Ministry of Housing, Communities & Local Government

Our ref: APP/X0360/W/24/3354607
Your ref: 233038

Mr Douglas Bond
The Mitfords, Basingstoke Road
Three Mile Cross
Reading
RG7 1AT

22 September 2025

Dear Douglas Bond,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY WATES DEVELOPMENTS LTD
LAND EAST OF HAYES DRIVE AND NORTH OF CHURCH LANE, THREE MILE CROSS, READING, BERKSHIRE
APPLICATION REF: 233038
This decision was made by the Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State

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1. I am directed by the Secretary of State to say that consideration has been given to the report of Siobhan Watson BA(Hons) MCD MRTPI, who held a public local inquiry between 25 February and 11 March 2025 into your client's appeal against the decision of Wokingham Borough Council to refuse your client's application for outline application for the proposed erection of up to 148 dwellings together with associated infrastructure including public open space, with access only to be considered, in accordance with application Ref. 233038, dated 5 December 2023.

2. On 20 February 2025, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed, and planning permission refused.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to dismiss the appeal and refuse planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing Communities & Local Government Email: PCC@communities.gov.uk
Laura Webster, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR5.1, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Procedural matters

6. Planning Practice Guidance (PPG) on flood risk matters was updated on 17 September 2025. Revised paragraph 27 states where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.

7. The Secretary of State considers the proposed development meets these criteria, and the sequential flood test need not be applied. However, given a flood sequential test for the proposed development was submitted and passed, and taking into account his conclusions at paragraphs 18 and 31 of this letter, the Secretary of State considers the proposal is acceptable in flood risk terms regardless of whether the application of the sequential test is required.

8. Therefore, the Secretary of State does not conside the revised guidance raises any matters that would require him to refer back to the parties for further representations prior to reaching him decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

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Matters arising since the close of the inquiry

9. A list of representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect him decision, and no new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

10. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

11. In this case the development plan consists of the Wokingham Borough Core Strategy (CS) (adopted January 2010), the Wokingham Borough Managing Development Delivery Local Plan (MDD) (adopted February 2014), the Shinfield Parish Neighbourhood Plan (SNP) (made January 2017), the Central and Eastern Berkshire Minerals and Waste Plan (adopted January 2023), and Saved Policy NRM6: Thames Basin Heaths Special Protection Area of the South East Plan Regional Spatial Strategy for the South East (saved February 2013).

12. The Secretary of State considers that relevant development plan policies include those set out at IR6.4-6.23.

13. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance (the Guidance), as well as other documents including:

- Land South of the M4 Strategic Development Location Supplementary Planning Document (Adopted October 2011) (IR6.24);
- Wokingham Borough Landscape Character Assessment (November 2019);
- The Radiation (Emergency Preparedness and Public Information) Regulations 2019.

Emerging plan

14. The emerging plan comprises The Wokingham Borough Local Plan Update 2023-2040. The Wokingham Borough Local Plan Update 2023-2040: Proposed Submission Plan was submitted for examination on 28 February 2025. The Secretary of State considers that the emerging policies of most relevance to this case includes Policy SS7 (IR6.25).

15. Paragraph 49 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Having regard to the stage of preparation, the Secretary of State agrees with parties that the policies in the emerging Local Plan should be given limited weight (IR7.1), and has proceeded on that basis.

Main issues

The effect of the development upon the character and appearance of the countryside.

16. For the reasons given at IR15.1-15.10, the Secretary of State agrees with the Inspector that whilst key landscape features would be retained and enhanced, their context would be dramatically altered by replacing open fields with a housing estate, that the hedges would appear as being submerged in ditches which would detract from their current visual value (IR15.4), and that attractive countryside landscape would be lost (IR15.8). He agrees with the Inspector at IR15.1 that the settlement boundary is out of date, and therefore considers that the relevant policies do not carry full weight. He further agrees that the settlements of Three Mile Cross, Reading and Shinfield would remain separate and there would be no conflict with point 5 of CS Policy CP19 in terms of coalescence (IR15.6).

17. Overall, the Secretary of State agrees with the Inspector at IR15.10 that the proposed development would harm the character and appearance of the countryside, and that this harm attracts significant weight. He further agrees that it would conflict with CS Policies CP1, CP3 and CP11, and MDD Policies CC02, CC03 and TB21.

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The effect upon surface drainage

18. For the reasons given at IR15.12-15.18, the Secretary of State agrees that given the drainage difficulties of the site, a pumped solution is acceptable; that the appellant has demonstrated that the site can be drained satisfactorily; and that there is no other viable option at present (IR15.17). He further agrees that the proposal would not have an adverse effect upon surface water drainage and would not conflict with MDD Policy CC10, SNP Policy 8, or paragraph 182 of the Framework.

The safety and wellbeing of future residents of the proposed development, and the wider public, with regard to the proximity of the Atomic Weapons Establishment (AWE) site at Burghfield (AWE(B))

19. For the reasons given at IR15.19-15.58, the Secretary of State agrees that the likelihood of a radiation emergency is very low (IR15.26), but even though the potential radiation dose is unlikely to be physically harmful, people might be anxious and worried about being exposed to radiation, and getting caught up in a nuclear emergency could have a negative impact on people's mental health (IR15.32).

