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## Appeal Decision

Inquiry Held on 13-16 and 20-21 November 2018

Site visit made on 15 November 2018

**by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM**

an Inspector appointed by the Secretary of State

**Decision date: 03 December 2018**

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**Appeal Ref: APP/W0340/W/18/3200575**

**Land off Charlotte Close, Hermitage, Berkshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by CALA Homes (Chiltern) Ltd against the decision of West Berkshire Council.
  - The application ref. 17/01144/FULEXT, dated 19 April 2017, was refused by notice dated 20 October 2017.
  - The development proposed (as amended) is the erection of 36 dwellings and associated landscape and highway works.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the inquiry an application for costs was made by CALA Homes (Chiltern) Ltd against West Berkshire Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The original application related to a 40 dwelling scheme. With the Council's agreement, it was reduced to 37 dwellings; this is the scheme that was refused planning permission. However, prior to the inquiry, the appellant submitted a further change, reducing the proposal to 36 units. This has been the subject of consultation, the results of which<sup>1</sup> I have taken into account.
4. Bearing in mind, first, the modest scale of the proposed change (one dwelling), second, that the change represents a reduction in the amount of development, third, that the Council does not object to the change, and, fourth, that interested parties (including the Council) have been given an opportunity to comment, I have determined this appeal on the basis of the 36 unit scheme. I issued a ruling to that effect at the start of the inquiry.

### Main Issues

5. The appeal site is allocated for the development of approximately 15 dwellings in the West Berkshire Council Housing Site Allocations Development Plan Document (HSA DPD), which was adopted in 2017.

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<sup>1</sup> Contained in Inquiry Document (ID) 19. Core documents are listed as CD.

6. It is common ground that the development plan is up to date, that the Council can demonstrate a five year supply of land for housing as required by the National Planning Policy Framework (the Framework), that the site lies in a valued landscape in terms of paragraph 170 of the Framework and that the 'tilted balance' set out in paragraph 11(d) of the Framework is not engaged. I have no reason to take a different view on these matters.
7. Following the appellant's submission of further transport evidence, the Council indicates that it no longer wishes to pursue its reason for refusal in respect of highways impact. During the inquiry, it also stated that it did not wish to carry forward its refusal reason in respect of drainage and flood risk.
8. Taking account of the site's allocation in the HSA DPD, the main issues in this appeal are therefore:
  - (a) the appeal scheme's effects on landscape character and visual impact, bearing in mind the site's location within the North Wessex Downs Area of Outstanding Natural Beauty (AONB);
  - (b) whether adequate public open space would be provided;
  - (c) whether the scheme's density would reflect the adjacent settlement character;
  - (d) the adequacy of the scheme's proposed pedestrian and cycle links;
  - (e) the scheme's effects on protected trees; and
  - (f) its effects on biodiversity, including protected species.

## **Reasons**

### *Housing Site Allocation*

9. As noted above, the appeal relates to an allocated housing site. Policy HSA24 of the HSA DPD (2017) requires that its development accords with a number of parameters. Those of most relevance to the main issues in this appeal require:
  - (a) the provision of approximately 15 dwellings to be developed at a mass and density that reflects the adjacent settlement character;
  - (b) that the site will be accessed via Station Road and Charlotte Close with the provision of pedestrian and cycle linkages through the site to an adjoining site (land to the south east of the Old Farmhouse)<sup>2</sup>;
  - (c) the undertaking of an extended phase 1 habitat survey, together with further detailed surveys arising from that as necessary, and a Great Crested Newt survey to cover all ponds within the vicinity of the site;
  - (d) that the final developable area will be dependent upon the extent of any appropriate avoidance and mitigation measures required to be implemented to ensure any protected species will not be adversely affected;
  - (e) development in accordance with the Landscape Sensitivity Assessment (2011), including: the protection and enhancement of the tree line along Station Road and other on-site trees; the protection and enhancement of the hedgerow along the eastern boundary; and the maintenance of the views through and over the built form to the woodland beyond; and

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<sup>2</sup> Planning permission for up to 21 dwellings on this site was granted in outline during the inquiry – ID32.

- (f) that the development design and layout will be further informed by a full detailed Landscape and Visual Impact Assessment (LVIA).
10. The Council does not dispute that the appeal site is suitable in principle for development along the lines set out in policy HSA24. I have no reason to disagree. Its concerns relate to the details, most notably the scale, of the present 36 dwelling scheme.
  11. The appellant accepts that the proposal would not amount to 'approximately 15 dwellings' and, to that extent, that the appeal scheme would conflict with the relevant requirement of policy HSA24. I agree with that view. However, notwithstanding this conflict, the appellant considers that the appeal scheme would accord with the development plan as a whole. I address this matter in more detail in the remainder of my decision.
  12. The appellant has submitted the layout of a 15 unit residential development on the appeal site, together with supporting information including comparative photomontages. However, it was clarified at the inquiry that this scheme does not have planning permission and, indeed, does not form the basis of a planning application. The appellant accepts that there could be alternative ways of developing the appeal site in accordance with the above-noted policy HSA24 parameters. For these reasons I do not attach weight to the appellant's 15 unit scheme.
  13. Nevertheless, given the site's allocation, I agree with the appellant that my assessment of the merits of the appeal scheme should take into account the Council's acceptance that the site is suitable for development in principle. In particular it is necessary that the effects of the present proposal should be considered against the likely effects of an 'approximate 15 dwelling' scheme being developed on the site in line with the requirements of policy HSA24.

*Landscape Character, Visual Impact and the AONB*

14. The appeal site comprises former grazing land on the edge of Hermitage. The land is not presently in agricultural use, being somewhat overgrown with scrub, bracken and rough grassland. Four mature trees within the site were felled in 2016, prior to the making of a Tree Preservation Order (TPO). Open fields lie to the east of the site, separated by a boundary including a number of conifers and a lower broadleaf hedge, and to the south of Station Road, which runs parallel to the site's southern boundary. Station Road, which lies on raised ground and provides a link between the main village and the detached Hermitage Green development, is flanked by several mature trees and a separate footway (to the south); a number of smaller trees and parts of a hedgerow also lie along and near to the site's southern boundary.
15. To the west, the site adjoins the village. The nearest properties are mainly residential, notably those flanking Charlotte Close, a small cul-de-sac that would form the appeal scheme's vehicular access. Commercial garage buildings on Newbury Road occupy a site proposed for a mixed-use scheme comprising residential units and a convenience store. The site's short northern boundary, which is defined by a mix of conifers and broadleaved trees and shrubs, adjoins land to the rear of the White Horse public house. Beyond that, and also adjoining the site's north-eastern corner, lies the Old Farmhouse development site already noted.

