



Appeal Decision

Site visit made on 10 October 2023

by **M Russell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/R0335/W/23/3321229

Westwood House, Swinley Road, Ascot SL5 8BA

Easting (x) 489926 Northing (y) 168826

- 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 Nicholas King Homes against the decision of Bracknell Forest Borough Council.
- The application Ref 22/00116/FUL, dated 31 January 2022, was refused by notice dated 1 March 2023.
- The development proposed was originally described as 'residential development comprising the demolition of two existing dwellings and the erection of 21 new dwellings with associated parking, landscaping and access works'.

Decision

1. The appeal is allowed and planning permission is granted for residential development comprising the demolition of two existing dwellings and the erection of 20 new dwellings with associated parking, landscaping and access works at Westwood House, Ascot SL5 8BA Easting (x) 489926 Northing (y) 168826 in accordance with the terms of the application, Ref 22/00116/FUL, dated 31 January 2022, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Nicholas King Homes against Bracknell Forest Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

2. During the planning application process, the proposal was amended to 20 dwellings. My assessment is based on this amended scheme including the plans on which the Council made its decision as referenced on the decision notice.
3. The Council has listed several policies of the emerging Bracknell Forest Local Plan (eLP) which it considers to be relevant to the appeal. I understand that the eLP has been through examination and the Inspector has issued their Post Hearing Letter which advises the eLP could be made sound through Main Modifications. However, I am not aware that the Main Modifications have been completed or consulted upon at this time.
4. Furthermore, from what I have seen, the emerging Winkfield Neighbourhood Plan (eNP) has previously been submitted for examination. I understand that the examiner has recently agreed that the eNP can proceed to referendum, subject to modifications.

5. Given that there may be unresolved objections to the Main Modifications to the eLP and the eNP requires modification and a referendum, I attach limited weight to these emerging documents.
6. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.

Main Issue

7. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) whether the development would make adequate provision for affordable housing and any other necessary infrastructure requirements arising from the development; and
 - iii) the effect of the proposal on the Thames Basin Heaths Special Protection Area (SPA)

Reasons

Character and appearance

8. The appeal site is situated between the settlements of North Ascot and Bracknell. It shares boundaries with the A329 London Road and the B3017 Swinley Road. The site largely consists of the extensive grounds serving Westwood House, a detached two-and-a-half-storey dwelling which occupies a central position within the site and is surrounded by a substantial lawn. A belt of mature planting, including trees covered by a Tree Preservation Order¹, sits around the perimeter of the site and largely conceals Westwood House and its lawn from view along London Road and Swinley Road. The appeal site also encompasses the one-and-a-half-storey detached dwelling at Westwood Lodge, together with the curtilage serving this property.
9. The site is located within the Landscape Character Area F1: Chavey Down Wooded Sands Character Area (F1) as identified in the Bracknell Forest Borough Landscape Character Assessment (2015) (LCA). The LCA confirms that this is an area influenced by suburban and edge of town development, combined with a high percentage of tree cover. On my site visit I saw that the appeal site surroundings are consistent with this. There is a loose pattern of development along London Road, with buildings often set back from the road behind mature landscaping, albeit often perceptible in glimpses through the vegetation.
10. There is a cluster of development in the vicinity of the junction of Swinley Road and London Road. The Royal Foresters Public House lies to the opposite side of London Road to the appeal site. Along Swinley Road, the rear elevation of the two-storey Lavender Cottages abuts the back of the highway verge. High boundary treatments including fencing and walls border the appeal site on Swinley Road together with the front elevation of Westwood Lodge. Therefore, while the tree cover on the appeal site gives a verdancy to the initial section of Swinley Road, this existing development also forms part of this road's

¹ Tree Preservation Order reference 282

character before it gives way to a more overtly rural setting as one moves further away from the junction.

11. The Inspector that dealt with the previous appeal on the site² noted that the character of the appeal site is derived from its openness within the central area but with a sense of enclosure due to the mature and extensive perimeter planting. They observed that this contributes to the continuous network and naturalistic land cover features of the LCA F1 and the function that this area provides in forming a physical and visual gap between the urban area of Bracknell and Ascot as identified in the LCA. From my own observations, I agree that these are the prevailing characteristics of the site and surroundings. In these respects, the appeal site makes a significant contribution to the character and appearance of the area.
12. The previous appeal on the site related to a proposal for '73 Assisted Living Units, together with parking, landscaping and associated works'. The Inspector in that case noted the significant footprint, height and consequent mass of that proposal would contrast markedly with the built form in the vicinity which is comprised of one to two storey buildings with a more modest footprint. Further, the Inspector found that the removal of a prominent Beech Tree (T217) close to the boundary with Swinley Road, the creation of wider, more formal access/egress drives and the view this would provide of the substantial building, would in that case erode the rural character of Swinley Road.
13. The spread of built form on the current proposal would also erode the openness of the site. However, in contrast to the previous appeal, it would comprise of a series of buildings of a prevailing two-storey scale with gaps between. Even if the development would be of a higher density than the neighbouring Brompton's development, the buildings would be comparable in terms of maximum heights, massing, materials and position relative to the London Road frontage, reflecting its character of housing within a verdant setting. In this respect, the development would resonate with some of the design expectations of the development plan in terms of respecting local patterns of development.
14. The development would introduce an estate access drive onto Swinley Road which would also open up a view into the site. However, the drive would be angled towards a central green with feature semi-mature tree planting. This means that other than Plot 1, the dwellings would have a peripheral presence in views from Swinley Road with intervening vegetation filtering these views. The dwelling on Plot 1 would effectively replace Westwood Lodge. However, its position set further back from the road frontage would allow for new planting along the Swinley Road. A photomontage has been provided which illustrates how such planting would help to soften the respective part of the road frontage next to the access point.
15. The TPO on the site is some 33 years old and does not individually assess the trees. Based on the appellant's tree survey, most of the trees to be removed are category C or U trees. The Council has acknowledged that this means these trees are either of no significant merit or unviable beyond 10 years. 4 of the trees to be removed are identified as Category B trees of moderate value. However, from the evidence before me and my own observations on site, the site would benefit from effective tree management. The trees to be removed

² Appeal Ref APP/R0335/W/19/3229885

are generally of a limited public amenity value due to their private enclosed setting.