20. The Secretary of State agrees that the demand on Blue Light services and other public services would be greater than usual in the event of a nuclear incident, that additional population adds to demand (IR15.36) and that whilst not every single aspect of the Off-Site Emergency Plan (OSEP) is affected by population changes, it cannot be said that the whole of the OSEP is not affected by population changes (IR15.47). He further agrees at IR15.39 that it cannot be assumed that everyone on the site would have enough food and provisions in their home to last up to 48 hours of sheltering, and that people who are not normally particularly vulnerable can become much more vulnerable if they do not have what they need. He agrees that this would put pressure on support agencies or it could result in people suffering if they do not get the necessary support (IR15.39), and further agrees that activating the OSEP would also divert other public resources (IR15.43).

21. The Secretary of State has taken into account the appellant's comments that there is no evidence that Blue Light services would not cope with the additional demand, but agrees with the Inspector that the appellant has not provided substantive quantitative evidence that the Blue Light services would cope with demand without other duties being affected (IR15.36). He shares the Inspector's lack of confidence that people in non-contaminated parts of the Detailed Emergency Planning Zone (DEPZ) would be released as quickly as the appellant suggests (IR15.41). He has also taken into account the appellant's offer to provide monitoring stations on the appeal site but agrees with the Inspector that the proposed condition would not meet the relevant tests (IR15.44). He further agrees that it is the circumstances today that must be taken into account (IR15.48), and that it is not for this appeal to judge whether or not the OSEP has incorporated an unnecessary amount of population (IR15.50).

22. Like the Inspector, the Secretary of State gives great weight to the evidence of the ONR's witnesses and to the ONR Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPIR) witness's professional view that he had no confidence that the OSEP is adequate (IR15.53). He agrees that the OSEP is already under significant pressure, and that the appeal Scheme, cumulative with approximately 301 consented but

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unbuilt units to come forward in the DEPZ (IR15.54), would unacceptably add to the existing pressure (IR15.54).

23. Overall, the Secretary of State agrees at IR15.55 that although there is a tiny chance of an accident occurring, the consequences would be significant throughout the DEPZ as a whole; that the radiation dose at the appeal site is highly unlikely to cause physical harm but there could well be psychological harm; and there may also be harm resulting from the shelter period; and that there would be many resources required in an emergency which would be diverted from elsewhere and there would undoubtedly be strain on Blue Light and other public services. Like the Inspector, he concludes that the appeal proposal would cause an unacceptable risk of harm to the safety and wellbeing of future residents of the proposed development, and the wider public (IR15.58, IR15.67). He considers that this carries substantial weight against the proposal.

The future capability and capacity of AWE(B) to operate effectively

24. The Secretary of State has taken into account that the nuclear deterrent is critical to UK defence policy, and that AWE(B) is essential for the delivery of Continuous at Sea Defence (CASD) which has been a cornerstone of the defence of the UK for over 6 decades. He agrees that the current global security landscape is reinforcing the criticality of that capability. For the reasons given at IR15.59-15.65, the Secretary of State agrees at IR15.59 that If the ONR were to declare the OSEP inadequate, then AWE(B) would not be able to operate, and that the consequences of AWE(B) not being able to operate would be very serious in terms of national security.

25. He notes that while an exemption from the REPPIR is a possibility, the evidence before him is that there is no history of an exemption being used for sites such as AWE, such exemptions are only normally applied at times of extreme national emergency, and an exempted site would still need adequate off-site emergency planning in place (IR15.61). He agrees that an exemption should not be relied upon as a fall back (IR15.62). The Secretary of State further agrees at IR15.63 that if AWE could not operate because the OSEP had become inadequate, it would have an economic impact too, as it is a significant employer in the area.

26. The Secretary of State agrees at IR15.67 that the future capability and capacity of AWE(B) to operate effectively would be at an unacceptable risk. Given its critical importance for national security, he considers that this carries very substantial weight. He further agrees that the proposal would be contrary to MDD Policy TB04 and paragraphs 102(b) and 200 of the Framework (IR15.67).

Other matters

27. For the reasons given at IR15.69-15.72, the Secretary of State agrees at IR15.72 that the appeal site makes a positive contribution to the significance of the Grade II Listed Building known as The Thatch; that the development of these fields would cause some harm to the setting of the building; and that the overall harm to the significance of the asset would be less than substantial and at the lower end of the scale of less than substantial harm. He therefore considers that the proposal conflicts with MDD Policy TB24. In line with paragraph 212 of the Framework, he considers the harm to this designated heritage asset carries great weight.

28. In line with the heritage balance set out at paragraph 215 of the Framework, the Secretary of State has considered whether the identified ‘less than substantial’ harm to

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the significance of the designated heritage asset is outweighed by the public benefits of the proposal. Taking into account the public benefits of the proposal as identified in this decision letter, overall he considers that the public benefits of the appeal scheme are collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of the Grade II Listed Building. He considers that the balancing exercise under paragraph 215 of the Framework is therefore favourable to the proposal.

29. The Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 and for the reasons set out at IR15.73 and Annex E of the IR, he agrees with the Inspector that he is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. That site is the Thames Basin Heaths Special Protection Area. The Secretary of State agrees with the assessment and findings in Annex E of the IR. He therefore adopts Annex E as the necessary Appropriate Assessment in his role as the Competent Authority on this matter, and agrees that there would be no adverse effect on the integrity of the designated sites.

30. For the reasons given at IR15.74-15.77, the Secretary of State agrees that the presumption in favour of sustainable development is triggered (IR15.74). He further agrees that in the circumstances of this case, including the Council's housing land supply of 1.7 years, the addition of 148 homes to the supply of housing carries very significant weight. He further agrees at IR15.77 that given the serious problem of affordability in the area and a persistent unmet need for affordable housing, the proposed affordable housing carries very significant weight.

