvement, prepared by Remarkable
CD2/A/33	Siege Cross Air Quality Report – Revision 2 – 13th Jan 2015
CD2/A/34	Flood Risk Assessment – Revision 3 – 16th Jan 2015
CD2/A/35	Mineral Sterilisation Report – Revision 1 – 14th Jan 2015
CD2/A/36	Siege Cross Phase 1 Ground Investigation Report – First Issue – 23th July 2014
CD2/A/37	Noise Impact Assessment – Revision 4 – 6th Jan 2015
CD2/A/38	West Berkshire District Council – Screening Opinion

### **CD2.1/A – Planning Application Documents**

#### **Further documentation submitted during application**

CD2.1/A/1	Supplementary Statement – Scale (March 2015), prepared by Barton Willmore LLP
CD2.1/A/2	Site Cross Section No. 20590-1039-1, prepared by Barton Willmore LLP
CD2.1/A/3	Site Cross Section No. 20590-1039-2, prepared by Barton Willmore LLP
CD2.1/A/4	Landscape and Visual Appraisal – Response to WBC’s Preliminary Report (May 2015), prepared by Barton Willmore LLP
CD2.1/A/5	Design and Access Statement – Revision L (August 2015), prepared by Barton Willmore LLP
CD2.1/A/6	Application Masterplan – Revision J (August 2015), prepared by Barton Willmore LLP
CD2.1/A/7	Illustrative Site Layout Plan – Revision H (August 2015), prepared by Barton Willmore LLP
CD2.1/A/8	Potential Site Access Arrangements from Floral Way (Dwg No. ITB7223-GA-005 Rev D), prepared by i-Transport
CD2.1/A/9	Gables Way Widening (Dwg No. ITB7223-GA-007 Rev B), prepared by i-Transport
CD2.1/A/10	(Dwg No. ITB7223-GA-013 Rev F), prepared by i-Transport
CD2.1/A/11	(Dwg No. ITB7223-GA-014 Rev E), prepared by i-Transport
CD2.1/A/12	Transport Assessment Addendum, prepared by i-Transport
CD2.1/A/13	Flood Risk Assessment Addendum – Revision 1 (August 2015), prepared by WSP
CD2.1/A/14	Revised Arboriculture Report (August 2015), prepared by Forbes-Laird Arboricultural Consultancy Ltd
CD2.1/A/15	Heritage Statement (August 2015), prepared by CgMs Consulting
CD2.1/A/16	Ecological Memo (August 2015), prepared by Amec Foster Wheeler
CD2.1/A/17	Response to North Wessex Downs AONB (August 2015), prepared by Barton Willmore LLP
CD2.1/A/18	Response to Kirkham Landscape Planning Ltd on behalf of West Berkshire Council, prepared by Barton Willmore LLP
CD2.1/A/19	Landscape and Visual note (August 2015), prepared by Barton Willmore LLP
CD2.1/A/20	Conservation Officer Response – Denis Greenway (05/03/2015)
CD2.1/A/21	Third Party responses received by the Planning Inspectorate
CD2.1/A/22	Barton Willmore Response to Thatcham Town Council

**CD3/A – Local Planning Authority Committee Documents and Decision Notice**

- CD3/A/1 Case Officer's Report, dated 14th October 2015
- CD3/A/2 Decision Notice, dated 14th October 2015

**CD4/A – National Planning Policy**

- CD4/A/1 Planning (Listed Buildings and Conservation Areas) Act 1990

**CD5/A – Other National Planning Policy and Guidance (Extracts where appropriate)**

- CD5/A/1 National Character Area profile 129: Thames Basin Heaths, Natural England (2014)
- CD5/A/2 BS5837:2012 - Trees in relation to design, demolition and construction – Recommendations
- CD5/A/3 Historic England Conservation Principles 2008
- CD5/A/4 Historic England Good Practice Advice No.3: The Setting of Heritage Assets
- CD5/A/5 'Planning for Growth' – Ministerial Statement (March 2011)
- CD5/A/6 Governments letter to Chief Planning Officers (March 2011)

**CD6/A – Local Planning Policy and Guidance (Extracts where appropriate)**

- CD6/A/1 The Countryside Agency and Scottish Natural Heritage (2002) Landscape Character Assessment- Guidance for England and Scotland
- CD6/A/2 West Berkshire Core Strategy 2012 – Inspector's Report
- CD6/A/3 West Berkshire Core Strategy – Appendix D Critical Infrastructure Schedule of the Infrastructure Delivery Plan
- CD6/A/4 North East Thattham Strategic Flood Risk Assessment (Jacobs – February 2009)
- CD6/A/5 Surface Water Management Plan for Thattham (WSP – 2010)

**CD7/A – Appeals and Judgements**

- CD7/A/1 Appeal Decision: Offenham, Wychavon, 07 February 2014 (APP/H1840/A/13/2203924)
- CD7/A/2 Appeal Decision: Fairford, Cotswold District Council, 22 September 2014, (APP/F1610/A/14/2213318)
- CD7/A/3 Appeal Decision: Saltburn, Redcar & Cleveland, 16 December 2015 (APP/V0728/W/15/3006780)
- CD7/A/4 Appeal Decision: Ormesby, Middlesbrough, 09 March 2016 (APP/V0728/W/15/3018546)
- CD7/A/5 Appeal Decision: Land north of Haygate Road, Wellington, Telford & Wrekin, 15 April 2016 (APP/C3240/W/15/3025042)
- CD7/A/6 Appeal Decision: Land north of Ross Road, Newent, 25 August 2015 (App/P1615/A/14/2228822)
- CD7/A/7 Appeal Decision: Stowupland, Suffolk, 25 May 2016 (APP/W3520/W/15/3139543)
- CD7/A/8 Appeal Decision: Gallagher Estates Lowbrook farm, Lowbrook lane, Tidbury green, (APP/Q4625/13/2192128)
- CD7/A/9 High Court Judgement: Stratford on Avon DC vs Secretary of State [2013] EWHC 2074 (July 2013)
- CD7/A/10 High Court Judgement: Blackpool Borough Council vs Secretary of State and Thompson Property Investments Ltd. [2016] EWHC 1059 (May 2016)
- CD7/A/11 High Court Judgement: Forest of Dean District Council vs Secretary of State and Gladman Developments Ltd. [2016] EWHC 421 (March 2016)
- CD7/A/12 High Court Judgement: Bedford Borough Council v R. and NUON UK Ltd [2013] EWHC 2847 (Admin)
- CD7/A/13 Court of Appeal: Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137
- CD7/A/14 Court of Appeal: R. (on the application of the Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin)
- CD7/A/15 Court of Appeal: Suffolk Coastal District Council v Hopkins Homes Limited