16. The majority of trees close to the roadside boundaries would be retained. This would filter views of the development along London Road and Swinley Road and retain a suitably wooded character in external views of the site along these roads. I agree with the statement in the Council's delegated report that 'the trees most important to the character of the site and area are retained.' This includes the retention of substantial trees that were of concern under the previous appeal, including T217 and T205 – T207.
17. The appellant's Landscape Strategy includes woodland planting with native understorey planting, native and ornamental hedges, wildflower meadow and ornamental shrub and herbaceous planting. This will complement the site's sense of enclosure and wooded character including towards the road facing boundaries.
18. I agree with the appellant's Landscape and Visual Impact Assessment that the zones of visibility would be largely restricted to areas immediately adjoining the site. More particularly, from neighbouring residential properties, in filtered views through vegetation on the adjoining roads and through the access point on Swinley Road. In these restricted zones of visibility, the buildings and the access drive would have a suburbanising effect. They would also erode the openness of the site and the part this plays in the function of this area as a physical and visual gap between the urban area of Bracknell and Ascot. This would be particularly noticeable to those familiar with the area. This suburbanisation of the landscape would be contrary to the landscape strategy of the LCA.
19. However, the sensitive scale of the buildings, the fragmentation of the built form, the position of buildings mainly away from the road frontages, together with the proposed landscape strategy would combine to minimise the above impacts. An overriding wooded character would be retained to the roadside boundaries. This would continue to make a significant contribution to the character and appearance of the area and help to assimilate the proposal into the LCA's continuous network of woodland.
20. Overall, I conclude, the proposal would result in some limited harm to the character and appearance of the area. In that regard, there would be limited conflict with the overall design, character and context requirements of Policies CS7 (Design) and CS9 (Development of Land Outside Settlements) of the Bracknell Forest Borough Council Core Strategy (2018) (CS) and Saved Policies EN1 (Protecting tree and hedgerow cover), EN8 (Development on Land Outside Settlements) and EN20 (Design Considerations for New Development) of the (LP).

Affordable housing and other necessary infrastructure requirements

21. As part of their appeal submission, the appellant has provided a Section 106 Agreement dated 3 October 2023 (the S106 Agreement). This includes provisions for 5 dwellings (Plots 16 – 20 inclusive) to be provided as affordable dwellings as defined in Annex 2 of the Framework. This means that 25 % of the homes provided would be affordable units, with a mix of shared ownership and social rent units. The affordable housing tenure mix and plot numbers also align with the requests of the Council's Housing Enabling Officer. These

- provisions are in line with the requirements of Policies CS16 and CS17 of the CS and the Bracknell Forest Council Planning Obligations Supplementary Planning Document (2015) (SPD).
22. The S106 also includes provision for a 'Community Facilities Contribution' of £27,000 towards improvements and ongoing maintenance to community facilities including, but not limited to, community centres/hubs, libraries and/or youth provision including at Carnation Hall and its land and/or other projects capable of serving the site.
 23. There is a separate 'Active Open Space of Public Value Contribution' for £27,000 towards off-site projects at Carnation Hall and/or Locks Ride and/or other projects capable of serving the site. The S106 also includes a commitment to delivery of a Biodiversity Net Gain of at least 10% within a Landscape and Ecological Management Plan together with a monitoring fee of £3,600.
 24. A Highways contribution' of £132,000 is included towards the upgrading of the footway/cycleway along the western side of Swinley Road between the site access and the junction with London Road.
 25. A further monitoring fee of £2,560 covering the various aspects of the S106 is also included in the S106.
 26. The provisions within the S106 address the affordable housing and other infrastructure requirements detailed in the Statement of Common Ground and the Councils CIL compliance statement. There is no detailed evidence to suggest that the developer contributions and monitoring contributions included would not be justified in this instance. Moreover, the Council has signed the S106 Agreement and has confirmed that it overcomes reasons 3 and 4 on its decision notice.
 27. In the circumstances, and based on the evidence before me, there is no reason for me to find that the contributions secured by the S106 Agreement would not meet the relevant tests at Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations.
 28. I conclude that the development would make adequate provision for affordable housing and the other necessary infrastructure requirements arising from the development. In that regard, it would comply with the affordable housing and infrastructure requirements of Policies CS6 (Limiting the Impact of Development), CS8 (Recreation and Culture), CS16 (Housing Needs of the Community), CS17 (Affordable Housing) and CS24 (Transport and New Development) of the CS and Saved Policies H8 (Affordable Housing), R5 (Publicly usable open space for small sites) and M4 (Highways measures expected in association with new development) of the LP.

Thames Basin Heaths SPA

29. The evidence before me indicates that the proposal is located within the Zone of Influence (ZoI) for the Thames Basin Heaths Special Protection Area (SPA) which is located c.2.8km southwest of the site. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with

other plans and projects within the framework of an Appropriate Assessment (AA). This responsibility falls to me in the context of this appeal.