31. The Secretary of State agrees at IR15.78 that whilst the housing would be in a sustainable location in respect of being close to local amenities and employment, a sustainable location is an expectation of the planning system and so carries neutral weight. He further agrees at IR15.79 that the preservation of trees and hedgerows carries neutral weight as removing them would be harmful; that their long-term management, including the removal of waterlogging (which is bad for them) carries a small amount of weight; and that the surface water drainage of the site would, to some extent, help to reduce the risk of flooding elsewhere and that this carries a small amount of weight.

32. The Secretary of State agrees at IR15.80 that the provision of Public Open Space carries a small amount of weight, and agrees at IR15.81 that 20% Biodiversity Net Gain (BNG) carries a small amount of weight. He further agrees at IR15.82 that the combined sustainability improvements, comprising new and upgraded cycleways, footways and crossing points, and a financial contribution to bus provision, carry a very small amount of weight.

33. The Secretary of State agrees at IR15.83 that there would be economic benefits to the proposal in terms of employment during the construction period and has taken into account that a planning obligation encourages the use of local labour. He agrees that the economic benefits carry a small amount of weight, and has included the expenditure of future residents in local shops and businesses (IR15.84) within this weighting.

34. The Secretary of State agrees with the Inspector's conclusions at IR15.85-87.

Planning conditions

35. The Secretary of State has had regard to the Inspector's analysis at IR14.1-14.7, the recommended conditions set out at the end of the IR and the reasons for them, and to

national policy in paragraph 57 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

36. The Secretary of State has had regard to the Inspector's analysis at IR14.8-14.11, the planning obligation dated 31 March 2025, paragraph 58 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR14.8-14.11, he agrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 58 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

37. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies CS CP1, CP3, CP11, and MDD CC02, CC03, TB04, TB21 and TB24, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

38. As the Council cannot demonstrate a five year supply of deliverable housing sites, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

39. Weighing in favour of the proposal is the contribution to the housing land supply and the provision of affordable housing, which each carry very significant weight; the long term management of trees and hedgerows, surface water drainage of the site, provision of Public Open Space, BNG, and economic benefits, which each carry a small amount of weight; and sustainability improvements which carry a very small amount of weight.

40. Weighing against the proposal is the unacceptable risk to the future capability and capacity of AWE(B) to operate effectively, which carries very substantial weight; the unacceptable risk of harm to the safety and wellbeing of future residents of the proposed development and the wider public, which carries substantial weight; harm to the character and appearance of the countryside, which carries significant weight; and the less than substantial harm (lower end) to a Grade II listed building, which carries great weight.

41. The Secretary of State has concluded that the heritage balancing exercise under paragraph 215 of the Framework is favourable to the proposal.

42. The Secretary of State considers that there are no policies in this Framework that protect areas or assets of particular importance which provide a strong reason for refusing the

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development proposed. However, He considers that the adverse impacts of granting permission, including the unacceptable risk to the future capability and capacity of AWE(B) to operate effectively and the implications for national security, would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The presumption in favour of sustainable development therefore does not apply.

43. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.

44. The Secretary of State therefore concludes that the appeal is dismissed and planning permission refused.

Formal decision

45. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline application for the proposed erection of up to 148 dwellings together with associated infrastructure including public open space, with access only to be considered, in accordance with application Ref. 233038, dated 5 December 2023.

Right to challenge the decision

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

47. A copy of this letter has been sent to Wokingham Borough Council, the Atomic Weapons Establishment/Ministry of Defence, and the Office for Nuclear Regulation, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Laura Webster

Decision officer

This decision was made by the Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State, and signed on his behalf

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Annex A Schedule of representations

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
Shinfield Parish Council	9 May 2025, attaching letter dated 7 May 2025

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Planning Inspectorate

Report to the Secretary of State

by Siobhan Watson BA(Hons) MCD MRTPI

Inspector appointed by the Secretary of State

Date 3rd June 2025

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

Wates Developments Ltd

Land east of Hayes Drive and north of Church Lane, Three Mile Cross, Reading, Berkshire.

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Inquiry opened on 25 February 2025. Site visit on 4 March 2025.

Land east of Hayes Drive and north of Church Lane, Three Mile Cross, Reading, Berkshire

File Ref: APP/X0360/W/24/3354607

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LIST OF ABBREVIATIONS

TERM	DEFINITION/DESCRIPTION
ACOP	The Radiation (Emergency Preparedness and Public Information) Regulations 2019 Approved Code of Practice and Guidance
ALARP	As Low as Reasonably Practicable
AWE	Atomic Weapons Establishment
CASD	Continuous at Sea Defence
CD	Core Document
CS	Core Strategy
DEPZ	Detailed Emergency Planning Zone
DL	Decision Letter
DNSR	Defence Nuclear Safety Regulator
EIA	Environmental Impact Assessment
EIA Regulations	Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017
EIC	Evidence in chief
ERL	Emergency Reference Level (A guideline used in radiation protection to determine the need for protective actions, such as evacuation or sheltering, during a radiological emergency. It represents predefined levels of radiation exposure or dose at which intervention is recommended to reduce health risks to the population.)
ES	Environmental Statement
FOIA	Freedom of Information Act
HECA	Hazard Evaluation and Consequence Assessment
HLS	Housing land supply
HSE	Health & Safety Executive
LHN	Local Housing Need
MDD	Managing Development Delivery Local Plan (Wokingham Borough Council)
mSv	Millisievert
MoD	Ministry of Defence
PHE	Public Health EnglandF
PPG	National Planning Practice Guidance
Framework	National Planning Policy Framework
ONR	Office for Nuclear Regulation
OSEP	Off Site Emergency Plan
PACRAM	Procedures And Communications in the Event of a release of Radioactive Material
POS	Public Open Space
REPPIR	The Radiation (Emergency Preparedness and Public Information) Regulations