	[2016] EWCA Civ 168
CD7/A/16	Appeal Decision: Land north of Upper Chapel, Launceston (APP/D0840/A/13/2209757)
CD7/A/17	Appeal Decision: Warwick Road & Cambridge Road, Whetstone (APP/T2405/A/14/2227076)
CD7/A/18	Appeal Decision: Land off Crewe Road, Haslington (APP/R0660/A/14/2213304)
CD7/A/19	Crane v SSCLG [2015] EWHC 425 (Admin)
CD7/A/20	Phides v SSCLG [2015] EWHC 827 (Admin)
CD7/A/21	William Davis Ltd v SSCLG [2013] EWHC (Admin)
CD7/A/22	Dartford BC v SSCLG [2014] EWHC 2636 (Admin)

#### **CD8/A – Miscellaneous**

CD8/A/1	Local Plans Expert group (LPEG), Appendix 6, March 2016
CD8/A/2	West Oxfordshire Local Plan Examination: Inspector's Preliminary Findings – Part 1, 15 December 2015
CD8/A/3	Planning Advisory Service: Objectively Assessed Need and Housing Targets Technical Advice Note – Second Edition (Peter Brett Associates, July 2015, 'PAS Guidance')
CD8/A/4	Decision Notice for Application: 07/00565/OUTMAJ
CD8/A/5	Decision Notice for Application: 10/00975/XOUTMAJ
CD8/A/6	Sandleford Park Planning Statement, prepared by Boyer
CD8/A/7	Note from the HSA DPD Inspector in relation to the delivery of Sandleford Park (October 2016)
CD8/A/8	Council's Homework in relation to the current status of HSA DPD Sites
CD8/A/9	Comments by Paul Goddard (WBC Transport Officer) in relation to 15/02300/OUTMAJ, Sandleford Park, January 2016
CD8/A/10	Comments by Paul Goddard (WBC Transport Officer) in relation to 16/00106/OUTMAJ, Sandleford Park, May 2016
CD8/A/11	Further comments by Paul Goddard (WBC Transport Officer) in relation to 15/02300/OUTMAJ, Sandleford Park
CD8/A/12	Extension of time email from the Case Officer in relation to Sandleford Park (September 2016)
CD8/A/13	Representations to WBC HSA DPD Preferred Options
CD8/A/14	SA / SEA assessment for Siege Cross Farm

#### **AB – DOCUMENTS RELEVANT TO BOTH 'APPEAL A' AND 'APPEAL B'**

##### **CD4/AB – National Planning Policy**

CD4/AB/1	National Planning Policy Framework (NPPF) 2012
CD4/AB/2	Planning Practice Guidance (PPG) 2014

##### **CD6/AB – Local Planning Policy and Guidance (Extracts where appropriate)**

CD6/AB/1	West Berkshire Core Strategy 2006-2026 (adopted July 2012)
CD6/AB/2	'Saved' policies from the West Berkshire Local Plan 2002
CD6/AB/3	West Berkshire District Council – Emerging Housing Site Allocations Development Plan Document
CD6/AB/4	Local Development Framework: "An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire. Summary Report: Thatcham", West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
CD6/AB/5	West Berkshire Core Strategy: Landscape Sensitivity Assessment of Potential Strategic Development Sites, West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
CD6/AB/6	North Wessex Downs AONB Management Plan 2014-2019 North Wessex Downs Council of Partners (2014)
CD6/AB/7	North Wessex Downs AONB Landscape Character Assessment 2002 Land Use Consultants
CD6/AB/8	North Wessex Downs AONB Position Statement on Setting (Development Affecting the Setting of the North Wessex Downs AONB) 2012

- CD6/AB/9 Berkshire Landscape Character Assessment (2003) Land Use Consultants
- CD6/AB/10 Newbury District Wide Landscape Assessment (1993) Landscape Design Associates
- CD6/AB/11 The Landscape Institute and the Institute of Environmental Management and Assessment (2013) Guidelines for Landscape and Visual Impact Assessment (Third Edition), Routledge
- CD6/AB/12 Local Development Framework: "An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire. Summary Report: Thatcham", West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
- CD6/AB/13 West Berkshire Core Strategy: Landscape Sensitivity Assessment of Potential Strategic Development Sites, West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
- CD6/AB/14 North Wessex Downs AONB Management Plan 2014-2019 North Wessex Downs Council of Partners (2014)
- CD6/AB/15 North Wessex Downs AONB Landscape Character Assessment 2002 Land Use Consultants
- CD6/AB/16 West Berkshire District Local Plan 2002 – Proposals Map  
<http://ww2.westberks.gov.uk/localplan/index.htm>
- CD6/AB/17 West Berkshire District Local Plan (1991-2006) – Inspectors Report
- CD6/AB/18 'Options for the Future: West Berkshire Core Strategy' (April 2009)
- CD6/AB/19 West Berkshire District Council – Sustainability Appraisal Policy Paper (October 2011)
- CD6/AB/20 West Berkshire District Council – Community Infrastructure Levy Charging Schedule (April 2015)
- CD6/AB/22 West Berkshire District Council – Quality Design SPD
- CD6/AB/23 West Berkshire District Council – Planning Obligations SPD (December 2014)
- CD6/AB/24 West Berkshire District Council – Local Development Scheme (October 2015)
- CD6/AB/25 West Berkshire District Council – Regulation 123 List
- CD6/AB/26 West Berkshire District Council – Infrastructure Delivery Plan 2016
- CD6/AB/27 West Berkshire District Council – CIL Examiners Report