30. The Thames Basin Heaths Special Protection Area Supplementary Planning Document (2018) (SPD) confirms that the SPA is a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark, nightjar and Dartford warbler. The two areas of the SPA that lie within Bracknell Forest are the Broadmoor to Bagshot Heaths SSSI and the Sandhurst to Owlsmoor Bogs and Heaths (also known as Wildmoor Heath) SSSI. A large proportion of Bracknell Forest lies within 5km of the SPA to which the SPD principally applies.
31. Natural England has issued standing advice (dated 19 May 2021) to confirm that it has no comments to make on AAs which conclude that there would be no adverse effects on the integrity of habitats sites due to measures being secured through legal agreement and put in place in line with those set out in line with agreed policies, guidance and evidence. This includes the requirements of the SPD.
32. An Appropriate Assessment (AA) was carried out by the Council during the planning application process. This screened out the potential for the proposal to result in a loss of functionally linked land as it was found that the site does not provide nesting habitat for the bird species for which the SPA is designated. It also determined that a 'Pre-submission Bracknell Forest Local Plan Air Quality Assessment (March 2021)' demonstrated that there will be no adverse effect on the integrity of habitats sites, either alone or in-combination, due to changes in air quality and that NE do not require further assessment in this respect. There is no evidence before me to suggest that I should conclude differently on these specific findings.
33. However, from the evidence before me, the SPA is at risk from the effects of increased recreational pressure resulting from new residential development within the ZoI. This has the potential to lead to disturbance to the three species of ground-nesting birds for which the SPA was designated. More particularly, as a result of people and their pets using the SPA for recreational purposes and the potential effects on the breeding success of these species. The Council, in consultation with NE has formed the view that any net increase in residential development between 400m and 5km straight line distance from the SPA is likely to have a significant adverse effect on the integrity of the SPA, either alone or in combination with other plans and projects.
34. The SPD includes avoidance and mitigation measures to address impacts resulting from increased recreational pressure. The strategy is for relevant developments to make financial contributions towards Suitable Alternative Natural Greenspace (SANGs) as an alternative recreational location to the SPA and financial contributions towards Strategic Access Management and Monitoring (SAMM) measures.
35. The SPD confirms that SANGs contributions will be based on the net increase in market housing and that affordable housing also needs to be mitigated. Based on a net increase in dwellings of the site of 18 units and the formulas in the SPD, the Council has calculated a SANG contribution of £108,697 would be attributable to the development.

36. With regards to SAMM, the SPD confirms that this is calculated on a per bedroom basis. An example tariff is set out in the SPD. With updated inflationary costs, as per the Council's website, the Council has calculated a SAMM contribution of £19,968 would be required.
37. The S106 Agreement dated 3 October 2023 includes the specified SANGs and SAMM contributions. I am satisfied that these contributions will ensure that the potential effects of the development on the SPA would be mitigated in line with the clear mitigation strategy in the SPD. On that basis, I am satisfied that there will be no adverse effects on the integrity of SPA. In reaching this conclusion, I am also mindful that the LPA has developed the strategy in consultation with NE, and that NE has confirmed that it has no comments to make on AAs which conclude no adverse effects on the integrity of habitats sites due to the identified measures in the SPD being secured through legal agreement. In addition, the Council has also confirmed that the S106 Agreement provided as part of this appeal addresses reason 2 on its decision notice.
38. I conclude, the proposal would not have a significant adverse effect on the integrity of the Thames Basin Heaths SPA. In that regard, the proposal complies with the requirements to avoid or mitigate any potential adverse effects on the SPA in Saved Policy NRM6 (Thames Basin Heaths Special Protection Area) of The South East Plan Regional Spatial Strategy (2009), Policy CS14 (Thames Basin Heaths Special Protection Area) of the CS and Saved Policy EN3 (Nature conservation) of the LP. For the same reasons, the proposal would also accord with the Habitats Regulations and Paragraph 180 of the National Planning Policy Framework (the Framework).

Other Matters

39. The Council concedes that it cannot currently demonstrate a five-year housing land supply (5YHLS) and that this stands at 4.74 years supply as of 21 July 2023. I understand that the Housing Delivery Test 2021 measurement indicated that over a three-year period 2018/19 to 2020/21 the Council exceeded its housing delivery targets. I also accept that the eLP is at an advanced stage, albeit further modifications and consultation are required and it is therefore unclear when the Council will be in a position to adopt it. The Council suggests that in this context the weight to be afforded to a net increase of 18 dwellings on the site should be reduced and has drawn my attention to recent appeal decisions at 'Home Farm' in Bracknell Forest and at 'Land East of Lodge Road' in the adjoining Borough of Wokingham³.
40. However, as the Home Farm decision confirms, housing delivery in previous years does not guarantee future delivery. I also agree with the appellant that the considerations at Land East of Lodge Road were framed around a very specific set of housing delivery circumstances in another Authority where housing delivery and projections were analysed in detail at a Public Inquiry. Therefore, the circumstances were not the same as the case before me.
41. Moreover, the Framework is clear that paragraph 11d is engaged in cases where a five-year supply of deliverable sites cannot be demonstrated or (my emphasis) where the HDT indicates that the at the delivery of housing was substantially below the housing requirement over the previous three years. 11d is therefore engaged on the first premise and I do not find the specific set of

³ APP/R0335/W/22/3298503 and APP/X0360/W/22/3309202

circumstances in the appeals referred to endorse a different approach to that specified in the Framework.