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RPA	Root Protection Area
SANG	Suitable Alternative Natural Greenspace
SCG	Strategic Coordinating Groups
SDL	Strategic Development Location
SNP	Shinfield Neighbourhood Plan
SoS	Secretary of State for Housing Communities and Local Government
SoCG	Statement of Common Ground
SPG	Supplementary Planning Guidance
SuDS	Sustainable Urban Drainage System
STAC	Scientific and Technical Advisory Cell
TBH SPA	Thames Basin Heaths Special Protection Area
UPA/UPAZ	Urgent Protective Actions
WBC	Wokingham Borough Council
WBDC	West Berkshire District Council
WBLCA	Wokingham Borough Landscape Character Assessment
XX	Cross examination

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File Ref: APP/X0360/W/24/3354607
Land east of Hayes Drive and north of Church Lane, Three Mile Cross, Reading, Berkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Wates Developments Ltd against the decision of Wokingham Borough Council.
- The application Ref is 233038.
- The development proposed is outline application for the proposed erection of up to 148 dwellings together with associated infrastructure including public open space, with access only to be considered.
- On the information available at the time of making the recovery direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the appeal: Proposals which raise important or novel issues of development control, and/or legal difficulties and Proposals against which another Government Department has raised major objections or has a major interest.

Summary of Recommendation: The appeal be dismissed.

1) PROCEDURAL MATTERS

1.1 The Inquiry was held between 25 February and 11 March 2025. I made an accompanied site visit on the morning of 4 March during which I walked over the site and viewed it from adjoining land, including from the nearby Suitable Alternative Natural Greenspace (SANG) and the "ridge" (a raised area of open land overlooking the site) and the nearby bridge over the M4 motorway.

1.2 The appeal was recovered by the Secretary of State (SoS) on 20 February 2025 by a direction made under section 79 and Paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990 on 10 January 2022. The reason for this direction is given above in the banner heading. The Ministry of Defence (MoD) has raised major objections.

1.3 On the information available at the time of making the Direction, the statements of Case and the evidence submitted to the Inquiry, the following are the matters on which the SoS needs to be informed for the purpose of his consideration of this appeal:

(i) The effect of the development upon the character and appearance of the countryside;

(ii) The effect upon surface drainage; and

(iii) (a) the safety and wellbeing of future residents of the proposed development, and the wider public, with regard to the proximity of the Atomic Weapons Establishment site at Burghfield (AWE(B)); and (b) the future capability and capacity of AWE(B) to operate effectively

1.4 The application was submitted in outline with all matters reserved except for access. A "Concept Masterplan"[1] has been submitted to indicate how the site

[1] CD19.8

might be developed. This plan is not for approval and is solely for illustrative purposes.

1.5 The Council gave 8 reasons for refusal on its decision notice[2].

1.6 The first one alleged that the site was in the countryside, outside of development limits and that it would harm the character and appearance of the area.

1.7 The second one alleged harm to trees, including veteran trees.

1.8 The third one alleged that it had not been adequately demonstrated that the proposed development could be safely accommodated having regard to the needs of Blue Light services and the emergency off-site plan (OSEP) for the Atomic Weapons Establishment (AWE) site at Burghfield, which would increase the likelihood of significant effects affecting human health.

1.9 The fourth one alleged that it had not been adequately demonstrated that it is not practicable to implement a fully Sustainable Urban Drainage System (SuDS), resulting in potential harm to the amenity of future and neighbouring residents and environmental problems.

1.10 The fifth one concerned potential effects on Skylarks and veteran trees.

1.11 The sixth one concerned a lack of planning obligations to include mitigation measures to prevent the proposed development from having an adverse effect on infrastructure and services.

1.12 The seventh one concerned a lack of a planning obligation to secure affordable housing.

1.13 The eighth one concerned a lack of a planning obligation to mitigate the proposed development having an adverse effect on the integrity of the Thames Basin Heaths SPA.

1.14 Further information has been submitted by the appellant since the application was refused. As a result, the Council is satisfied that there would be no harm to trees, including veteran trees and that there are no skylarks using the site. This has resulted in the Council withdrawing its objections in relation to Reasons for Refusal 2 and 5. A bilateral S.106 dated 31 March 2025 has been signed and this has resulted in the Council withdrawing its objections in relation to Reasons for Refusal 6, 7 and 8. I have considered comments from interested parties in respect of trees, nature conservation, infrastructure and affordable homes.

1.15 Atomic Weapons Establishment (AWE) and the MoD are jointly a Rule 6 party under The Town and Country Planning (Inquiries Procedure) (England) Rules 2000. The Officer for Nuclear Regulation is also a Rule 6 party.

1.16 The parties regularly referred to two particular previous appeal cases in their evidence. These are Hollies 1[3] and Hollies 2[4]. These cases concerned an appeal

[2] CD5.2
[3] CD9.23
[4] CD9.24

against the refusal of planning permission for 32 dwellings at a site within the DEPZ. The Hollies 1 decision was quashed and the redetermined appeal is referred to as Hollies 2.

2. THE SITE AND SURROUNDINGS

2.1 The site is 12.1 hectares and located adjacent to the settlement of Three Mile Cross. It comprises undeveloped fields with hedges marking their boundaries. Some of the trees on the site are veteran trees. There is a housing development to the west separated from the site by a narrow green buffer. There are fields to the north, east and south. The M4 motorway is a short distance to the north of the site with Reading beyond. The Thatch is a Grade II Listed Building which is a dwelling adjoining and southwest of the site on Church Lane. There is further residential, commercial and community development along Church Lane to the east of the site.