16. The appellant's landscape witness describes the site as being an urban fringe environment<sup>3</sup>. I do not agree. As is described in more detail below, Hermitage is a rural village, occupying a clearly rural setting. Views from the village towards the surrounding countryside, backed by more distant wooded hillsides, act to strengthen this rural character.
17. The appeal site is seen within this context. Notwithstanding the establishment of some scrub within the site, grassland remains. The site appears open and undeveloped. Trees and shrubs define its southern, eastern and northern boundaries: while the conifers are not native species, the presence and alignment of trees and shrubs around the site's edges is consistent with the pattern of field boundaries in the wider rural landscape. As a result of these factors, the site has clear visual and landscape similarities with agricultural land in the vicinity of the settlement. It is seen as part of the intimate and small-scale landscape of fields and field boundaries that surrounds Hermitage, contrasting markedly with the built-up nature of the village itself.
18. This contrast is particularly apparent in views from Charlotte Close, where the gate clearly marks (in visual terms) where the settlement ends and the surrounding countryside begins. The site's rural character is also experienced from Station Road, where the undeveloped nature of the site can be appreciated through gaps in the vegetation on and near the site's southern boundary<sup>4</sup>. While Station Road accesses the Hermitage Green development, the section of this road to the south of the site has a clearly rural character, being flanked at present by open land to the north and south.
19. The third main public viewpoint towards the site, from Lipscomb Close, is more distant from the site. In such views, the site is at present largely screened by the conifers along its eastern boundary. These are proposed for removal as part of the appeal scheme.
20. Drawing these matters together, I consider that the appeal site has a rural character and can clearly be differentiated from the adjoining settlement.
21. The 37 unit scheme that was the subject of the Council's refusal of planning permission was the subject of a Landscape and Visual Impact Assessment (LVIA)<sup>5</sup>. However, it was confirmed at the inquiry that the appellant does not intend to rely on this document in the present appeal and, rather, that the evidence of Mr Cook, its landscape witness, should be preferred instead. It is accepted that Mr Cook has assessed the effects of the 36, rather than the 37, unit scheme. Nevertheless, I have two key concerns about the approach that he has followed in assessing the scheme's landscape and visual effects.
22. First, he has not submitted a full LVIA. While he has summarised his conclusions<sup>6</sup>, it is not fully clear how these have been derived. For example, it is not explained which specific landscape features have been assessed in the landscape character assessment within his summary table. Submission of a 'full detailed' LVIA is a requirement of HSA DPD policy HSA24. Submission of a LVIA is also required by the HSA DPD's general site policy GS1.

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<sup>3</sup> For example, paragraph 12.25 of Mr Cook's proof of evidence.

<sup>4</sup> For example, see photograph BK2 in appendix BK6 to Mrs Kirkham's proof of evidence.

<sup>5</sup> CD1.03.

<sup>6</sup> Summarised in appendix 26 to his proof of evidence.

23. Second, I disagree with a basic premise of Mr Cook's assessment – namely that the majority of the landscape and visual impacts described would be beneficial. In large part, this conclusion results from his view (expressed at the inquiry) that in this location the housing that is presently proposed would be of a type and quality that would have at least a neutral effect, and that the scheme's green infrastructure elements (notably the removal of the conifers) and the introduction of new boundary planting would create a net benefit.
24. In respect of the scheme's housing element I do not accept Mr Cook's assertion that the effect of the proposed housing would be neutral in landscape and visual terms. Irrespective of the design quality of individual dwellings, and subject to the effect of intended green infrastructure proposals, the presence of housing within the appeal site, together with the suburbanising effects of roads, driveways, fences and ancillary domestic buildings, would act to generally detract from the site's rural character, as described above. (I comment later about the scheme's acceptability in terms of density with reference to the adjacent settlement character.) While there is disagreement about the scale and timing of effects between the Council's landscape witness and the LVIA submitted in respect of the 37 unit scheme, both take the view that adverse effects would result, at least at some stage during the scheme's development.
25. The site contains two broad landscape elements – the grassland/scrub within the site and the trees and hedgerows that lie on its boundaries, notably to the east and south. The main parties differ as to the value to be attached to these features. In the Council's view the site overall has 'exceptional/high' value, as a result of its location within the AONB<sup>7</sup>. In contrast, the appellant considers the grassland/scrub and the conifers to be of 'low' value<sup>8</sup>, while the value attached to the other existing trees and hedgerows is not explicitly stated.
26. I accept the appellant's assertion that in principle a large AONB may contain a variety of landscapes of differing values when assessed at a more local scale. However, for the reasons set out above I consider that the appeal site has a rural character, exhibiting clear visual and landscape similarities with other agricultural land in the vicinity of the settlement. As discussed below, I also consider this character to contribute to the natural beauty of the AONB. As such, it seems to me that the site has, at least, a 'high' landscape value.
27. Accordingly, the scheme's effect on landscape character would be markedly different to the 'moderate (beneficial)' suggested by Mr Cook<sup>9</sup>. Bearing in mind my assessment above, I agree with the Council that the site has a 'medium' susceptibility to change. Adopting GLVIA methodology<sup>10</sup>, this gives the site a 'medium-high' degree of landscape sensitivity.
28. In terms of the magnitude of change that would result, I agree with Council's assessment ('medium-high'). Clearly, the introduction of 36 dwellings onto undeveloped former pasture land would represent a significant change. While protected trees would be retained<sup>11</sup> and new planting introduced, the resulting boundaries would be seen in the context of the adjoining residential gardens rather than undeveloped fields. In addition, the suggested crown lifting and

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<sup>7</sup> Mrs Kirkham's proof of evidence, paragraph 5.38.

<sup>8</sup> Mr Cook's proof of evidence, paragraphs 5.11 and 5.8.

<sup>9</sup> Mr Cook's proof of evidence, paragraph 5.17.

<sup>10</sup> Appendix BK1 to Mrs Kirkham's proof of evidence.

<sup>11</sup> Clarified at the inquiry by Mr Cashman.

crown reduction of a number of protected trees, as set out in the submitted arboricultural impact assessment and method statement<sup>12</sup> (and discussed further below in respect of the relationship between protected trees and the proposed flatted block) could act to diminish their prominence and reduce their screening effect. Although the felling of the conifers would remove non-native trees from the landscape, this would also act to reduce the prominence and screening effect of the site's eastern and northern boundaries.