#### **CD7/AB – Appeals and Judgements**

- CD7/AB/1 Appeal Decision: Firlands Farm, West Berkshire (APP/W0340/A/14/2228089)
- CD7/AB/2 High Court Judgement: Gallagher Homes Limited & Lioncourt Homes Limited vs Solihull Metropolitan Borough Council [2014] EWHC 1283 (April 2014)
- CD7/AB/3 High Court Judgement: West Berkshire DC vs Secretary of State and HDD Burghfield Common Limited [2016] EWHC 267 (February 2016)
- CD7/AB/4 Court of Appeal: Hunston Properties vs St Albans City & District Council & Secretary of State [2013] EWCA Civ 1610 (December 2013)
- CD7/AB/5 Court of Appeal: Oxted Residential Limited vs Tandridge District Council [2016] EWCA Civ 414 (February 2016)
- CD7/AB/6 Appeal Decision: Coalville, 05 January 2016, (APP/G2435/W/15/3005052)
- CD7/AB/7 Appeal Decision: Stanbury House, Reading, 20 June 2016 (APP/X0360/W/15/3097721)
- CD7/AB/8 Secretary of State decision and Appeal Decision: Droitwich, Wychavon, 02 July 2014 (APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426)
- CD7/AB/9 High Court Judgement: Hopkins Homes Ltd v Secretary of State for Communities and Local Government and Suffolk Coastal District [2015] EWHC 132 (Admin) (17 March 2016)
- CD7/AB/10 High Court Judgement: Wainhomes (South West) Holdings Ltd v Secretary of State for Communities and Local Government & Wiltshire Council [2013] EWHC 597 (Admin) (25 March 2013)

#### **CD8/AB – Miscellaneous**

- CD8/AB/1 Berkshire Strategic Housing Market Assessment, GL Hearn, February 2016
- CD8/AB/2 West Berkshire Council Five Year Housing Land Supply Statement,

	December 2015
CD8/AB/3	West Berkshire Council Five Year Housing Land Supply Statement, September 2016
CD8/AB/4	Report on the Examination into Eastleigh Borough Council's Eastleigh Borough Local Plan, 11 February 2015
CD8/AB/5	Arun Local Plan Inspector's OAN Conclusions, 02 February 2016
CD8/AB/6	Cornwall Local Plan Strategic Policies: Preliminary Findings Following the Hearings in May 2015, 05 June 2015
CD8/AB/7	Stage 1 of the Examination of the South Worcestershire Development Plan: Inspector's Further Interim Conclusions on the Outstanding Stage 1 Matters, 31 March 2014

## **B – DOCUMENTS SPECIFIC TO 'APPEAL B' (HENWICK PARK)**

### **CD1/B – Appeal Documents**

CD1/B/1	Appeal Covering Letter
CD1/B/2	Appeal Form
CD1/B/3	Appellants Statement of Case, prepared by Nexus Planning
CD1/B/4	West Berkshire District Council's Statement of Case
CD1/B/5	Agreed Planning Statement of Common Ground
CD1/B/6	Agreed Landscape Statement of Common Ground
CD1/B/7	Agreed Transport Statement of Common Ground
CD1/B/8	Agreed Drainage Statement of Common Ground
CD1/B/9	Mr. Roger Tustain, Proof of Evidence – Planning
CD1/B/10	Mr. Roger Tustain, Proof of Evidence – Housing Land Supply
CD1/B/11	Mr. Dominick Veasey, Proof of Evidence – Objectively Assessed Need
CD1/B/12	Mr. Clive Self, Proof of Evidence - Landscape
CD1/B/13	Amended Parameters Plan 22289A/03B
CD1/B/14	Storey Heights Plan 22289A/04S
CD1/B/15	Revised Illustrative Layout 22289A/04R
CD1/B/16	Tree Constraints Overlay 22289A/04S
CD1/B/17	Density Plan 22289A/04S
CD1/B/18	Alternative Scheme Covering Letter to Council dated 16th September
CD1/B/19	Alternative Scheme Covering Letter to PINS dated 20th September
CD1/B/20	Revised Scheme Covering Letter to PINS dated 18th October 2016

### **CD2/B – Planning Application Documents – Original Submission**

CD2/B/1	Cover letter dated 9th July 2015
CD2/B/2	Planning Application Form
CD2/B/3	Planning Statement prepared by Nexus Planning
CD2/B/4	Statement of Community Involvement prepared by Nexus Planning
CD2/B/5	Statement on Affordable Housing prepared by Nexus Planning
CD2/B/6	West Berkshire Five Year Land Supply Position Statement dated June 2015 prepared by Nexus Planning
CD2/B/7	Design and Access Statement prepared by Clague Architects
CD2/B/8	Archaeological Desk Based Assessment prepared by CGMS
CD2/B/9	Ecological Designations
CD2/B/10	Ecological Appraisal Prepared by Aspect Ecology
CD2/B/11	Letter from Simon Jones Associates Ltd dated 4th March 2015
CD2/B/12	Arboricultural Implications
CD2/B/13	Landscape and Visual Appraisal prepared by CSa Environment Planning
CD2/B/14	Framework Residential Travel Plan prepared by Gateway TSP
CD2/B/15	Transport Assessment prepared by Gateway TSP
CD2/B/16	Transport Assessment Figures prepared by Gateway TSP
CD2/B/17	Archaeological Geophysical Survey prepared by Bartlett-Clark Consultancy for CGMS
CD2/B/18	Section 106 Heads of Terms Agreement prepared by Croudace
CD2/B/19	Tree Constraints Plan prepared by Simon Jones Associates

CD2/B/20	Aerial Photograph by CSa Environmental No. CSA/2406/101 Rev A
CD2/B/21	Topographical Photograph by CSa Environmental Planning No. CSA/2406/100 Rev A
CD2/B/22	Photosheets by CSa Environmental Planning No. CSA/2406/108
CD2/B/23	Landscape Principles Plan by CSa Environmental Planning No. CSA/2406/108
CD2/B/24	Cross Section prepared by CSa Environmental Planning No. CSA/2406/103
CD2/B/25	Existing Site Plan prepared by Clague Architects 22289A/01
CD2/B/26	As Existing Site Sections prepared by Clague Architects Drawing Number 22289A/02
CD2/B/27	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/03
CD2/B/28	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/04
CD2/B/29	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/05
CD2/B/30	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/06
CD2/B/31	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/07