3. RELEVANT PLANNING HISTORY

3.1 There is no relevant planning history on the appeal site.

4. THE PROPOSAL

4.1 The proposal seeks outline planning permission for up to 148 dwellings together with associated infrastructure including public open space, with access only to be considered. There would be 45% affordable housing provision which equates to 67 dwellings. The scheme also proposes around 7 ha of public open space (POS).

4.2 The plans submitted for approval show the outline of the site, two vehicular accesses (a main access and an emergency access) off Church Lane; and a pedestrian connection to an existing public footpath on the eastern boundary. The plans for approval are

- Site Location Plan [5]
- Parameter Plan F18119-RFT-ZZ-DR-A-0131 P01[6]
- Proposed Site Access Arrangement 160404 -13. This is contained in Appendix F on page 250 of Technical Note No.2 [7]

5. THE ENVIRONMENTAL STATEMENT

5.1 The development qualifies as an Environmental Impact Assessment (EIA) development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (The EIA Regulations). An Environmental Statement (ES) was submitted with the outline planning application to assess the likely significant effects on the environment, in particular human health. The SoS has confirmed that the ES is satisfactory in terms of Schedule 4 of the EIA Regulations. I have no reason to disagree.

[5] CD1.26
[6] CD1.27
[7] CD3.17

6. POLICY AND GUIDANCE

Statutory Development Plan

6.1 The parties refer to a number of local planning policy documents which are listed in Section 2 of the Statement of Common Ground (SoCG).[8]

6.2 The current statutory development plan consists of Wokingham Borough Core Strategy (CS)[9]; Wokingham Borough Managing Development Delivery Local Plan (MDD)[10]; Shinfield Parish Neighbourhood Plan[11]; Central and Eastern Berkshire Minerals and Waste Plan; and Saved Policy NRM6: Thames Basin Heaths Special Protection Area of the South East Plan Regional Spatial Strategy for the South East[12]. Wokingham has also submitted the Wokingham Local Plan Update 2023-2040 (eLP) for examination.

6.3 However, there are some of particular relevance that require closer analysis.

6.4 NRM6 of the South East Regional Plan requires that new residential development which is likely to have a significant effect on the ecological integrity of Thames Basin Heaths Special Protection Area (SPA) will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. Such measures must be agreed with Natural England. Mitigation can take the place in the form of Suitable Accessible Natural Greenspace (SANG).

6.5 CS CP1 is a general policy relating to sustainable development. Amongst other matters it indicates that development should maintain or enhance the high quality of the environment; ensure the provision of adequate drainage; incorporate facilities for recycling of water and waste to help reduce per capita water consumption; avoid increasing (and where possible reduce) risks of or from all forms of flooding; be attractive, safe and functional; support opportunities for reducing the need to travel, particularly by car; and contribute towards meeting net zero.

6.6 CS CP3 contains general principles for development and indicates, amongst other matters, that development should be of an appropriate scale; has no detrimental impact upon important ecological, heritage landscape; protect fauna and flora; use the full potential of the site and contribute to the support for suitable complementary facilities and uses; contribute to a sense of place; and to provide for a Framework of open space/recreation.

6.7 CS CP4 requires appropriate arrangements for the improvement or provision of infrastructure, services, community and other facilities required for the development.

6.8 CS CP5 requires residential development to be of an appropriate housing mix, including affordable housing. In this case it is 35% affordable housing requirement.

[8] CD23.1
[9] CD6.2
[10] CD6.3
[11] CD6.4
[12] CD6.1

6.9 CS CP6 indicates that development should be in locations that minimise the distance people need to travel and that existing travel infrastructure should be improved.

6.10 CS CP8 says that development which alone or in combination is likely to have a significant effects on the Thames Basin Heaths SPA will be required to demonstrate that adequate measures to avoid and mitigate any potential adverse effects are delivered.

6.11 CS CP9 indicates that the scale of development proposals in Wokingham Borough must reflect the existing or proposed levels of facilities and services at or in the location, together with their accessibility.

6.12 CS CP11 seeks to protect the separate identity of settlements and maintain the quality of the environment. It restricts development outside of development limits.

6.13 CS CP17 relates to housing delivery and says that provision will be made for the development of at least 13,230 dwellings and associated development and infrastructure in the Borough in the period 2006-2026.

6.14 CS CP19 South of the M4 Strategic Development Location, indicates that within the areas identified South of the M4 motorway, a sustainable, well designed mixed use development will be delivered by 2026 including: Phased delivery of around 2,500 dwellings including affordable homes in accordance with policy CP5.

6.15 Policy CC01 of the MDD is a general presumption in favour of sustainable development.

6.16 MDD CC02 indicates that development is acceptable within the development limits as defined on the Policies Map.

6.17 MDD CC03 seeks to protect trees, hedges and other landscape features.

6.18 MDD CC10 requires that development incorporates a sustainable drainage system (SuDS).

6.19 MDD TB04 says that development will only be permitted where the applicant demonstrates that the increase in the number of people living, working, shopping and/or visiting the proposal (including at different times of the day) can be safely accommodated having regard to the needs of Blue Light services and the emergency off-site plan for the Atomic Weapons Establishment site at Burghfield. This applies to the location of the appeal site.