42. The Framework encourages the use of previously developed land, and sites that are physically well-related to existing settlements where suitable opportunities exist. The proposal accords with this insofar as there are existing dwellings and hard surfaced areas on the site and in terms of its accessible location, close to existing services and facilities including the bus route.
43. The Framework confirms that it should not be assumed that in proposals on previously developed land that the whole of the curtilage should be developed. I accept that the density of the development would be greater than that which presently exists. Even so substantial parts of the site would be retained as soft landscaping and I have found under the first main issue that the development would result in limited harm to the character and appearance of the area. These factors are compelling and indicate that positive weight should be afforded to the use of previously developed land in this instance.
44. With regards to concerns raised by third-parties that are not covered under the main issue, there is no objective evidence before me to suggest that the proposal would result in traffic which would have an unacceptable effect on local roads or that there would be a significant increase in pollutants from traffic generated by the development. I also note that the Highway Authority has raised no objections to the proposal. Construction traffic associated with the development could be managed through a Construction Management Plan which could be secured by condition.
45. No detailed evidence has been provided to suggest that local schools and health services could not accommodate potential demand arising from the development and the Council has not made any infrastructure requests in these respects.
46. A drainage strategy forms part of the proposals and no objections were raised from the Lead Local Flood Authority. There is no detailed evidence to suggest drainage on the site could not be effectively managed including through the suggested conditions.
47. A comparison of the tree removal and layout plans indicates that the majority of retained trees are located in communal areas or outside private garden areas such that suitably open aspects would be provided. Therefore, the retained trees would not unduly affect outlook or make the gardens unusable. These factors reduce the likelihood of there being any significant requirements for future tree pruning or removal. Given the existence of the TPO any such requests would also need to be put to the Council and considered on their own merits. Permitted development rights could also be removed in line with the recommendations of the Council's landscape officer in order to avoid any encroachment into the root protection areas of the protected trees.
48. With regards to potential effects on habitats, the proposal is supported by an the appellant's Ecology Report dated November 2022 which identifies that Westwood House hosts two small bat roosts, which the survey and the Council's delegated report indicate to be of low conservation status. The recommendations of the ecology survey indicate that this could be mitigated and compensated through soft strip demolition and immediate provision of bat roost compensation in the form of bat boxes on trees within the site. This could

be further enhanced through the provision of bat boxes into the external walls of the new buildings. I agree with the Council that this will ensure there is no adverse impact on the favourable conservation status of the two bat species. Therefore, I am satisfied that a licence for development works affecting bats would likely be granted and it would be reasonable to include a condition requiring this to be secured prior to works commencing.

49. The Ecology Report also identifies the presence of a small population of Great Crested Newts found at a pond 80 metres to the east of the site. The appellant has applied for and obtained a Naturespace GCNDL licensing report and Naturespace have replied stating conditions which must be imposed on any planning permission. The suggested conditions provided address these requirements and subject to these conditions being complied with, I am satisfied that any impact on GCNs can be acceptably mitigated against.
50. Three outlier Badger setts have been identified in the Ecology Report. The evidence before me indicates that the loss of outlying sets rarely has an adverse impact on the badger social group as they have numerous outlier setts within their territories. A pre-commencement condition would ensure that badger setts are humanely exhumed under licence.
51. The main parties are also in agreement that conditions could be applied to mitigate any potential impacts on nesting birds. Furthermore, there are opportunities for biodiversity net gains to be achieved including through an appropriate landscape scheme which could also be secured by condition. A condition requiring details of any external lighting could also be attached in order to ensure any such lighting is sensitively incorporated to minimise the effect on habitats. In all the above respects, I am satisfied that the relationship of the development with habitats would be effectively managed.
52. Even accounting for the tree removals proposed, the relationship with neighbouring properties in terms of distances to main habitable windows and private garden areas would be sufficient to ensure suitable levels of privacy would be provided for existing and future occupiers. There would be a soft landscaped buffer between the access drive and the boundaries with the nearest neighbouring properties. The levels and type of activity that one could reasonably expect in relation to the proposal development would be unlikely to result in unacceptable levels of noise and disturbance. Activity associated with the construction period would be likely to be short lived and could be managed through the Construction Management Plan. I therefore agree with the Council that there would not result in material harm to the living conditions of neighbouring occupiers.

Conditions

53. The main parties have provided an agreed list of suggested conditions which I have taken into account. I have included the standard timescale for implementation and a condition requiring the development to be implemented in accordance with specified drawings and documents in the interests of certainty.
54. Pre-commencement conditions are included requiring a Construction (and Demolition) Environmental Management Plan, precise details of the bridge deck structure on the access drive, approval of visibility splays for the site access, a phased scheme of archaeological works, a licence for development works

- affecting bats, for a badger sett survey to be undertaken, for precise details of the construction methods to be employed on patio areas, for the precise locations of the tree protection measures, for a contamination report and to mitigate any impacts on Great Crested Newts and for a landfill gas investigation are all included.
55. The above conditions are required prior to commencement as development works could otherwise have the potential to have risk or safety implications, or unduly impact upon protected species, neighbouring living conditions, protected trees or protected species.
56. I have included the conditions requiring for parking and turning spaces to be surfaced, marked out and kept available for parking, cycle parking facilities to be approved and implemented for each dwelling, visitor parking space information including signage thereof, and preventing the provision of gates on any vehicular route including the site access point in the interests of highway safety and to ensure that adequate parking spaces are provided for users of the development.
57. Conditions requiring samples of external materials, finished floor levels, for specific details of the access, for details of works to close off existing access points, for vehicular and pedestrian access to each dwelling to be provided prior to occupation, and for precise details of a footpath link off London Road are attached in the interests of ensuring the development optimises opportunities to integrate into its surroundings, protects retained trees and meets highway safety and accessibility requirements.
58. Conditions requiring a lighting design strategy, requiring vegetation removal to only take place outside bird nesting season and requiring a specification (including methodology and programme of implementation) for the enhancement of biodiversity are attached. These are included in the interests of protecting bio-diversity and ensuring that the development takes the opportunity to integrate biodiversity measures in line with the principles at paragraph 180 of the Framework.
59. The condition requiring noise mitigation measures to be incorporated into the development in line with the assumptions of the appellant's Noise Impact Assessment is attached in order to ensure acceptable living conditions for future occupiers of the development.
60. I have included the suggested drainage conditions in the interests of ensuring that the site is effectively drained and does not increase the risk of surface water flooding. The suggested condition requiring a landscaping scheme to be submitted is included and I have added that this should follow the principles of the approved landscape strategy plan. This condition is necessary in the interests of ensuring the envisaged landscape strategy is realised and the development successfully integrates into its surroundings.
61. The condition confirming that the development should be implemented and maintained in accordance with the appellant's sustainability and energy statement is included. In the interests of clarity, I have added details as to the aspects of this statement that need to be incorporated into the development to ensure the commitments and targets detailed are followed in the interests of sustainability.