### **CD2.1/B – Planning Application Documents**

#### **Further documentation submitted during application**

CD2.1/B/1	Proposed Masterplan prepared by Clague Architects drawing reference 22289A/04A
CD2.1/B/2	Cold Ash escarpment Flow Routes
CD2.1/B/3	Surface Water Drainage Strategy prepared by Stuart Michael Associates drawing number 5126.402 Rev A
CD2.1/B/4	Letter to the attention of Mr M Butler (ref: 5126(1)/TSW/amp) from Stuart Michael Associates dated 9th September 2015
CD2.1/B/5	Letter to the attention of Mr M Butler (ref: 5126(2)/TSW/amp) from Stuart Michael Associates dated 9th September 2015
CD2.1/B/6	Floral Way Junction Measurements prepared by Gateway TSP drawing number: 14/1208/PHOTO 1 & A4 Bath Road (East- towards Reading) Junction measurements prepared by Gateway TSP drawing number: 14/1208/PHOTO 2
CD2.1/B/7	Falmouth way Junction Measurements prepared by Gateway TSP drawing number 14/1208/PHOTO 3
CD2.1/B/8	A4 Bath Road (West- towards Thatcham) Junction measurements prepared by Gateway TSP drawing number 14/1208/PHOTO 4
CD2.1/B/9	Framework Residential and GP Surgery Travel Plan prepared by Gateway TSP dated September 2015
CD2.1/B/10	Response to Highway Officer Comments prepared by Gateway TSP dated September 2015
CD2.1/B/11	Response to Highway Officer Comments: Appendices A-G prepared by Gateway TSP dated September 2015
CD2.1/B/12	Response to Highway Officer Comments: Appendices H-L prepared by Gateway TSP dated September 2015
CD2.1/B/13	Proposed Masterplan prepared by Clague Architects drawing number 22289A/04B
CD2.1/B/14	Surface Water Drainage Strategy prepared by Stuart Michael Associates drawing number 5126.402 Rev B
CD2.1/B/15	Letter for the attention of Mr M Butler/Mrs Clark from Stuart Michael Associates limited dated 24th November 2015
CD2.1/B/16	Letter for the attention of Mr M Butler from Stuart Michael Associates limited dated 24th November 2015
CD2.1/B/17	Section 106 Heads of Terms Agreement prepared by Croudace
CD2.1/B/18	Proposed Masterplan prepared by Clague Architects drawing number 22289A/04D

### **CD3/B – Local Planning Authority Committee Documents and Decision Notice**

CD3/B/1	Case Officer's Report, dated 16th December 2015
CD3/B/2	Decision Notice, dated 17th December 2015
CD3/B/3	Committee Minutes in respect of planning application ref. 15/01949/OUTMAJ

**CD6/B – Local Planning Policy and Guidance (Extracts where appropriate)**

CD6/B/1 Report on the Examination into the West Berkshire Core Strategy

**CD7/B – Appeals and Judgements**

- CD7/B/1 Appeal Decision: Droitwich, Wychavon District (APP/H1840/A/13/2199426 & APP/H1840/A/13/2199085) July 2014.
- CD7/B/2 Land at Stanbury House, Basingstoke Road, Spencers Wood, Reading, (Reference: APP/X0360/W/15/3097721)
- CD7/B/3 Appeal Decision: Land South of Greenhill Road, Coalville, Leicestershire (Appeal Reference: APP/G2435/W/15/3005052)
- CD7/B/4 Wainhomes (South West) Holdings Ltd v Secretary of State for Communities and Local Government & Wiltshire Council [2013] EWHC 597 (Admin) (25 March 2013)
- CD7/B/5 High Court Judgement: Cheshire East BC v SSCLG & Renew [2016] EWHC 571 (Admin) (16 March 2016)
- CD7/B/6 High Court Judgement: Satnam Millennium Limited and Warrington Borough Council [2015] EWHC 370 (Admin) (19 February 2015)
- CD7/B/7 High Court Judgement: Zurich Assurance Limited and Winchester City Council and South Downs National Park Authority [2014] EWHC 758 (Admin) (18 March 2014)
- CD7/B/8 High Court Judgement: Hopkins Homes Ltd v Secretary of State for Communities and Local Government and Suffolk Coastal District [2015] EWHC 132 (Admin) (17 March 2016)
- CD7/B/9 Appeal Decision: Land off Botley Road, West End Hampshire APP/W1715/W/15/3139371

**CD8/B – Miscellaneous**

- CD8/B/1 West Berkshire Annual Monitoring Report 2015
- CD8/B/2 HSA DPD Background Paper
- CD8/B/3 The Approach and Delivery Topic Paper Supporting the HSA DPD
- CD8/B/4 "Laying the Foundations: A Housing Strategy for England"
- CD8/B/5 The Planning Advisory Service "Ten Key Principles for owning your Housing Number – Finding Your Objectively Assessed Needs".
- CD8/B/6 The Council's Homework Response to Issue 1 "OAN"
- CD8/B/7 The Council's Homework Response to Issue 3 "Sandleford Park"
- CD8/B/8 The "Thatcham Vision" – Part 2, Population, Development and Infrastructure
- CD8/B/9 Consultation on Proposed Changes to the National Planning Policy document 2015
- CD8/B/10 Local Plan Expert Group Local Plans Report to Government, Appendix 6
- CD8/B/11 South East Plan Panel Report (Volume 1) August 2007
- CD8/B/12 South East Plan 2009
- CD8/B/13 Airports Commission Local Economic Impacts Assessment, November 2014
- CD8/B/14 West Berkshire Housing Need Assessment 2007
- CD8/B/15 Berks, Bucks & Oxon Wildlife Trust – Consultation Response dated 25th Aug 2015
- CD8/B/16 West Berkshire Council Ecologist – Consultation Response dated 14th September 2015
- CD8/B/17 Appellants Representations to the Proposed Submission Version of the HSA DPD December 2015
- CD8/B/18 Council's note on progress within the HSA DPD Sites
- CD8/B/19 Appellant Response to Homework Questions
- CD8/B/20 "The Labour Needs of Extra Housing Capacity – Can the House Building Industry Cope" (2005)
- CD8/B/21 NHS Healthy Urban Development Unit (HUDU) Planning Contribution Model Guidance Notes