6.20 MDD TB21 seeks to protect the landscape character of the area.

6.21 Policy 1 of the Shinfield Neighbourhood Plan (SNP) supports development within the development limits.

6.22 SNP 6 seeks to protect trees, hedgerows and woodland.

6.23 SNP 8 promotes the creation of SuDS in new development.

6.24 South of the M4 SDL Supplementary Planning Document contains development guidance for development within development limits. The South the M4 SDL is concentrated on the villages of Shinfield, Spencers Wood and Three Mile Cross,

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south of the M4 near to Junction 11 and between the A33 and A327. The site is within the SPD area but outside of development limits.

6.25 Wokingham Local Plan Update 2023 – 2040 (eLP) Policy SS7 seeks to prevent development affecting the operation of AWE, does not have an unacceptable risk to human health, and will not have an adverse impact on the OSEP.

National Planning Policy Framework:

6.26 Paragraph 11D says that plans and decisions should apply a presumption in favour of sustainable development… For decision-taking this means … (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: … ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

6.27 Paragraph 102(b) says that planning policies and decisions should promote public safety and take into account wider security and defence requirements by recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

6.28 Paragraph 187 says that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including trees and woodland.

6.29 Paragraph 200 says planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

6.30 National Planning Policy Guidance (PPG) paragraph: 069 Reference ID: 39-069-20161209 provides advice about development around major hazard establishments. Amongst other matters, it says: "*Local planning authorities are well placed to judge the extent of development around major hazard establishments and major accident hazard pipelines so, when considering public safety in planning decisions and the formulation of development plan policies, they should take account of the total number of people that are present in the consultation zones around these sites, and the implications of any increase as a result of a planning decision or policy. In the case of encroachment (development getting closer to the major hazard) the risks can increase as well as the number of people. Cumulative development may not always be obvious particularly in the case of infill (buildings built to occupy space between existing buildings) and densification (replacement of single houses with multiple-occupancy properties). Such cumulative development, by whatever means, leads to a rise in population*

within the consultation zone and a proportionate increase in the consequence should a major accident occur. This can also add substantial costs for businesses that may be required to provide additional safety measures."

6.31 PPG paragraph 075 Reference ID: 39-075-20140306 relates to development around nuclear installations. Amongst other matters, it says that "*Given their statutory role in public safety, local authority emergency planners will have a key role to play in advising local planning authorities on developments around nuclear installations. Early engagement can help to address issues which may otherwise affect development proposals at a later stage*."

7. AGREED MATTERS[13]

7.1 It is agreed that the policies in the eLP should be given limited weight.

7.2 Paragraph 14 of the National Planning Policy Framework (the Framework) does not apply because the Shinfield Neighbourhood Plan is more than 5 years old.

7.3 The site is within the extent of the South of the M4 Strategic Development Location (SDL) as defined in the CS.

7.4 The site is not considered to be a valued landscape.

7.5 The site is outside of the settlement boundary and it is within the Detailed Emergency Planning Zone (DEPZ) around AWE(B). It is outside of the Urgent Protective Action (UPA) area.

7.6 Following publication of the new Framework in December 2024, the Council's annual housing requirement is now 1,336 dwellings, plus 5% buffer equals 1,402.8 dwellings which results in a 5-year requirement for 7,014 dwellings.

7.7 The Council's current 5-year housing land supply figure is 1.7 years so the tilted balance in paragraph 11(d) of the Framework is engaged.

7.8 The Site is not located near any Conservation Areas. It is not identified as falling within any Historic Parks and Gardens designation. The site does not fall within either fluvial Flood Zone 2 or 3 but does have some surface water drainage issues.

7.9 It does not fall within the 5km mitigation zone for residential development in connection with the Thames Basin Heaths SPA, rather, within the 5km – 7km zone, where retained Policy NRM6 of the South East Regional Plan prioritises development as a preference. The scheme proposes more than 50 dwellings (which is the threshold above which sites in the outer 5-7km buffer must mitigate impacts) and this would be mitigated through a financial contribution towards off-site provision of SANG.

7.10 The proposal is acceptable in respect of the proposed access and accessibility to day-to-day services by sustainable transport modes.

7.11 It is proposed to provide 45% affordable housing (67 dwellings) which is in excess of the minimum 35% affordable housing required by CS Policy CP5.

[13] Statement of Common Ground CD23.1

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7.12 Both parties agree that there would be less than substantial harm to The Thatch, which is a Grade II Listed Building adjoining the site. However, this harm was not cited as a reason for refusal.

7.13 There would be no harm to trees, including veteran trees but some small areas of hedgerow would be removed to make way for access roads.

8. THE CASE FOR WATES DEVELOPMENT

Introduction

8.1 The proposal is for homes in a highly sustainable location adjacent to Three Mile Cross, within the South of M4 SDL, and within the wider Reading conurbation. The appeal Scheme would deliver a verdant, high quality development, framed by veteran and mature trees, and set within generous areas of green open space. Sixty-seven of the new homes (45% of the total, and 10% above LPA requirements) would be affordable. Sites that can deliver this are uncommon in Wokingham, which is heavily constrained in land use planning terms.

8.2 The housing strategy in Wokingham has "run out of steam"[14]. The Council can only demonstrate a 1.7 year supply, indicating that 4,693 new homes that should be delivered by March 2029 will not be. The emerging local plan (eLP), which has been in production for nearly 9 years, will not deliver the step change required, as it only proposes to meet about 56% of needs (751dpa, against an LHN of 1336dpa). This means that Wokingham will need to embark on an immediate review on adoption, in accordance with para 236 of the Framework. Further, recent Inspector decisions have recognised both the acute need for new affordable homes in Wokingham and the persistent under-delivery of affordable homes in recent years. A lack of housing, including affordable housing causes adverse health and well-being outcomes for adults and children.