29. Applying GLVIA methodology, a 'medium-high' degree of change to a site of 'medium-high' sensitivity would result in a landscape effect of 'major/moderate' significance. For the reasons described above, I consider that this effect would be adverse. This would result in material harm to landscape character.
30. Clearly, development of the appeal site along the lines set out the HSA DPD would also result in landscape change. However, the scale of development set out in policy HSA24 would be less than half of the 36 units now proposed. This would leave greater potential for open land to be retained within the site and for a greater degree of separation to be introduced between residential properties and the site's southern and eastern boundaries. As already noted, policy HSA24 requires that the development design and layout will be further informed by a full detailed LVIA. As such, I am satisfied that it is likely that a scheme along the lines of that set out in the HSA DPD would have a materially less adverse landscape effect than that now proposed.
31. Turning to the scheme's visual effects, and with reference to the discussions at the inquiry, it seems to me that there are three public views of particular significance: those towards the site from the Newbury Road/Charlotte Close junction, Station Road and Lipscomb Close. These approximately relate to viewpoints 4, 7/8 and 13 in the Landscape Statement of Common Ground, although in considering views from Station Road I have assessed views from the carriageway itself, as well as from the footway to the south.
32. When seen from the Newbury Road/Charlotte Close junction, the appeal site appears as undeveloped land beyond the end of the small residential cul-de-sac. Although open space is proposed on the southern side of the scheme's access road, the line of dwellings further east (notably units 1-5) would be easily seen. To my mind, they would appear as a built intrusion into the presently open view across the site towards the trees and shrubs on the site's southern boundary and the wooded slopes beyond. While the tops of trees and distant slopes would remain visible, they would appear as a background to a built-up, rather than a rural scene. I agree with the Council's landscape witness<sup>13</sup> that this would create a 'major/moderate adverse' visual effect at year 1. Given the intention that the open space area would accommodate a childrens' play area as well as a sustainable drainage (SuDS) feature, I see little potential for the introduction of significant planting sufficient to materially reduce this effect by year 15. A harmful visual impact would result.
33. In contrast, the lower unit numbers set out in the HSA DPD offer the potential for land to the south of the suggested access road to remain undeveloped, thereby retaining the above-noted view. In principle therefore it seems to me likely that the above-noted harm could therefore be reduced or avoided by a scheme along the lines of that set out in policy HSA24.

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<sup>12</sup> See schedule set out in appendix 1 to Mr Cashman's proof of evidence.

<sup>13</sup> Effects summarised in appendix BK2 to Mrs Kirkham's proof of evidence.

34. I saw on my visit that the interior of the appeal site is easily seen from Station Road through gaps in the boundary vegetation. The appeal scheme – most particularly the south-facing elevations of units 1-12 – would be very apparent to passers-by at year 1. Given the rural nature of this part of Station Road, where open land is currently present on both sides, the resulting effect would be 'major/moderate adverse'. As the footway to the south of Station Road is at a somewhat lower level to the road, I do not share the Council's view that a 'major' adverse effect would result in respect of pedestrians using that route. Nevertheless, a harmful visual impact would result.
35. It is proposed to strengthen the site's southern boundary treatment. However, although full planting details could be secured by condition if the scheme were to be otherwise acceptable, the limited degree of separation (some 3 metres) between the back of the proposed residential gardens and the site's boundary would in my view be insufficient to introduce material screening. The presence of built development would remain apparent to passers-by. While post and rail fencing is suggested for the rear gardens, the appellant's witness accepted at the inquiry that this could not be easily controlled in the future and that close-boarded fences could be introduced. In addition, crown lifting and/or crown reduction of the protected trees in the vicinity of the flatted block (see below) could act to increase its visibility from Station Road. I do not therefore feel that the above-noted adverse effect would be materially reduced by year 15.
36. For the reasons set out above, I consider that the lower unit numbers set out in the HSA DPD offer the potential for a greater area of landscaping – and therefore more substantial planting – to be introduced on or near to the site's southern boundary. It is therefore likely that the above-noted harm could be reduced or avoided by a scheme along the lines of that set out in policy HSA24.
37. As already noted, Lipscomb Close lies at a greater distance from the appeal site than the other viewpoints described above. While the site is visually well-contained when seen from this direction by the conifers along its eastern boundary, these are proposed for removal in the appeal scheme. The dwellings along the eastern side of the development (notably units 13-19) would therefore be visible over the intervening field. A built feature would be introduced into a view that, notwithstanding the limited visibility of the Hermitage Green development and the presence of existing buildings at and around the Old Farmhouse, is generally rural in character.
38. However, given the likely presence of houses on the adjoining Old Farmhouse development, and noting the degree of separation between the site and the viewpoint, I consider that the resulting effect would be only 'moderate adverse' at year 1. This would not amount to significant harm, but would still be an adverse effect. Given the limited width of the intended planting strip (as on the southern boundary), I do not feel that the new planting would be sufficient to materially reduce this effect by year 15. Indeed it is likely that the contrast between the appeal scheme and the more generous landscape buffer proposed in the Old Farmhouse development would over time become apparent. Consistent with my comments above, I feel that the lower unit numbers set out in the HSA DPD offer the potential for a more generous landscaped area to be introduced on or near to the site's eastern boundary.
39. I turn to consider the effects on the AONB. The appellant's case, in summary, is that irrespective of whether landscape or visual harm is identified through