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## CA – COUNCIL DOCUMENTS SPECIFIC TO ‘APPEAL A’ (SIEGE CROSS)

- CD5/CA/1 DCLG Policy paper ‘2010 to 2015 government policy –  
<https://www.gov.uk/government/publications/2010-to-2015-government-policy-planning-reform/2010-to-2015-government-policy-planning-reform>
- CD8/CA/1 Primary Admission Arrangements 17/18
- CD8/CA/2 Secondary Admission Arrangements 17/18

## CAB – COUNCIL DOCUMENTS RELEVANT TO BOTH ‘APPEAL A’ AND ‘APPEAL B’

### CD6/CAB – Local Planning Policy and Guidance (Extracts where appropriate)

- CD6/CAB/1 West Berkshire Local Development Scheme (extract)
- CD6/CAB/2 Housing Site allocations DPD Examination Webpage at  
<http://info.westberks.gov.uk/index.aspx?articleid=32493>

### CD7/CAB – Appeals and Judgements

- CD7/CAB/1 Hunston High Court Judgement and Court of Appeal Judgements (Hunston Properties v SSCLG and St Albans City & District Council (2013) EWHC 2678 and R vs City and District of St Albans, EWCA Civ 1610 )
- CD7/CAB/2 Satnam Millenium v Warrington Borough Council (2015) EWHC
- CD7/CAB/3 St Modwen Developments Ltd v SSCLG and East Riding of Yorkshire Council [2016] EWHC 968 (Admin)
- CD7/CAB/4 Recovered appeal on Land North East of Eisenham, Essex  
APP/C1570/A/14/2219018
- CD7/CAB/5 Kings Lynn & West Norfolk vs. SSCLG & Elm Park Holdings Ltd [2015] EWHC 2464 (Admin)
- CD7/CAB/6 Zurich Assurance Ltd v Winchester City Council & South Downs NPA [2014] EWHC 758 (Admin)
- CD7/CAB/7 SSCLG v West Berkshire DC and Reading BC [2016] EWCA Civ 441
- CD7/CAB/8 Appeal Decision Land north and south of Mans Hill, Burghfield Common Appeal Ref APP/W0340/A/14/2226342, Inspector David Wildsmith, 17 March 2015
- CD7/CAB/9 High Court challenge case number CO/1455/2014 (Gladman Development Ltd and Wokingham Borough Council [2014] EWHC 2320 (Admin))
- CD7/CAB/10 Oadby and Wigston Borough Council v Secretary of State & Bloor Homes Ltd [2015] EWHC 1879

### CD8/CAB – Miscellaneous

- CD8/CAB/1 PAS Technical Advice Note on OAN
- CD8/CAB/2 Report on the Examination into the West Berkshire Core Strategy, July 2012
- CD8/CAB/3 Brandon Lewis Letter to PINS re SHMA dated 19th December 2014
- CD8/CAB/4 Council’s Homework 4 consistency between C1 of the DPD and the Core Strategy
- CD8/CAB/5 HSA DPD Statement of Consultation main Report
- CD8/CAB/6 HSA DPD SA/SEA for Thatcham
- CD8/CAB/7 Council’s Homework on Issue 9. Overview of Thatcham Infrastructure Constraints
- CD8/CAB/8 Annual Monitoring Report Housing 2015

## DOCUMENTS SUBMITTED DURING THE INQUIRY

### A – Appellants’ Documents, Appeal A

- A1 Opening submissions on behalf of A2Dominion
- A2 Wokingham Borough Council v SSCLG and Cooper Estates, notification on application for permission to proceed
- A3 Oadby and Wigston Borough Council v SSCLG and Bloor Homes [2016] EWHC 1879 (Admin), Court of Appeal decision

A4	Office for National Statistics, Economic Review: November 2016
A5	Erratum to Ms Cohen's proof of evidence
A6	Rebuttal proof of Ms Cohen
A7	Rebuttal proof of Mr Kinsman
A8	Rebuttal proof of Ms Toyne
A9	Table summarising parties' OAN calculation
A10	Extract from 'Delivering National Growth, Locally' by Thames Valley Berkshire Local Enterprise Partnership
A11	Barton Willmore's revised OAN Table based on post-Brexit assumptions
A12	Extract from Experian jobs forecast
A13	Planning history and layout plans for Lakeside site in Theale
A14	Market Street site, illustration and accommodation table
A15	Housing Site Allocations DPD – Inspector's 'homework'
A16	Cotswold District Council v SSCLG and others, [2013] EWHC 3719 (Admin)
A17	Unilateral Undertaking, A2Dominion Developments and Linda and Angus Janaway to West Berkshire Council
A18	Schedule of Unilateral Undertaking provisions
A19	Housing Land Supply Scenarios, Barton Willmore Table 18a
A20	Annotated landscape map
A21	Appendix LT1 to accompany Ms Toyne's LVIA
A22	Report into objections to the Newbury District Local Plan, 1991-2006
A23	West Berkshire Council Community Infrastructure Levy Reg. 123 List November 2016 consultation version
A24	West Berkshire Planning Area 12 - secondary education pupil numbers
A25	West Berkshire Infrastructure Delivery Plan 2013, extract
A26	Plan showing viewpoints and route for site visit
A27	Five year land supply – Barton Willmore revised table 18
A28	Appeal decision: land at Fawler Rd, Uffington, Ref APP/V3120/W/15/3139377
A29	Local Plan programme for Berkshire planning authorities
A30	Mr Usher's revised OAN to reflect Cambridge Econometrics report Nov 2016
A31	Revised Barton Willmore table 18
A32	Closing submissions on behalf of A2Dominion Developments

#### **CA - Council's Documents, Appeal A**

CA1	Ms Ball's rebuttal proof
CA2	Proposed Planning Conditions
CA3	Historic Landscape Context, Figure BK3 by Ms Kirkham
CA4	Heights of key buildings on the Colthrop Industrial Estate
CA5	Guide for Landscape and Visual Impact Assessment, 3 <sup>rd</sup> Edition, extract
CA6	Appeal decision: Land at Blacks Lake, Aldermaston, APP/W0340/C/15/3139572
CA7	WBC Review of Community Infrastructure Levy, Reg 123 List
CA8	Kennet School, capacity and demand table
CA9	Bellway Homes response to Core Strategy Preferred Options consultation
CA10	Proposed travel plan conditions
CA11	Justification for contribution to travel plan monitoring