62. In the interests of conciseness, I have combined the suggested conditions removing specific permitted development rights on the individual dwellings. This condition is required in order to protect the retained trees and to ensure that any future alterations to the dwellings respect the character and appearance of the area.
63. Finally, I have included the suggested condition setting maximum gradients for driveways, requirements for pedestrian access between dwellings to be compliant with the Designing for Accessibility in Bracknell Forest SPD (2006). Furthermore, the condition requiring precise details of means of enclosure is included. These are necessary for highway safety, accessibility and character and appearance reasons.

Planning Balance and Conclusion

64. Given the undisputed housing land supply position, paragraph 11d of the Framework is engaged and the presumption in favour of sustainable development is engaged.
65. The appeal site is located outside of a defined settlement and therefore in the countryside for planning purposes. However, Policy CS9 of the CS and EN8 of the LP are out of date as insofar as they seek to protect the countryside for its own sake and are therefore more restrictive than the Framework. In this particular respect, conflict with these particular policies is reduced.
66. However, the above policies together with Policies EN20 and EN1 of the LP and Policy CS7 of the CS are the five most important for determining the appeal insofar as they relate to protecting the character and appearance of the area and trees and hedgerows. Attaching full weight to these requirements, I have found that there would be some limited harm to the character and appearance of the area and so too a limited amount of conflict with these policies.
67. In the context of the Government's objective to significantly boost the delivery of housing, a net increase of 18 dwellings over the existing situation on the site, would make a very positive contribution towards addressing the shortfall in the 5YHLS and add to the housing mix for the area.
68. The proposal also utilises previously developed land, in an accessible location with alternative options to car travel. There would be public benefits both in social and economic terms. These include associated employment opportunities through the development of the site, investments secured towards local infrastructure including off-site open space projects and community facilities used by the wider public and through CIL receipts. The provision of affordable housing and the future use of local services and facilities by occupiers of the development would also make positive contributions in these respects. In addition, on-site biodiversity net gains of at least 10% are secured through the S106 Agreement.
69. In the circumstances, I find that the adverse impacts of the development are limited and would not significantly and demonstrably outweigh the identified benefits when assessed against the policies of the Framework as a whole. The proposal therefore benefits from the presumption in favour of sustainable development and planning permission should be granted.
70. I therefore conclude that the appeal should be allowed.

M Russell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans and documents: Drawing Nos 21-J3848- LP (Site Location Plan), 21-J3848-01 Rev. T (Proposed Site Layout), 21-J3848-02 Rev. B (Plot 1 - Floorplans and Elevations), 21-J3848-03 Rev. C (Plot 2 - Floorplans and Elevations), 21-J3848-04 Rev. D (Plot 3- Floorplans and Elevations), 21-J3848-05 Rev. D (Plot 4 - Floorplans and Elevations), 21-J3848-06 Rev. D (Plot 5 - Floorplans and Elevations), 21-J3848-07 Rev. D (Plot 6 - Floorplans and Elevations), 21-J3848-08 Rev. C (Plot 7 - Floorplans and Elevations), 21-J3848-09 Rev. D (Plot 8 - Floorplans and Elevations), 21-J3848-10 Rev. C (Plot 9 - Floorplans and Elevations), 21-J3848-11 Rev. C (Plot 10 - Floorplans and Elevations), 21-J3848-12 Rev. D (Plot 11 - Floorplans and Elevations), 21-J3848-13 Rev. C (Plot 12 - Floorplans and Elevations), 21-J3848- 14 Rev. D (Plot 13 - Floorplans and Elevations), 21-J3848-15 Rev. E (Plots 14- 15 - Floorplans and Elevations), 21-J3848- 17 Rev. C (Plot 16- 17 - Floorplans and Elevations), 21-J3848- 18 Rev. F (Plots 18, 19, 20 - Floorplans and Elevations), 21-J3848- 19 Rev. E (Proposed Site Sections), 21-J3848 CO1 Rev. O (Coloured Site Layout), 21-J3848-20 Rev C (No Dig Section Abbey Concrete Con.), AR-3702 DemoP-220922 (22/09/2022) (Demolition Plan), AR-3702 TPP-221117 (17/11/2022) (Tree Protection Plan), AR-3702 TRP-220922 (22/09/2022) (Tree Removal Plan), AR-3702-2022 TSP-220713 (13/07/2022) (Tree Survey Plan), CC2358 CAM XX 00 DR C 1101 Rev. P06 (Drainage Strategy Overall), CC2358 CAM XX 00 DR C 1102 Rev. P06 (Drainage Strategy Sheet 1 of 2.), CC2358 CAM XX 00 DR C 1103 Rev. P06 (Drainage Strategy Sheet), CC2358 CAM XX 00 SE C 0510 Rev. P01 (Cellular Storage Tank Sections), CSA/5790/105 Rev. J (Landscape Strategy), the details in the Arboricultural Integration Report AR-3702 AIR -221118 dated 18 November 2022, and the sustainability and energy commitments in the Bluesky Sustainability and Energy Statement dated 16th November 2022.
- 3) No development (including site clearance) shall take place until details of the access, including specific details of the bridge deck are submitted to and approved in writing by the Local Planning Authority. The access as approved shall then be constructed in accordance with the approved details prior to the commencement of any other development within the site.
- 4) No development shall take place until a plan showing visibility splays at the site access onto Swinley Road and internal to the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details. The visibility splays shall thereafter be kept free of all obstructions over a height of 0.6 metres measured from the surface of the adjacent carriageway.
- 5) No development (including site clearance and demolition) shall commence, until a Construction (and Demolition) Environmental Management Plan (CEMP) has