- the LVIA process discussed above (although the existence of such harm is disputed), the proposal would not harm the special qualities of the AONB.
40. The defining characteristic of an AONB, upon which section 85(1) of the Countryside and Rights of Way Act 2000 places a duty to conserve and enhance, is its natural beauty. In seeking to determine the special qualities that give the North Wessex Downs AONB its natural beauty, the appellant refers exclusively to the AONB Management Plan 2014-2019 (AONB MP)<sup>14</sup>. However, although this is the AONB's statutory management plan it does not follow that it represents the sole assessment of the features and qualities for which the AONB has been designated. In that context, the AONB MP itself makes reference to a 2002 landscape assessment which it states, among other matters, 'draws out the special qualities of the landscape'<sup>15</sup>.
41. That document, the North Wessex Downs AONB Integrated Landscape Character Assessment<sup>16</sup>, identifies the locality as lying within the Lowland Mosaic landscape character type. Among the key assets of the Lowland Mosaic, to be conserved and enhanced, that it describes are 'field patterns and hedgerows and particularly through ensuring appropriate management to allow regeneration of hedgerows'. More specifically, the site and its surroundings lie within the identified Hermitage Wooded Commons landscape character area. Key characteristics of this area (in summary) include: 'variable land cover forming an intricate mosaic of woodland, pasture and small areas of remnant heathland ...'; 'large interconnected woodland blocks and strong hedgerow pattern with mature trees restrict views and create an enclosed and intimate character ... low wooded horizons are a feature'; and '... small, irregular fields of informal and piecemeal enclosures ...'. One of the identified key issues is 'comparative accessibility resulting in development pressures, particularly for new residential development including suburbanising influence of built development (eg fencing, lighting and paddocks)'. I consider that the adverse landscape and visual effects that I have described above would be at odds with these key characteristics.
42. Furthermore, it is clear from the AONB MP itself that it is the rural character of the AONB that underlies many, if not most, of its special qualities. In respect of the Lowland Mosaic, the AONB MP states that 'the key issues for the Plan period will be conserving and enhancing the small-scale, secluded and rural character of the area ...'<sup>17</sup>. For the above-noted reasons, I consider that the appeal scheme would not accord with this ambition. Drawing the above together I consider that the appeal scheme would materially harm the natural beauty of the AONB.
43. In making these assessments, I am mindful of the findings of the Landscape Sensitivity Assessment 2011 (LSA 2011) of a number of potential development sites within the AONB<sup>18</sup>. As already noted, policy HSA24 requires the site's development to accord with that document. However, the findings of the LSA 2011 need to be considered in the present context. Specifically, it states, among other matters, that the site is well contained by tree and scrub vegetation and that development could be accommodated and retain a small

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<sup>14</sup> CD15.4.

<sup>15</sup> CD15.4, page 20.

<sup>16</sup> CD12.7.

<sup>17</sup> CD15.4, page 29.

<sup>18</sup> Appendix 17 to Mr Cook's proof of evidence. (CD12.2 contains an extract for a different settlement).



scale pattern without intruding into the wider AONB. In terms of visual impact it states that development would have a localised impact on views out from property along the B4009 (Newbury Road) to the wooded hills to the east and that by retaining and enhancing existing tree cover and hedgerows, the visual impact of any development could be contained<sup>19</sup>.

44. It is however clear from an examination of relevant photographs, as well as from the evidence of Council witnesses and local residents, that there have been material changes in the amount of tree and scrub cover within the appeal site since the LSA 2011 was undertaken. In particular, four mature trees have been felled. There also appears to have been a reduction in the area of scrub within the site. The site is therefore markedly less well contained than it was at the time of LSA 2011 – an effect that would be exacerbated by the intended removal of the conifers. My findings in this appeal relate to the site as it presently appears and to the scheme that is presently proposed.
45. The LSA 2011 concluded that development of the site subject to the stated recommendations would result in little harm to the natural beauty of the AONB. As already noted, the baseline conditions of the site have changed since that assessment. However, given that a greater part of the site would be available for landscaping than in the present proposal, I see no reason why a scheme along the lines of the approximate 15 dwellings stated in policy HSA24 could not be developed with less harm being caused to the AONB's natural beauty than would arise from the appeal proposal.
46. The main parties differ as to whether the appeal scheme would amount to major development in the AONB. Paragraph 172 of the Framework states, among other matters, that planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Footnote 55 to that paragraph explains that whether a proposal is major development in this context is a matter for the decision-maker, taking into account its nature, scale and setting and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
47. In the present case, I do not consider the appeal scheme to amount to major development in the sense of paragraph 172. In the context of a village of some 800 dwellings, it would not amount to a significant proportional increase (some 4.5%). While harm would be caused to the AONB as already discussed, it would be localised – being restricted to the site itself and a limited number of viewpoints. It would not therefore have a *significant* adverse impact in the terms set out in footnote 55. I note in this context that the Council does not consider either the Old Farmhouse scheme (21 units) or the site's development for the approximate 15 dwellings set out in policy HSA24 to amount to major development in this context. Nevertheless, this does not affect the material harm that the appeal scheme would cause to the AONB's natural beauty.
48. Drawing the above together, I conclude that the appeal scheme would result in material harm to the site's landscape character, would create a harmful visual impact in respect of views from Charlotte Close and Station Road and would materially harm the natural beauty of the AONB. In this regard the scheme would conflict with relevant development plan policies, notably policies GS1 and HSA24 of the HSA DPD and policies ADPP5, CS14, CS18 and CS19 of the

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<sup>19</sup> Page 77 of LSA 2011.

West Berkshire Core Strategy (2006-2026) (CS). In all cases, it is likely that these adverse effects could be reduced and/or avoided by a development with lower unit numbers along the lines set out in policy HSA24.

### *Public Open Space*

49. Saved policy RL.1 of the West Berkshire District Local Plan 1991-2006 (LP) requires new residential development of ten or more dwellings to provide between 3 and 4.3 hectares of public open space per thousand population in such form, scale and distribution as may be considered appropriate depending on local circumstances. While the LP mentions an average occupancy rate of 2.6 persons per dwelling dating from 1998, I see no reason not to apply the more recent occupancy rate of 2.46 persons per dwelling derived from the 2011 census<sup>20</sup>. There is clearly an advantage to using up-to-date information. This gives a population figure of some 88 people for the appeal scheme, equating to a required provision of 0.264 to 0.378 hectares.
50. The appeal scheme proposes the provision of 0.02 hectares of childrens' play space, along with 0.17 hectares of public amenity space. The latter includes an open space area to the south of the access road that would accommodate a SuDS feature, linear open spaces flanking the two pedestrian/cycle links and the planting strips that are proposed along much of the site's southern, eastern and northern boundaries.
51. There is no dispute that the proposed total falls short of the requirement of LP policy RL.1. While the appellant refers to a further breakdown of open space types set out in the Council's Planning Obligations Supplementary Planning Document (SPD), stating that it is not feasible to provide the 'playing fields and specialist activity areas' element within the appeal site, this does not supersede the relevant development plan requirement. On the appellant's figures, there is a clear shortfall.
52. However, this shortfall is more serious than is suggested by the above figures for two reasons. First, given the appeal site's rural location and noting the particular constraints imposed on the site's development by HSA DPD policy HSA24, it seems to me that there is scope to exceed the minimum open space requirement set by LP policy RL.1 in the present case. Second, although amenity land is listed as an open space function in LP paragraph 7.5.1, it is clear from LP paragraph 7.5.3 that informal open space should be accessible safely by foot. This is a clear indication that the intention of the relevant policy standard is to provide usable and accessible open space: in my view, much of the landscaped strips on the site's eastern and southern boundaries would fail to satisfy such a requirement. From the evidence before me, it appears that they would largely be occupied by trees and shrubs.
53. For these reasons, I conclude that adequate public open space would not be provided. There would be a shortfall from the standard set out in LP policy RL.1. As such the scheme would also conflict with LP policies RL.2 and RL.3 and, in this regard, CS policy CS18. In contrast, I see no reason why adequate public open space provision could not be made within a development with lower unit numbers along the lines set out in HSA DPD policy HSA24.