8.3 The effects of the housing crisis are manifesting themselves now. They are not dependent on a 1 in 2 million years nuclear accident. The Council's shelter period, in circumstances where the worst-case consequences of the explosion in F2[1] weather conditions contaminate only 1% of the Detailed Emergency Planning Zone (DEPZ), is of an unreasonable length. The expressions of worry presented to the Inquiry by the Council and the ONR/AWE are over-pessimistic. The OSEP has a sufficient degree of flexibility to accommodate the appeal Scheme safely, in accordance with MDD Policy TB04. Opposing parties have made generalised assertions about matters which are either not sensitive to population increase (because they will occur as part of the response anyway) or which at most raise issues of inconvenience rather than safety.

8.4 The DEPZ is too big and it could be scaled back, bringing its boundaries closer to the UPA circle. Evidence at the Inquiry has established that the DEPZ was fixed in early 2020 with neither West Berkshire Council nor the ONR aware of (a) the 3,300 or so consented/unbuilt units in the DEPZ at that time (90+% of which have

[14] CD9.5, DL116

now been built out, with the rest expected to follow shortly), nor (b) the fact that over 50% of DEPZ residents live outside the UPA and so in a location where protective action such as shelter is advised against by the Government/PHE (now UKHSA). There would not be practical implementation problems for the OSEP as a result of this development if the DEPZ were scaled back.

8.5 In order to avoid a declaration of OSEP inadequacy, the DEPZ could be pre-emptively reduced to exclude a substantial population located beyond the UPA. The SoS cannot re-draw the DEPZ as part of this appeal but West Berkshire Council, the ONR and AWE could act in the future to reduce the DEPZ if they consider there to be "practical implementation issues" justifying it. Opposing parties have not claimed it would be impossible for them to act as described, nor provided any coherent reason why they would not so act in the circumstances described.

8.6 The proposal would bring several planning benefits: There would be new market and affordable homes in a highly sustainable location. Public Open Space (POS) provision would be 3 times policy requirements. Biodiversity Net Gain (BNG) has been indicated to be around 20% even though the 10% statutory condition is not applicable in this case. Veteran and mature trees on site would benefit significantly from the introduction of a management regime, and from amelioration of the waterlogging which is a risk to the longevity of these trees. There would be sustainability improvements, including, new and upgraded cycleways/footways/crossing points and a contribution to the SDL's bus strategy.

8.7 The appeal site is within the South of M4 SDL, so the proposal accords with the development plan's locational strategy overall but even if that were not so, not according with certain development plan policies should carry little weight where those policies are intended to protect settlement limits which are out of date given the lack of a 5-year housing land supply. The appeal site is agreed not to comprise "valued landscape", and no landscape designation applies to it. Given the substantial vegetation and areas retained as undeveloped, on and around the appeal site, even when seen from the ridge to the south, visual effects would be modest and local. There would be no sense of coalescence with Reading (which is beyond the M4 and various wooded areas), nor with Shinfield (which remains some distance away, with little intervisibility, and up the hill/round the corner when travelling east along Church Lane). There is no evidence the site incorporates a medieval field pattern, and the key landscape features of the site would be retained. The appeal Scheme would appear as a continuation of the adjacent Orchard Rise scheme and would be a logical extension of Three Mile Cross.

Risk of Harm to residents of the appeal site

8.8 The objections from the Council and ONR are not founded on the risk of harm from a radiation emergency. ONR's land use planning Framework[15] focusses on

[15] CD13.35

the impact of development on the OSEP and whether development would be a hazard to the nuclear facility.

8.9 The individual risk at the site is assessed as 1000 times below the recognized boundaries of acceptability. The individual risk of a radiation/emergency at the appeal site is a 1 in 1,000,000,000 year risk. The OSEP reduces that risk further by averting the dose by 40% by taking shelter.[16] The risk is so small that it is not material in the planning balance.

8.10 The UPA has recently been significantly expanded based on a precautionary assessment of the consequences of an explosion in a hot cell leading to a release of plutonium oxide particles in an airborne plume with F2 weather[17]. No evidence of any other radiological event at AWE has been put before the Inquiry. This event would result in alpha contamination. It is not the same as the release from a nuclear reactor or nuclear bomb detonation which would be gamma radiation. Alpha and gamma should not be mixed up.

8.11 This distinction has not been recognised by West Berkshire or Wokingham Councils nor the UKHSA. AWE agreed in cross examination (XX) and it is accepted in a key ONR paper[18] that radiation doses at the appeal site, following the passage of the initial plume, would not be of radiological significance. This means that there would be no need to evacuate people living on the appeal site.

8.12 It is agreed by the appellant and AWE that the significant bulk (95-99%) of the contamination would escape as the peak release in the initial explosion and would be carried downwind. The initial plume would be a “long thin” cigar shape in F2 conditions, or a “fatter shorter” cigar shape in average D5 weather, as agreed by AWE. Representations of what this means are shown in the appellant’s emergency planning proof Annex 1[19], and were not challenged by any party at the Inquiry. Either way, only about 1% of the DEPZ would be contaminated.

8.13 AWE and the Council agreed in the Inquiry that a contaminated plume which headed over Reading Stadium which has a current capacity of 24,000 with permission to expand to 36,000, would not contaminate the appeal site.

8.14 It is agreed between the appellant, AWE and ONR[20] that resuspension doses following the initial plume are very low and not above normal background levels.