been submitted to and been approved in writing by the local planning authority. The CEMP shall include the following details as a minimum:

- a) routing of construction and demolition traffic (including directional signage and appropriate traffic management measures);
- b) parking of vehicles of site operatives and visitors;
- c) areas for loading and unloading of plant and materials;
- d) areas for the storage of plant and materials used in constructing the development;
- e) location of any temporary portacabins and welfare buildings for site operatives;
- f) any security hoardings;
- g) any external lighting of the site;
- h) methods of piling for foundations;
- i) measures to control the emission of dust, dirt, noise and odour during demolition and construction;
- j) measures to control surface water run-off during demolition and construction;
- k) measures to protect biodiversity, including the welfare of bats and badgers, in accordance with BS42020:2013;
- l) construction and demolition working hours, and times during which delivery vehicles and vehicles taking materials away are allowed to enter or leave the site;
- m) wheel-washing facilities during both demolition and construction phases;
- n) areas for the turning of construction and demolition vehicles such that the largest anticipated vehicles can turn and leave the site in a forward gear.

The approved CEMP shall be adhered to throughout the demolition and construction period.

- 6) Prior to the commencement of any development the applicant or their agents or successors in title must secure the implementation of a phased scheme of archaeological works (which may comprise more than one phase of works) in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the planning authority. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition.
- 7) The stripping out or demolition of Westwood House shall not commence until a licence for development works affecting bats has been obtained from the Statutory Nature Conservation Organisation (Natural England) and a copy of the licence (or an email from Natural England that the site has been registered under a bat mitigation class licence) has been submitted to the council. Thereafter mitigations measures detailed in the licence shall be undertaken in accordance with the approved details.

Should the applicant conclude that a licence for development works affecting bats is not required for all or part of the works the applicant is to submit a report to the council detailing the reasons for this assessment and this report is to be approved in writing by the council prior to the stripping out or demolition of Westwood House.

- 8) No development hereby permitted, including any vegetation clearance shall commence until a badger sett survey of the development site and immediately

adjacent areas has been undertaken. This survey shall be undertaken within 28 days of the start of works on site and a report detailing the results of the surveys is to be submitted to and approved in writing by the council. If surveys show that a licence to disturb a badger sett is required a copy of a valid licence is to be submitted to the planning authority prior to the commencement of works.

- 9) No development (including any initial site-clearance works) shall commence until details of the bridge deck structure, so designed to minimise their adverse impact on tree roots, have been submitted to and approved in writing by the Local Planning Authority. Details shall be site specific and include: -

- a) An approved layout plan to 1:200 scale, showing the accurate trunk positions and branch spreads of existing retained trees in relation to the proposals.
- b) Layout and construction profile drawing/s.
- c) Engineering/ Arboricultural construction method statement.
- d) Implementation method statement including timing/ phasing of works.

The foundation structure shall be implemented in full accordance with the approved details.

- 10) The protective fencing and other protection measures on drawing no. AR-3702 TPP-221117 (17/11/2022) shall be erected in precise locations first agreed in writing by the Local Planning Authority prior to the commencement of any development works, including any initial clearance, and shall be maintained fully intact and (in the case of the fencing) upright, in its approved locations at all times, until the completion of all building operations on the site. Where phased protection measures have been approved, no works shall commence on the next phase of the development until the protective fencing barriers and other protective measures have been repositioned for that phase in full accordance with the approved details. No activity of any description must occur at any time within these areas including but not restricted to the following: -

- a) No mixing of cement or any other materials.
- b) Storage or disposal of any soil, building materials, rubble, machinery, fuel, chemicals, liquids waste residues or materials/debris of any other description.
- c) Siting of any temporary structures of any description including site office/sales buildings, temporary car parking facilities, porta-loos, storage compounds or hard standing areas of any other description.
- d) Soil/turf stripping, raising/lowering of existing levels, excavation or alterations to the existing surfaces/ ground conditions of any other description.
- e) Installation/siting of any underground services, temporary or otherwise including; drainage, water, gas, electricity, telephone, television, external lighting or any associated ducting.
- f) Parking/use of tracked or wheeled machinery or vehicles of any description.

In addition to the protection measures specified above,

- a) No fires shall be lit within 20 metres of the trunks of any trees or the centre line of any hedgerow shown to be retained.
- b) No signs, cables, fixtures or fittings of any other description shall be attached to any part of any retained tree.

11) No development shall commence until construction details of the patio areas shown on the approved plans to the rear of the dwellings, so designed to minimise their adverse impact on tree roots, have been submitted to and approved in writing by the Local Planning Authority. Details shall be site specific and include: -

- a) An approved layout plan to 1:200 scale, showing the accurate trunk positions and branch spreads of existing retained trees in relation to the proposals.
- b) Layout and construction profile drawing/s.
- c) Engineering/ Arboricultural construction method statement.
- d) Implementation method statement including timing/ phasing of works.