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<sup>20</sup> Paragraph 3.3.2 of Mr Phillip's proof of evidence.

### *Density*

54. As already noted, HSA DPD policy HSA24 requires the site's development to be at a mass and density that reflects the adjacent settlement character. The Council raises an objection to the scheme's density in this context.
55. Both main parties have sought to calculate the density of the appeal scheme in comparison to that of other sites in Hermitage. Unfortunately there is little agreement about the details of these calculations<sup>21</sup>. Nevertheless, the overall pattern of the village's development is clear<sup>22</sup>. While most of Hermitage has been built at a relatively low net density of between 5 and 20 dwellings per hectare (dph), more recent additions (since 2004) have been at a markedly higher net density – namely Hermitage Green (2004 – 36.5dph), Pinewood Crescent/Forest Edge (2005 – 38.3 dph) and Blake Road (2012 – 35 dph).
56. The appellant argues that these additions form part of the settlement's character and that the appeal proposal, which it states would achieve a net density of 33.6 dph (an assessment that is disputed by the Council), would therefore reflect that character. However, it seems to me that the relevant requirement of policy HSA24 can fairly be read as referring to the adjoining settlement as a whole – a view that is consistent with the Framework's requirement<sup>23</sup> that development that makes efficient use of land should take into account (among other matters) 'the desirability of maintaining an area's *prevailing* character and setting (including residential gardens)' (my italics).
57. The prevailing character of Hermitage is clearly that of low density residential development. To my mind, the above-noted recent residential developments appear as uncharacteristic additions to the prevailing density of the village. Their approval and construction predate the policy approach towards residential densities within the AONB that is now set out in the HSA DPD.
58. But in any event, I see no reason why the density of development at Hermitage Green should guide that of the appeal scheme. Hermitage Green has a particular history, involving previously-developed land, that is not directly relevant to the present proposal. Moreover, it is physically distinct from the remainder of the village and is visually separated from the appeal site, which it does not directly adjoin – the two site corners being separated by Station Road. While the garage site (proposed to be redeveloped at 36.4 dph) does adjoin the appeal site, it is also brownfield land and already forms part of the village's built-up area. The Old Farmhouse scheme proposes a somewhat lower density than these two schemes of some 28.8 dph.
59. Furthermore, the appeal site would be accessed via Charlotte Close, which (along with properties on the opposite side of Newbury Road) is an area of low density residential development like much of the rest of the village. To my mind, the present proposal would appear at odds with this immediate setting. It would markedly exceed the prevailing density of the village, and would also exceed the likely density of the recently approved Old Farmhouse scheme.

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<sup>21</sup> See comparison table in ID20.

<sup>22</sup> See for example the net density plan in appendix 6 to Mr Turner's proof of evidence. For consistency, I have adopted Mr Turner's density calculations in this part of my decision, although I note that some of these are disputed by the Council.

<sup>23</sup> Paragraph 122 of the Framework.

60. I therefore conclude that the density of the appeal proposal would not reflect the adjoining settlement character, contrary in this regard HSA DPD policies HSA24, C1 and C3 and CS policies CS14 and CS19. Development of a scheme along the lines set out in policy HSA24 would result in a markedly lower site density, in line with the village's prevailing character as described above.

#### *Pedestrian and Cycle Links*

61. The Council accepted at the inquiry that its concerns about the design of the junction of the southern pedestrian/cycle link and Station Road could in principle be addressed by the imposition of a planning condition. I have no reason to disagree. Its remaining concerns relate to the design of the pedestrian/cycle route at the north-eastern corner of the site that is intended to link with the Old Farmhouse site in line with HSA DPD policy HSA24.

62. This route would be short (some 20 metres within the site). It would be overlooked in part by the north-facing elevation of the plot 19 house. Windows in the front elevation of the plot 20 house would allow views down the length of the route within the site. While the indicative layout for the Old Farmhouse development suggests that a 'dog-leg' would result, there is sufficient flexibility in that planning permission (which requires further details to be submitted) to enable an appropriate design to be achieved. I have seen no substantive evidence that the resulting arrangement would encourage anti-social behaviour – or indeed that such behaviour is a particular problem in the village.

63. I conclude that the proposed pedestrian and cycle links would be adequate. In this regard the appeal scheme would accord with relevant development plan policies, notably HSA DPD policy HSA24 and CS policies CS13 and CS14.

#### *Protected Trees*

64. The matters separating the main parties in respect of protected trees were clarified during the inquiry. The appellant confirms that it is not intended to remove any trees within the site that are subject to TPO protection. This relates to nine individual trees, mostly (but not exclusively) located near to the site's southern boundary, and a number of smaller trees (group A1) near to the southern boundary. It is common ground that, were the appeal scheme otherwise acceptable, tree protection measures could be secured by the imposition of a planning condition.

65. The Council's outstanding objection relates to the potential for the appeal scheme to create pressure for the felling or reduction of protected trees in the vicinity of the proposed flatted block at the site's south-eastern corner. Particular concern is raised about three mature trees (nos. T2, T3 & T4 of the TPO). These comprise two Oaks and one Sweet Chestnut. All are mature and all are easily seen from Station Road; in such views their scale and appearance contribute significantly to the area's amenity.

66. It is common ground, as established on site, that the closest elevation of the flatted block would be sited some 2-3 metres from the canopy of the nearest tree (the Oak T2). The resulting relationship would be clearly apparent to the flats' occupiers; all three trees would appear as substantial features when seen from facing windows and from the amenity space to the south of the building.

67. However, while I note the concerns that have been raised by the Council about the appellant's shadow analysis, I consider that as a result of the trees' position

and the siting and orientation of the flatted block, both the rear elevation and the amenity space would be likely to be subject to acceptable levels of sunlight during the afternoon. In making this assessment I have noted the appellant's recommendation that these trees should be subject to crown reduction (to balance shape) and crown lifting over Station Road as required<sup>24</sup>. While the details of any pruning would be a matter for the Council to consider at the appropriate time, I have no reason to believe that such works would harm either the trees' long term health or their amenity value. The intended communal management of the flats' amenity address would be likely to address any concerns about falling leaves and other debris.