#### **TA - Third Party Documents, Appeal A**

TA1	Submission by Mr Goodwin, Flood and Water Course Warden
TA2	Submission by Mr Crumly on behalf of Thatcham Town Council
TA3	Letter from North Wessex Downs AONB dated 23/11/2016
TA4	Submission of Councillor Cole

#### **B – Appellant's Documents, Appeal B**

B1	Schedule of appearances
B2	Mr Veasey's rebuttal proof
B3	Alternative OAN scenarios based on A9 table
B4	Summary of 5 year supply sites in dispute
B5	Unilateral Undertaking by Timothy and Evelyn Billington and Croudace Ltd

	to West Berkshire District Council
B6	Housing land supply estimates based on 665 and 771 dpa OAN
B7	Barratt Annual Report and Accounts 2016, extract
B8	Details of Mr R Hewitt, appellants' drainage witness
B9	Route for site visit
B10	Appeal decision: Land north of Birchen Lane, Haywards Heath APP/D3830/W/15/3137838
B11	Opening comments on behalf of the appellants
B12	Closing submissions on behalf of the appellants
B13	Abbreviated closing submissions

**CB – Council's Documents, Appeal B**

CB1	Proposed Planning Conditions
CB2	Letter from The Wildlife Trusts dated 25/8/2015
CB3	Letter from The Wildlife Trusts dated 20/10/2016
CB4	Memo from Mr J Davy concerning ecological matters
CB5	Note concerning the need for a contribution to bus services

**TB – Third Party Documents, Appeal B**

TB1	Submission of Mr Crumly on behalf of Thatcham Town Council
TB2	Submission of Mr Pieri on behalf of Mr Dunn, Thatcham Flood Forum
TB3	Submission of Mr Woodham on behalf of Thatcham Flood Forum
TB4	Submission of Goodwin, Cold Ash Flood and Water Course Warden
TB5	Submission of Ms Conyers, Local Resident
TB6	Submission of Mr Munro on behalf of Cold Ash Parish Council
TB7	Submission of Mr Simpson, District Councillor, Cold Ash Ward

**CAB – Council Documents relevant to both Appeals A and B**

CAB1	Opening submissions on behalf of the Council
CAB2	Mr Ireland's rebuttal proof
CAB3	Housing supply update note agreed by all parties
CAB4	Home Choice User Guide, extract
CAB5	Private rental market statistics
CAB6	Housing Site Allocation DPD land within 5 year supply
CAB7	Additional information on delivery of 5 year supply sites
CAB8	Sandleford Park Supplementary Planning Document, 2015
CAB9	Proposed revision to HSA DPD Policy C1
CAB10	Cambridge Econometrics November 2016 employment forecast
CAB11	Closing submissions on behalf of the Council

## **ANNEX 3**

### **PLANNING CONDITIONS**

1. Prior to commencement of any phase of development (as defined below) details of the appearance, landscaping, scale and layout (hereinafter called "the reserved matters") for that phase shall be submitted to and approved in writing by the Local Planning Authority before any development takes place in that phase and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. No later than the submission of the first reserved matters application, a strategic layout plan, and a plan showing the phases in which the development is to be carried out shall be submitted for the approval of the Local Planning Authority. Details shall include the overall number and mix of dwellings, and the approximate number and mix proposed for each phase. The development shall be carried out in accordance with the approved plans.
5. A comprehensive strategic landscape plan for the whole site shall be submitted as part of the first reserved matters application for the site and shall include the following details: i) key retained existing vegetation features on the site boundaries; ii) woodland buffer planting to the northern site boundary; iii) structural planting to the western and southern site boundaries; iv) conservation buffer to ancient woodland along the eastern site boundary; v) proposals for retained grassland on the north-eastern part of the site. The details shall have regard to ecological, hydrological and recreational considerations and include a landscape and ecological management plan. Reserved matter applications for phases of development shall be prepared in accordance with the approved comprehensive strategic landscape plan.
6. No development shall take place until details of internal access have been submitted to and approved in writing by the Local Planning Authority. The details shall include accessibility within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. Thereafter the development shall be carried out in accordance with the approved details.
7. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Boundary Plan (1001 Rev D); Potential Site Access Arrangements from Floral Way (ITB7223-GA-005 Rev D); Proposed Floral Way Roundabout Improvements (ITB7223-GA-013 Rev F); Pipers Way/A4 Roundabout Improvements (ITB7223-GA-014 Rev E).
8. The reserved matters shall be in accordance with the principles set out within the Parameters Plan – Maximum Heights (A123 Rev D), the Application Master Plan