The patios shall be implemented in full accordance with the approved details.

12) Prior to the commencement of development, a Phase II report (Site investigation) will be completed by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwater and surface waters,
 - o ecological systems,
 - o archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s)
The report shall be submitted to and agreed in writing by the LPA prior to the commencement of development. The method and extent of this site investigation shall then proceed in strict accordance with the measures approved.

13) Following completion of the desk top study (Phase I) and site investigation (Phase II) required by the above condition, a remediation scheme to deal with any contaminants identified (including gas protection measures if necessary) must be submitted to and approved in writing by the local planning authority prior to the commencement of development. The scheme shall include an implementation timetable, monitoring proposals and a remediation verification methodology. The remediation scheme must be carried out in accordance with the approved scheme.

14) No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Westwood House: Impact Plan for great crested newt District Licensing (Version 1)" Dated 18th January 2023.

15) No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a

'Further Licence'), confirming that all necessary measures regarding Great Crested Newt (GCN) compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence.

16) No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence') and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.

- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

- Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.

17) No development approved by this permission shall commence until a landfill gas investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. Where a risk from gas is identified, appropriate works to mitigate the effects of gas shall be incorporated in detailed plans to be approved by the Local Planning Authority.

18) No development of the superstructure shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

19) No development of the superstructure shall take place until details showing the finished floor levels of the buildings hereby approved in relation to a fixed datum point outside the development site, have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

20) No dwelling hereby permitted shall be occupied until the existing accesses to the site are closed and the footways/verges are reinstated in accordance with details which have been submitted to and approved in writing by the Local Planning Authority; the reinstatement shall be retained thereafter.

21) No dwelling shall be occupied until the means of vehicular and pedestrian access to that dwelling have been constructed in accordance with the approved plans.

22) No dwelling shall be occupied until details have been submitted to and approved in writing by the Local Planning Authority for a means of access for pedestrians between the southern footway of London Road and a point west of plot 6 and south-east of plot 7 shown on the approved plans. The footway shall

be implemented in accordance with the approved plans, prior to the occupation of the first dwelling.

- 23) No dwelling shall be occupied until the associated vehicle parking and turning space has been surfaced and marked out in accordance with the approved drawing. The spaces, including the 6.0 metres within garages, shall thereafter be kept available for parking at all times and the turning areas kept available for turning at all times. There shall be at least 6.0 metres between any garage door (when shut) and the highway boundary.
- 24) No dwelling shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for covered and secure cycle parking facilities with one secure, covered, cycle space provided per bedroom within each dwelling and access for cycles between the storage location and the road network within the development. No dwelling shall be occupied until the approved scheme for that dwelling has been implemented. The facilities shall be thereafter retained.
- 25) The dwellings hereby approved shall not be occupied until the following information relating to the visitor parking spaces has been submitted to and approved in writing by the Local Planning Authority:
- (a) details of how the visitor parking spaces will be managed to ensure public access is maintained for visitors, and
 - (b) details of the signing for the spaces
- The car parking spaces shall be provided, managed, and signed in accordance with the approved details and the spaces and signage shall thereafter be retained.
- 26) No gates shall be provided on any vehicular route within the development nor at the vehicular access to the site from Swinley Road.
- 27) The development hereby approved shall not be occupied until the noise mitigation measures as set out in the Noise Impact Assessment (Syntegra Consulting Ltd, January 2022, Ref: 21-8873 Rev C), submitted with the application, are implemented. The noise mitigation measures shall be retained and maintained thereafter.
- 28) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any Order revoking and re-enacting that order, no external lighting shall be installed on the site or affixed to any buildings on the site except in accordance with details set out in a lighting design strategy for biodiversity that has first been submitted to and approved in writing by the Local Planning Authority. The strategy shall:
- a) identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- 29) All trees, hedges and scrub, and all buildings, are to be cleared / removed outside the bird-nesting season (15 March - 31 August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.
- 30) Prior to the commencement of the development hereby approved, a specification (including methodology and programme of implementation) for the enhancement of biodiversity through the provision of features including integrated bat and bird boxes/ bricks/ tiles (a minimum of three such features per house), holes at ground level in boundary walls and fences for hedgehogs to pass through, and wildlife friendly landscaping (to accord with any approved or pending landscaping plans), shall be submitted to and approved in writing by the Local Planning Authority. The works so approved, shall be carried out in accordance with the approved programme of implementation and shall be completed before the first dwelling is occupied.
- 31) No development shall take place until full details of the Drainage Systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:

Full details of all components of the proposed drainage system including dimensions, locations, gradients, invert and cover levels, headwall details, planting (if necessary) and drawings as appropriate taking into account the groundwater table.

The proposal shall be implemented in accordance with the approved details and thereafter retained.
- 32) No dwelling hereby permitted shall be occupied until details of how the surface water drainage shall be maintained and managed after completion have been submitted to and approved in writing by the Local Planning Authority. The details shall include confirmation of the required maintenance activities with expected frequency, with site specific assessments included to demonstrate that health and safety has been fully considered in the design and that access and egress for future residents will be maintained during any operations to repair or replace drainage features.