68. Therefore, while I am conscious that pressure can exist for the felling or unacceptable reduction of protected trees, I am satisfied that given the circumstances described above, this would be unlikely to be a material factor in the present case. I conclude that the appeal scheme would be unlikely to materially harm protected trees. In this regard, it would accord with relevant development plan policies, notably HSA DPD policy HSA24.

#### *Biodiversity*

69. As is also explored in the costs decision, the positions of the main parties have evolved in respect of this issue since the Council's refusal of planning permission. Three main matters now separate the main parties: (1) the hedgerow on the site's southern boundary, (2) reptiles and (3) Great Crested Newts (GCN). I address each in turn.
70. **Hedgerow:** The Ecology Assessment (EA) submitted with the application (as amended)<sup>25</sup> identifies an intact, species rich hedgerow with trees along the site's southern boundary. However, while parts of this feature can be seen at the site, other sections appear to comprise a narrow belt of trees rather than a hedgerow in the accepted sense of the word. As already described, there are gaps in the vegetation. Nevertheless, I do not doubt that the remaining feature retains at least some of the habitat value of the hedgerow that was observed when the site was originally surveyed. The appeal scheme proposes new planting along this boundary, the details of which could be secured by condition were the development to be otherwise acceptable. This offers the potential to reinforce and/or reinstate a valuable habitat feature.
71. There was debate at the inquiry about the role of this hedgerow in terms of the wider connectivity of habitats in the site's locality. In my view it provides (or has the potential to provide) a linkage between larger woodland blocks as part of a wider network of field boundaries in the locality. Indeed, this is accepted by the appellant's EA<sup>26</sup>.
72. I have commented above that the suggested 3 metre planting strip would offer limited potential for screening along this boundary. However, while a larger landscaped area – which could potentially be secured as part of a proposal along the lines of that set out in HSA DPD policy HSA24 – would provide greater opportunities for habitat enhancement (for example more planting or the establishment of areas of habitat adjoining the hedgerow), I see no reason why a hedgerow of ecological value could not be accommodated within the

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<sup>24</sup> See schedule set out in appendix 1 to Mr Cashman's proof of evidence.

<sup>25</sup> CD1.10.

<sup>26</sup> Figure 10 and page 29 (last paragraph) of CD1.10.

strip that is now proposed. Subject to the approval of appropriate details, I consider that the appeal scheme would not harm, and could indeed enhance, the hedgerow's biodiversity value.

73. **Reptiles:** It is common ground that the appeal site is a key reptile site, with the presence of three species established (Common Lizard, Slow Worm and Grass Snake). It is also common ground that insufficient habitat for reptiles would be retained within the site as a result of the scheme. Accordingly, the appellant proposes to create a reptile receptor site on land north of Shaw, some 4 km south of the appeal site. Subject to matters discussed below, the undertaking seeks to secure this site as part of a wider ecological management scheme that would also include (among other matters) further assessment of the appeal site's reptile population and details of future management and monitoring. Survey work confirms that the receptor site does not presently support a reptile population. Habitat improvements are suggested.
74. Given my overall conclusion that the appeal should be dismissed, it is not necessary to undertake an assessment of whether the undertaking complies with the tests set by Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. Nevertheless, I do comment on its details in respect of species protection measures.
75. In doing so, matters are complicated by the introduction of measures in respect of GCN that did not appear in earlier drafts of the undertaking – in particular the provision (introduced at a late stage during the inquiry) that an alternative receptor site can be considered if the Council states that the identified receptor site (termed the Ecological Management Area in the undertaking) should be at location other than that referred to above.
76. While I have no reason to doubt that in principle an alternative site (including management and monitoring actions) could be secured in legal terms, I have specific concerns about the approach that the appellant has pursued.
77. The mechanism to secure a different receptor site<sup>27</sup> requires that either a deed of variation of the present deed (under section 106A of the Act) or a new planning obligation has been entered into. In practice, this would have a similar effect to a negative (Grampian-style) condition that limited the commencement of development until the deed of variation or new planning obligation is entered into. Planning Practice Guidance<sup>28</sup> advises (in respect of negative conditions) that such an arrangement is unlikely to be appropriate in the majority of cases. It adds that ensuring that any planning obligation or other agreement is entered into *prior to granting planning permission* (my italics) is the best way to deliver sufficient certainty for all parties about what is being agreed and that (among other matters) it is important in the interests of maintaining transparency.
78. It seems to me that the principle of this advice applies equally to the present undertaking. Relying on another planning obligation or a deed of variation is neither certain (in that the identified site is not guaranteed to come forward) nor transparent. I have seen no details of any alternative site and therefore I cannot reach a view on the merits of any such site when determining the present appeal. In summary, the inclusion of this provision, which I appreciate

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<sup>27</sup> Clause 4.3 of the unilateral undertaking – ID36.

<sup>28</sup> Reference ID: 21a01020140306.

is intended to address Council concerns about the identified receptor site's suitability for GCN as well as reptiles, means that I cannot be sure that the identified receptor site (for which evidence has been presented and which I have visited) would be secured. I have no information about any other potential site that may come forward upon which to base my decision.

79. Notwithstanding this, it is appropriate to consider the merits of the identified receptor site in respect of reptiles. With reference to Natural England (NE) standing advice<sup>29</sup>, it is clear that translocation represents a last resort. It would only be justified in principle if the appeal scheme were to be otherwise acceptable – which is not the case. Nevertheless, if my other concerns did not exist, I am satisfied that the identified receptor site would be acceptable in terms of the NE advice. Although smaller than the appeal site, the receptor site has the potential to become a materially improved reptile habitat given the arrangements proposed for habitat establishment and management. Monitoring would be secured and maintenance would continue for a 25-30 year period. The appeal site's development would not commence until the receptor site had been set out in accordance with the agreed scheme.
80. Subject to the above, I therefore consider that were the scheme otherwise acceptable, the identified receptor site and its associated habitat improvement, management, monitoring and translocation arrangements would be sufficient to safeguard the appeal site's reptile population. However, for the reasons set out above, I am not satisfied that the undertaking provides sufficient certainty that this outcome would be achieved. Accordingly, my overall view is that the scheme would fail to adequately protect the appeal site's reptile population.
81. While a development along the lines of that set out in HSA DPD policy HSA24 would result in more space being available for on-site mitigation, the Council accepts that off-site mitigation may possibly be required in the context of that scheme<sup>30</sup>. Nevertheless, the potential to retain some reptile habitat on-site would be likely to result in greater safeguards for the site's reptile population than the present proposal.
82. **Great Crested Newts (GCN):** As already noted, HSA DPD policy HSA24 requires that a GCN survey is undertaken 'to cover all ponds within the vicinity of the site'. However, although the appellant's EA identifies eight ponds within 500 metres of the appeal site (two of which – ponds 1 and 2 – lie within 250 metres), none were actually surveyed. While the EA states that access was not possible to any of these ponds, the appellant's ecology witness was, in response to questions at the inquiry, unable to explain what actions (if any) had been taken to attempt to gain access.
83. The EA notes that an eDNA survey was undertaken from a 'wet ditch' that extends north from pond 2 towards the appeal site – with a negative result. While I have no reason to doubt that the relevant sampling was undertaken in line with accepted procedures (although full details have not been provided), it appears from the evidence before me that the waterbody concerned is likely to contain a flow of water. As such, it is unlikely to prove attractive to GCN. (However, the Council's allegation that the waterbody may be polluted by run-off from nearby roads is unsupported by substantive evidence.)