- (AI26 Rev K), and the scale design principles set out on page 43 of the Design and Access Statement (August 2015 (Revision L)).
9. No phase of development shall commence until a detailed "Ecological Mitigation and Enhancement Strategy" for that phase has been submitted to and approved in writing by the Local Planning Authority. Such Strategy shall include, but not be limited to, detailed creation & management of meadows, wetlands/swales, parkland, buffer zones, and reptile areas, with monitoring undertaken annually for a five-year period, followed by further monitoring in year-seven, and year-ten, with a review of the Plan after the 10th Year, and provisions for reporting the results to the Local Planning Authority. The contents of the Strategy shall be based on Tables 4.1 – 4.6 and Sections 5.3 and 5.4 of the Ecological Impact Assessment by AMEC Environment & Infrastructure UK Ltd and dated 12th January 2015. The approved Strategy shall be implemented in full and in accordance with the approved details and timescales.
  10. A minimum 15m buffer from Long Grove Copse shall be maintained free from development (except for a footpath) as described in Sections 5.3.1 and 5.3.2 of the Ecological Impact Assessment by AMEC Environment & Infrastructure UK Ltd and dated 12th January 2015.
  11. No development shall commence until a Strategy Plan indicating the location and type of 100 'built in' bat boxes, 100 bird boxes and 2 Barn Owl boxes has been submitted to and approved in writing by the Local Planning Authority. Before the commencement of a phase of development, the type and precise location of the 'built in' bat boxes, bird boxes and Barn Owl boxes in that phase shall be submitted to and approved in writing by the Local Planning Authority along with a timetable for its implementation. The scheme shall be carried out in accordance with the approved details and timetable.
  12. No dwelling within a phase of development shall be occupied until a scheme for the installation of ecological information boards, and the distribution of ecological information packs to every new home owner within that phase, has been submitted to and approved in writing by the Local Planning Authority, along with a timetable for its implementation. The scheme shall be implemented in accordance with the approved details and timetable.
  13. No development shall take place until details of a sustainable drainage scheme, in accordance with the objectives of the Flood Risk Assessment (FRA) (16/01/2015) and FRA Addendum Report (August 2015), to manage surface water within the site, along with a timetable for its implementation, have been submitted to and approved in writing by the Local Planning Authority. These details shall (unless otherwise agreed by the Local Planning Authority, to allow for phased implementation):
    - i) incorporate the implementation of Sustainable Drainage methods (SUDS) in accordance with the approved Flood Risk Assessment and the Department for Environment, Food and Rural Affairs Non Statutory Technical Standards for Sustainable Drainage Systems (March 2015);
    - ii) include detailed drawings, cross-sections and specifications of all proposed SUDS measures relevant to that phase of development;
    - iii) include flood water exceedance routes, both on and off site, and identify flow routes, such as low flow, overflow and exceedance;
    - iv) include methods to control pollution and silt to prevent any contamination of the soil or groundwater;
    - v) ensure any permeable paved areas are designed and constructed in accordance with manufacturers' guidelines;
    - vi) ensure any permeable areas are constructed on a permeable sub-base material;

- vii) include details of how the SUDS measures will be maintained and managed after completion, with details of a handover pack for subsequent purchasers and owners of the property; viii) include a contamination risk assessment for the soil and water environment (assessing the risk of contamination to groundwater, developing any control requirements and a remediation strategy); and ix) consider any environmental issues, including protection or enhancement of ground water quality and providing new habitats in accordance with the approved Ecological Mitigation and Enhancement Strategy. The sustainable drainage measures shall be implemented in accordance with the approved timetable and thereafter be maintained and managed in accordance with the approved details.
14. No phase of development (including site clearance and any other preparatory works) shall take place until a protection scheme for the existing trees to be retained for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS5837:2012. No phase of development shall take place until the approved tree protection scheme has been provided in accordance with the approved details for that phase. Notice of commencement of development shall be given to the Local Planning Authority at least 2 working days before any development takes place. The scheme shall be retained and maintained for the full duration of building/engineering operations, or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.
15. No phase of development (including site clearance and any other preparatory works) shall take place until details of the proposed access, hard surfacing, drainage and services, to incorporate the protection of the root zones of the retained trees for that phase, have been submitted to and approved in writing by the Local Planning Authority. Where there will be encroachment into root protection areas, no such development shall take place until arboricultural methods statements for that work have been submitted to and approved in writing by the Local Planning Authority. The statements shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. Thereafter the development of that phase shall not be carried out except in accordance with the approved details.
16. No development or other operations shall commence in a phase of development until a detailed schedule of tree works including timing and phasing of operations for that phase has been submitted to and approved in writing by the Local Planning Authority and thereafter development shall proceed in accordance with the approved details.
17. No phase of development shall commence until a Construction Environmental Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The plan shall detail items including phasing of construction, lorry routing and potential numbers, types of piling rig and earth moving machinery, and measures proposed to mitigate the impact of construction operations including noise and dust. In addition the plan shall make note of any temporary lighting that will be used during the construction phase of the development. The approved plan shall be implemented in full and retained until the development of that phase has been constructed. No piling shall take

- place during construction, except auger piling, unless otherwise agreed in writing by the Local Planning Authority.
18. No phase of development shall take place until a Construction Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for: i) parking of vehicles of site operatives and visitors; ii) loading and unloading of plant and materials; iii) storage of plant and materials used in constructing the development; iv) any temporary security fencing or hoardings; v) temporary access arrangements to the site, and any temporary hard-standing; and vi) wheel washing facilities. Thereafter the construction works shall incorporate and be undertaken in accordance with the approved statement.
  19. No construction works shall take place outside the hours of 07:30 to 18:00 Mondays to Fridays, 08:30 to 13:00 Saturdays, and no work shall be carried out at any time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.
  20. *Land Contamination 1: site characterisation.* No development shall commence in a phase until a scheme to assess the nature and extent of any land contamination of the site (whether or not it originates from the site) for that phase has been submitted to and approved in writing by the Local Planning Authority. An investigation and risk assessment shall be completed as part of this scheme. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced and submitted. The report of the findings shall include: i) a survey of the extent, scale and nature of any contamination, ii) an assessment of the potential risks to human health, property (existing and proposed), including buildings, pets, and service lines or pipes, adjoining land, ground and surface water, ecological systems, and any archaeological sites or ancient monuments; and iii) An appraisal of remedial options, and a proposal for the preferred option(s). This report shall be conducted in accordance with CLR11: Model Procedures for the Management of Land Contamination (DEFRA/EA).
  21. *Land contamination 2: remediation scheme submission.* No development shall commence in a phase until a remediation scheme for any land contamination has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall: i) provide for the removal of unacceptable risks to human health, buildings and other property, and the natural and historical environment; ii) ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation; iii) detail proposed objectives and remediation criteria, all works to be undertaken, a timetable of works, and site management procedures; and iv) include measures for the monitoring and maintenance of the long-term effectiveness of the remediation over a period agreed in writing with the Local Planning Authority.
  22. *Land contamination 3: remediation scheme implementation.* For each phase the remediation scheme for land contamination approved under the second land contamination condition above shall be implemented in full in accordance with the timetable of works thereby approved. Two weeks written notice shall be given to the Local Planning Authority prior to the commencement of the remediation scheme. Following the completion of the measures identified in the approved remediation scheme (except those for the long-term monitoring and