- 33) No building or use hereby permitted shall be occupied or the use commenced until the sustainable urban drainage scheme for this site has been completed in accordance with the submitted details. The sustainable urban drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan. Written confirmation of agreements for the management and maintenance of the drainage scheme shall be submitted and approved by the local planning authority.
- 34) Notwithstanding the submitted details no dwelling hereby permitted shall be occupied until hard and soft landscaping works have been completed in full accordance with a Landscape and Ecological Management Plan (LEMP) that follows the principles detailed on the CSA/5790/105 Rev. J (Landscape Strategy) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:-
- a) comprehensive planting plans of an appropriate scale and level of detail that provides adequate clarity including details of ground preparation and all other operations associated with plant and grass establishment, full schedules of plants, noting species, and detailed plant sizes/root stock specifications, planting layout, proposed numbers/densities locations; and
 - b) details of semi mature tree planting; and
 - c) comprehensive 5 year post planting maintenance schedule; and
 - d) underground service and external lighting layout (drainage, power, communications cables, pipelines etc. indicating lines, manholes etc.), both existing reused and proposed new routes; and
 - e) means of enclosure (walls and fences etc); and
 - f) paving including open spaces, paths, steps and ramps, patios, cycle routes, driveways, parking courts, etc. with details of proposed materials and construction methods; and
 - g) recycling/refuse or other storage units; and
 - h) other landscape features (water features, seating, trellis and pergolas etc).

Should the development be phased, a LEMP for each phase shall be submitted which, in addition to those items listed above, shall include details of the landscaping to be provided within that phase, including structural landscaping and landscaping for communal areas. No dwelling shall be occupied within a Phase until all the structural and communal landscaping for that phase has been completed in addition to the landscaping associated with that dwelling.

All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved LEMP. As a minimum, the quality of all soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well-formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision."

Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the next planting

season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.

- 35) The development hereby permitted shall be implemented in accordance with the submitted Sustainability and Energy Statement, (bluesky unlimited) dated 16th November 2022, which amongst other things details energy efficiency and renewable energy sources to be incorporated in each house, water management and efficiency measures to be incorporated into the development, and materials and waste commitments and targets. Thereafter the buildings constructed by the carrying out of the development shall be operated in accordance with the measures within the Sustainability and Energy Statement.
- 36) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification) no enlargement, addition, improvement or other alteration permitted by Classes A, B, C, E, and F, of Part 1 of the Second Schedule of the 2015 Order shall be carried out.
- 37) All driveways shall have a maximum slope of 1 in 12 with a maximum side to side crossfall of 1 in 40. Pedestrian accesses between dwellings and the adjacent footway or shared surface shall be compliant with the Designing for Accessibility in Bracknell Forest SPD.
- 38) The development shall not be occupied until details of a scheme of walls, fences and any other means of enclosure has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the occupation of any of the buildings approved in this permission. Any hard boundaries shall include holes to enable wildlife to traverse the site.



Costs Decision

Site visit made on 10 October 2023

by **M Russell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

**Costs application in relation to Appeal Ref: APP/R0335/W/23/3321229
Westwood House, Swinley Road, Ascot SL5 8BA
Easting (x) 489926 Northing (y) 168826**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Nicholas King Homes for a full award of costs against Bracknell Forest Borough Council.
 - The appeal was against a refusal to grant planning permission for development described as 'residential development comprising the demolition of two existing dwellings and the erection of 20 new dwellings with associated parking, landscaping and access works'.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where development is prevented or delayed where it should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material considerations; where vague, generalised or inaccurate assertions are made about a proposal's impact which are unsupported by any objective analysis and where similar cases are not determined in a consistent manner.
4. There is agreement between the parties that the site constitutes previously developed land. The neighbouring site known as Brompton Gardens was previously granted planning permission for residential development also at a time when the Council could not demonstrate a five-year supply of deliverable housing land. Even so, it does not automatically follow that planning permission should be granted on the appeal site.
5. The Council was required to consider the proposal on the basis of the current situation, having regard to existing development in the area, the design of the proposal and the site-specific location of the site with boundaries to both London Road and Swinley Road. Furthermore, the Council would have been mindful of the previous appeal decision on the site. Therefore, the

material considerations were not identical to the neighbouring site. While I have reached a different conclusion to the Council on the effect of the proposal on the character and appearance of the area, the Council was entitled to reach its own conclusions on what is a subjective matter.

6. Whilst informal advice was during the consideration of the application and it was confirmed that design changes made were an improvement to the proposed scheme, ultimately the processes of the Council required final sign off taking all material considerations into account and the Council set out its reasoning within its delegated report. The report also acknowledged that the Council was unable to demonstrate a 5-year housing land supply and a tilted balance was applied in line with Paragraph 11d of the National Planning Policy Framework (the Framework). In these particular respects, the Council did not act unreasonably.
7. However, while the Framework allows Local Planning Authorities to give weight to relevant policies in emerging plans, the Council did not rely on any specific emerging policies in its decision. Rather it suggested that the emerging Local Plan (eLP) demonstrated it was moving towards being able to demonstrate a 5-year housing land supply. As it stands, the evidence before me suggests that the main modifications have not been completed or consulted upon and the eLP has therefore progressed no further towards adoption since the Council's decision. I therefore find that the Council's reliance on the eLP addressing the housing land supply shortage was premature.
8. The appellant considers some of the Council's arguments to be contradictory. Whether or not that be the case, the Council reached an overall finding that there would be significant and demonstrable harms arising from the spread of the development, the impact on the character of the site and erosion of the areas function as a gap between the nearest settlements. It also found that the contribution of 18 dwellings over the existing situation, including 5 affordable dwellings, carried significant weight. With these factors in mind, it is not clear that the Council's balancing exercise would have concluded in favour of the development and that an appeal would have been avoided had the eLP not formed part of its considerations on housing land supply.
9. For the reasons set out, unreasonable behaviour which has caused unnecessary expense has not clearly been demonstrated in this instance. The application for costs is therefore refused.

M Russell

INSPECTOR