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<sup>29</sup> ID16.

<sup>30</sup> Mr Sutton's proof of evidence, paragraph 4.6.3.

84. In any event, given the presence of another unsurveyed pond (pond 1) some 80 metres from the appeal site, and noting that (as is not disputed) the site itself contains suitable terrestrial habitat for GCN, it seems to me that the EA's conclusion that there is a 'negligible potential for the presence of GCN on site'<sup>31</sup> was not adequately justified. It is surprising that the EA's conclusion, which is now contested by the Council, was not challenged in its case officer's report, which does not refer in detail to GCN at all. Nevertheless, this omission does not over-ride my view that inadequate consideration was given to GCN in the EA – a failing that is striking given the requirement set out in policy HSA24.
85. Subsequent to the refusal of planning permission, the Council informed the appellant that a GCN population of a 'moderate' size class had been found in pond 1 during surveys associated with the Old Farmhouse development. In my view, it is likely that this population remains: planning permission for that development was granted subject to appropriate mitigation measures, including the provision of on-site GCN habitat.
86. Given the presence of a connecting field boundary, and noting both the proximity of the appeal site to pond 1 and the suitability of the site's terrestrial habitats for GCN, it seems to me that there is a high probability of GCN being present on the site. This conflicts with the relevant conclusion of the EA. It also conflicts with the appellant's view that notwithstanding the information now before the inquiry, the presence of GCN on-site is unlikely and if they are present they are likely to be few in number<sup>32</sup>.
87. Taking the above matters together, and notwithstanding the (to my mind surprising) view of the Council's ecology witness that no further survey work is now needed, I consider that a proper assessment of the likely effects of the appeal scheme on the above-noted GCN population has not therefore been undertaken. National policy in Circular 05/2006 requires that this is established prior to any grant of planning permission<sup>33</sup>. Leaving such work to be conditioned after a grant of planning permission should only occur in exceptional circumstances. The appellant argues that the 'highly belated emergence of the issue'<sup>34</sup> generates such exceptional circumstances. I do not agree. While better advice could certainly have been provided by the Council during the planning application process, the need to undertake GCN surveys was clearly signalled in the relevant development plan policy (HSA24). Furthermore, the appellant was aware of that policy's development, having made representations on it during the HSA DPD examination.
88. As described above, the appellant has sought to make provision for potential GCN translocation through the submitted unilateral undertaking. For the reasons already discussed (and irrespective of my view that the identified receptor site would be suitable for reptile relocation), I have general concerns about the principle of the overall approach that has been adopted. These comments are equally relevant to the intended approach in respect of GCN.
89. Furthermore, and notwithstanding the above, I do not consider that the identified receptor site would be suitable for GCN relocation. It fails several of the tests set out in the relevant NE standing advice<sup>35</sup>. Given my comments

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<sup>31</sup> Page 29 of CD1.10.

<sup>32</sup> Paragraph 25 of Mr Banner's closing submissions – ID34.

<sup>33</sup> Paragraph 99 of ODPM Circular 06/2005.

<sup>34</sup> Paragraph 31 of Mr Banner's closing submissions – ID 34.

<sup>35</sup> ID17.



above, I feel that this suggested mitigation strategy does not derive from a proper assessment of the likely effects of the appeal scheme on GCN. As with reptiles, translocation is sequentially less preferable than other measures, including redesigning the development scheme to provide on-site mitigation. The identified receptor site was not selected with GCN in mind, does not contain any waterbodies and, on the evidence before me, does not lie close to any waterbodies. It is further away from the appeal site than the 1 km distance set out in the standing advice.

90. For the above reasons, I consider that the appeal scheme would fail to secure adequate protection for the site's GCN population. I cannot therefore be satisfied that a licence under the Habitats Regulations 2017 would be granted in the event of the appeal being allowed, were matters otherwise acceptable.
91. While a development along the lines of that set out in HSA DPD policy HSA24 would result in more space being available for on-site mitigation, it is unclear – in the absence of a proper assessment – whether this would be sufficient to secure adequate protection for GCN. Nevertheless, given the sequential approach noted above, the potential to retain some habitat may well result in greater safeguards for the site's GCN population than the present proposal.
92. **Overall conclusion on biodiversity:** Drawing the above together, I conclude that while the appeal scheme would not harm, and could indeed enhance, the biodiversity value of the southern hedgerow, it would fail to provide adequate protection for the site's reptile and GCN populations. In the latter regard, the scheme would conflict with relevant development plan policies, notably HSA DPD policy HSA24 and CS policy CS17. It is likely that a development along the lines of that set out in HSA DPD policy HSA24 would result in greater safeguards for the site's reptile and GCN populations than the present proposal.

#### *Other Matters*

93. Local residents raise concerns about the scheme's effects on highway safety, with particular reference to the mini-roundabout at the Station Road/B4009 junction to the south of Charlotte Close. However, no technical highway evidence has been produced in support of these concerns. I therefore have no reason to dispute the Council's view<sup>36</sup> that in the light of additional transport impact evidence that has been provided by the appellant, taking account of cumulative effects of other committed developments, it is satisfied that the effects on the B4009 and nearby roundabout would be acceptable.
94. While no specific provision is made for local services and facilities through the submitted undertaking, such matters would be eligible for CIL funding were the scheme to be otherwise acceptable. The main parties now agree that the Council's previous concerns in respect of drainage and flood risk could be adequately dealt with by details that could be the subject of conditions in the event of the appeal being allowed. I have no reason to disagree.