- maintenance), no dwelling shall be occupied until a verification report to demonstrate the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.
23. *Land contamination 4: unexpected contamination.* In the event that any previously unidentified land contamination is found at any time during development, it shall immediately be reported in writing to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of the first land contamination condition, and where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of the second land contamination condition. The investigation and risk assessment, and any remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in the approved remediation scheme, no further dwellings shall be occupied until a verification report to demonstrate the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.
24. *Land contamination 5: monitoring and maintenance.* Following completion of the measures for the monitoring and maintenance of the effectiveness of the land contamination remediation approved under clause iv of the second land contamination condition above, a verification report to demonstrate the effectiveness of the remediation carried out shall be submitted for the written approval of the Local Planning Authority within 2 months of the completion of the measures. The report shall be conducted in accordance with CLR11: Model Procedures for the Management of Land Contamination (DEFRA/EA).
25. No residential unit shall be occupied until it achieves the internal noise levels set out within Section 5 of the Noise Impact Assessment (dated January 2015), in accordance with a scheme which has been first submitted to and approved in writing by the Local Planning Authority.
26. The primary school and the community building shall not be occupied until a scheme to safeguard neighbouring living conditions from noise and odour arising from that building has been implemented in accordance with details submitted to and approved in writing by the Local Planning Authority. The scheme shall: i) ensure any noise arising from the use of plant, machinery or equipment does not exceed a rating level equal to the existing background level at one metre from the nearest noise sensitive premises/property, the measurements and assessment being undertaken in accordance with British Standard BS4142-2014; ii) include any measures necessary to minimise the effects on neighbouring properties of odours from food preparation within the premises, and iii) include details of any air handling plant (e.g. air conditioning units) installed on any building. After completion the measures shall be kept in place and maintained and operated in accordance with the approved details.
27. No dwelling hereby permitted shall be occupied within a phase of development until details of fire hydrants, or other emergency water supplies, have been provided for that phase in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
28. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no floodlighting shall be installed within the school grounds unless it is in accordance with details



which have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any installed lighting shall thereafter be maintained in accordance with the approved details.

29. No dwelling hereby permitted shall be occupied within a phase of development until cycle storage has been provided for that dwelling in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
30. No dwelling hereby permitted shall be occupied within a phase of development until an area for refuse/recycling storage has been provided for that dwelling in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
31. The non-residential buildings hereby permitted shall be constructed to meet BREEAM rating Excellent. No non-residential building shall be occupied until a final Certificate has been issued certifying that the BREEAM rating Excellent has been achieved for that non-residential building.
32. No development shall take place until details of the proposed access into the site from Floral Way, in accordance with drawing ITB7223-GA-005 rev D, have been submitted to and approved in writing by the Local Planning Authority. No other development shall take place (except any site investigations or surveys; construction compound and general site set up; construction of roads, utilities and SUDS; strategic landscape works; and any other works reasonably required to facilitate the commencement and delivery of the access works) until the Floral Way vehicular/pedestrian/cycle site access, footway/cycleway to the east of Floral Way, Toucan crossing across Floral Way south of Archangel Way, and any associated engineering operations have been completed in accordance with the approved details.
33. No dwellings or the primary school shall be occupied until details of the proposed junction improvement scheme, cycleway/footways, cycleway connection to Skillman Drive, and Toucan crossings to be provided at and in the vicinity of the junction of A4/Floral Way/Falmouth Way, in accordance with drawing ITB7223-GA-013 rev F, have been submitted to and approved in writing by the Local Planning Authority. This submission shall be accompanied by proposals for revised signage for the approach to the roundabout from the east to encourage more through-traffic to use the Thatcham Northern Distributor Road (NDR) via Floral Way in preference to the A4. No more than 50 dwellings or the primary school, whichever comes first, shall be occupied until the A4/Floral Way/Falmouth Way junction improvement scheme has been constructed in accordance with the approved details.
34. No more than 100 dwellings or the primary school, whichever comes first, shall be occupied until details of the proposed junction improvement scheme to be provided at, and in the vicinity of, the junction of A4/Pipers Way, in accordance with drawing ITB7223-GA-014 rev E, have been submitted to and approved in writing by the Local Planning Authority.

No more than 150 dwellings or the primary school, whichever comes first, shall be occupied until the A4/Pipers Way junction improvement scheme has been constructed in accordance with the approved details. The existing vehicular access to the north of the A4/Piper's way junction shall be stopped up prior to the

- A4/Pipers Way junction improvement being brought into use, and the footway/cycleway/verge reinstated.
35. No more than 200 dwellings shall be occupied until details of the proposed junction improvement scheme to be provided at the junction of A4/Gables Way, including re-provision of the eastern footway on Gables Way, in accordance with drawing ITB7223-GA-007 rev B, have been submitted to and approved in writing by the Local Planning Authority. No more than 250 dwellings shall be occupied until the A4/Gables Way junction improvement scheme has been constructed in accordance with the approved details.
  36. The Reserved Matters Application(s) shall provide a 6m wide carriageway route between the site access onto Floral Way and the bus/emergency access onto the A4 west of Pipers Way with widening on bends as necessary to permit the swept path of a 12m long, 2.55m wide rigid bus.
  37. No building shall be occupied until a scheme providing details of street furniture, including a bus gate, to facilitate a bus route through the site have been submitted to and approved in writing by the Local Planning Authority. If, prior to completion of the final phase of development of the site, the Local Planning Authority should issue a written notice of an intention to proceed with the scheme, then a timetable for its implementation shall be submitted for the approval of the Local Planning Authority within 2 months of the issue of that notice, and the scheme shall thereafter be implemented in accordance with the approved details and timetable.
  38. The primary school shall not be used except in accordance with a Travel Plan which has first been submitted to and approved in writing by the local planning authority. The Plan shall be reviewed, and updated if necessary, within 6 months of the first use of the school, and thereafter monitored, reviewed and updated annually for a period of five years.
  39. Prior to the occupation of the first dwelling, a Full Residential Travel Plan based upon the approved Framework Travel Plan JCB/GM/ITB7223-011E R dated 9 June 2015 shall have been submitted to and approved in writing by the Local Planning Authority. The Full Residential Travel Plan shall be implemented from first occupation of the first dwelling. It shall be reviewed, updated where necessary, and targets agreed with the Local Planning Authority within 6 months of the initial survey. After that the Travel Plan shall be annually reviewed and updated for a period of five years from first implementation, or two years after completion of the development, whichever is later.



## **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 for permission 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**

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.