#### *Planning Balance and Conclusion*

95. I have concluded above that the appeal scheme's pedestrian and cycle links would be adequate, that the scheme would be unlikely to materially harm protected trees and that the biodiversity value of the site's southern hedgerow would not be harmed and could indeed be enhanced. The scheme's intended

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<sup>36</sup> Statement of common ground, paragraph 2.5(i).

provision of affordable housing, which would be secured by the submitted undertaking and which would exceed the likely provision from a scheme along the lines of that set out in HSA DPD policy HSA24, would be a considerable benefit. As the Council accepts, the provision of additional market housing would also be beneficial: it was clarified at the inquiry that while the CS seeks to provide the majority of new housing outside the AONB, the Council does not in practice operate a 'cap' on housing proposals within the AONB.

96. Nevertheless, I have also concluded: (1) that the appeal scheme would result in material harm to the site's landscape character, would create a harmful visual impact in respect of views from Charlotte Close and Station Road and would materially harm the natural beauty of the AONB; (2) that adequate public open space would not be provided; (3) that the density of the appeal proposal would not reflect the adjoining settlement character; and (4) that the proposal would fail to provide adequate protection for the site's reptile and GCN populations. In all of these respects, the scheme would conflict with development plan policies, in addition to the acknowledged conflict with the 'approximate 15 dwellings' figure set out in HSA DPD policy HSA24. Furthermore, in respect of all of these conclusions I consider that it is likely, on the evidence before me, that the adverse effects that I have identified could be reduced, or avoided altogether, by the development of a scheme along the lines of that set out in policy HSA24. Clearly, however, any specific proposal would require to be assessed on its merits at the appropriate time.
97. Accordingly, the appeal scheme would conflict with the development plan as a whole. The benefits that have been advanced in favour of the scheme, including economic benefits such as employment opportunities and the New Homes Bonus, the provision of more market homes and the considerable benefit of additional affordable housing, are not sufficient to overcome that conflict. I therefore see no reason to depart from the advice in paragraph 12 of the Framework that where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

### **Overall Conclusion**

98. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

*M J Hetherington*

INSPECTOR

## APPEARANCES

### FOR WEST BERKSHIRE COUNCIL (WBC):

Ms Emmaline Lambert of Counsel

She called:

Mrs Bettina Kirkham DipTP BLD CMLI	Director, Kirkham Landscape Planning
Mr Jason Trewinnard MSc	Jason Trewinnard Arboricultural Consultancy
Mr Giles Sutton BSc MSc CEnv MCIEEM	Director, GS Ecology
Mr Charlie Cooper BEng MSc	Flood risk consultant acting for WBC
Mr Niko Grigoropoulos BSc(Hons) MA MRTPI	Planning consultant acting for WBC
Mrs Sharon Armour	Solicitor, WBC (planning obligations session only)

### FOR THE APPELLANT:

Mr Charles Banner of Counsel

He called:

Mr Edward Turner BA(Hons) DipLA UD	Regional Director (Urban Design and Masterplanning), Pegasus Group
Mr Jim Phillips BSc(Hons) MA MCIEEM	Managing Director, Ethos Environmental Planning Ltd
Mr David Cashman DipArb(RFS) CUEW FArborA MICFor RCarborA	Associate Director, Barrell Tree Consultancy
Mr Andrew Cook BA(Hons) MLD CMLI MIEMA CEnv	Executive Director, Pegasus Group
Mr Bhavash Vashi BA(Hons) MA MRTPI	Senior Associate Director (Planning), Strutt & Parker
Mr Matthew Mainstone LLB	Partner, Wedlake Bell LLP (planning obligations session only)

### INTERESTED PERSONS:

Ms Ruth Cottingham	Hermitage Parish Council
Ms Sue Russell	Hermitage Parish Council
Mr Rob Crispin	Chieveley Parish Council
Ms Eliza Dockrill	Local resident
Mr Gareth Tucker	Local resident
Mr Geoff Bright	Local resident
Mr David Brown	Local resident
Mr Nick Burraston OBE CEng FIMechE CFIOSH	Local resident
Cllr Quentin Webb	Ward Councillor

## DOCUMENTS TABLED AT INQUIRY

- Document 1: Mr Cooper's introductory statement.  
Document 2: Draft unilateral undertaking.  
Document 3: Drainage Strategy drawing no. 8161032-SK01 P5A.  
Document 4: Surface Water Drainage Strategy drawing no. 8161032-SK01 P9.  
Document 5: Initial draft list of agreed conditions.  
Document 6: Tree report – trial pits (report no. 410, revision 1).  
Document 7: Buying a house with a tree in the garden (WBC publication).  
Document 8: Bundle of photomontages.  
Document 9: Email exchange between Mr Bowden and Thames Water.  
Document 10: Maps and aerial photographs of appeal and receptor site.  
Document 11: Appellant's opening statement.  
Document 12: Opening submissions on behalf of the Council.  
Document 13: Tree protection plan drawing no. 18184-BT2.  
Document 14: Extract from BS 5387:2012.  
Document 15: Germano J M & Bishop P J (2008) Suitability of Amphibians and Reptiles for Translocation – *Conservation Biology* 23(1): 7-15  
Document 16: Reptiles: surveys and mitigation for development projects (standing advice).  
Document 17: Great Crested Newts: surveys and mitigation for development projects (standing advice).  
Document 18: Analytical and methodological development for improved surveillance of the Great Crested Newt: Final Report (Defra Project WC1067).  
Document 19: Responses to consultation exercise on the 36 unit scheme.  
Document 20: Comparison of site density calculations.  
Document 21: Drainage note agreed by the Council and the appellant.  
Document 22: Copy of Register of Title in respect of receptor site.  
Document 23: Further statement by Hermitage Parish Council (as amended).  
Document 24: Landscape Character Assessment Topic Paper 6 (SNH/CA).  
Document 25: Amended list of agreed planning conditions.  
Document 26: CIL Regulations Compliance Statement prepared by the Council.  
Document 27: Extract from Newbury District-wide Landscape Assessment.  
Document 28: Extract from GLVIA guidance (p113).  
Document 29: Further draft of unilateral undertaking.  
Document 30: Further updated draft of unilateral undertaking.  
Document 31: Further extracts from Core Strategy.  
Document 32: Decision notice for Old Farmhouse development (ref. 17/03290/OUTMAJ) dated 20 November 2018.  
Document 33: Closing submissions on behalf of the Council.  
Document 34: Appellant's closing submissions.  
Document 35: Final agreed list of conditions.  
Document 36: Signed unilateral undertaking dated 21 November 2018.

## DOCUMENTS SUBMITTED AFTER THE INQUIRY

- Document 37: Appellant's costs application.  
Document 38: Costs response on behalf of the Council.  
Document 39: Appellant's final comments on costs.