8.15 AWE’s Hazard Evaluation and Consequence Assessment (HECA) is not available to the Inquiry on national security grounds. However, the HECA was subject to considerable internal scrutiny, and the ONR was furnished with the draft document and provided with the opportunity to comment too. AWE confirmed to the Inquiry that the HECA was prepared on a best estimate basis, and using precautionary F2

[16] avertable dose means the dose to be saved by a protective action; that is, the difference between the dose to be expected with the protective action and that to be expected without it.
[17] F2 weather is cold still weather (most often occurring on a winter’s night).
[18] CD13.13 p6-7
[19] CD19.14
[20] CD13.13 p6-7

weather, such that the final HECA adhered to the requirement in The Radiation (Emergency Preparedness and Public Information) Regulations 2019 Approved Code of Practice and Guidance (ACOP)[21] to be prepared "on a suitably conservative and consistent basis". The appeal should proceed on the basis that AWE's HECA was prepared with a full understanding of the "batch process" operated by AWE which strictly limits the amount of Plutonium that might be in proximity to high explosives.

8.16 Although the DEPZ has been recently expanded, the risk has not changed. Expansion of the DEPZ under REPPIR 19 reflects a more precautionary approach to the area where advance emergency planning should be in place, to cater for the additional consequences of less likely (ie, here, Category F2 weather) circumstances.

8.17 Even AWE accept that the current, unaltered risk is "tolerable" and "very low" for the surrounding population[22] (AWE's Hollies 1 proof and rebuttal[23]; and proof for this appeal[24]). This would not change if the appeal Scheme were built out. A "tolerable" risk is defined by the Health and Safety Executive (HSE) as one where there is "a willingness by society as a whole to live with a risk so as to secure certain benefits in the confidence that the risk is one that is worth taking and that it is being properly controlled"[25]. The Hollies 2 Inspector agreed:[26].

8.18 The chance of the accident occurring is assessed at 1 in 10,000 years by the appellant and AWE accepted that this was reasonable.

8.19 AWE agreed in XX that Category F2 conditions with the wind blowing towards the appeal site occur at around 0.5% of the time. In other words, only 1 in 200 explosions at AWE(B) would have material radiological consequences for the appeal site.

8.20 Putting together accident frequency and the chances of Category F2 weather blowing towards the site, the chances of such an accident affecting the site are 1 in 2,000,000 years. This calculation was agreed as "reasonable" by AWE.

8.21 AWE agreed that F2 conditions typically occur on cold clear nights with slight winds which produce very little turbulence in the atmosphere so there would be very little spreading of radiation. Windows and doors at the appeal site would be likely to be closed during such winter-time conditions.

8.22 The prospects of Category F2 conditions in the direction of the open air Reading FC stadium are multiple times higher. There has been no suggestion from any party that AWE should limit its operations to avoid relevant activities when the stadium is full. AWE does not self-impose restrictions during matches or concerts

[21] CD13.3 §142
[22] AWE's 1st Hollies proof, §10.5 [CD24.9]
[23] CD24.9 and CD24.11
[24] CD21.2, §9.4, §9.5
[25] CD13.28, para 12 (p8)
[26] see CD9.24 at DL25

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at the stadium, nor has the ONR imposed such restrictions. On this basis alone, it is hard to follow the suggestion that around 350 new residents (or about 1.4% of the current capacity of Reading Stadium) would threaten the adequacy of the OSEP or risks causing disruption to, let alone cessation of, activities at AWE(B). A similar point applies in relation to the total population of the DEPZ, which is currently 23,256, rising to around 24,000. The appeal Scheme would bring only around a 1.4% increase.

Radiation Dose

8.23 AWE agreed that a reasonable surrogate for the dose caused by an explosion in Category F2 conditions scenario is 6.4mSv. Such a dose assumes that the person stays outside and does not take shelter from the plume.

8.24 Since the late 20th century, the "standard" assumption has been that taking shelter would reduce the dose by 40%. On the appeal site, that would reduce the assumed dose to 3.8mSv. However, construction has moved on and AWE agreed that it was probable that modern house construction would deliver materially in excess of a 40% dose reduction.

8.25 While steps must be taken on a precautionary basis to avoid even "minor" doses such as 3.8mSv (or below), a proportionate approach to planning decision-making requires a balanced appraisal of what such doses mean. In this regard:

8.26 An IAEA publication in 2012[27] states: "*At doses below 100 mSv there would not be any detectable cancers or other severe health effects even to the foetus. The termination of a pregnancy at foetal doses of less than 100 mSv is NOT justified based upon the radiation risk. An increase in the cancer rate has not been detected in any group of people who received a whole-body dose from external exposure below about 100 mSv*". AWE confirmed in that there has been no subsequent recalibration in respect of this conclusion by the IAEA. The IAEA's position is confirmed by a recently published peer-reviewed paper by Callen-Kovtunova[28] which concluded that no discernible increase in cancer rates would be found for 1000 people exposed to whole-body doses of 50mSv.

8.27 Further, there was no material evidence before the Inquiry which places in serious question that the one-off doses likely to be received at the appeal site in an F2 explosion are comparable to those met in everyday life.

8.28 The average naturally occurring annual dose in the UK is 2.7mSv (6.2mSv for those living in the USA[29]), with the figure at 6.9mSv – 8 mSv for those living in Cornwall[30]. Accordingly, a dose of 3.8mSv (ignoring the possibility that modern houses would deliver more than a 40% dose reduction) equates to the difference

[27] CD13.11, p36
[28] CD13.38
[29] CD13.9, p3
[30] as the Kingfisher Grove Inspector noted: see CD9.2, DL18

between living at an UK average location and living in Cornwall / the USA for a year.

Wellbeing

8.29 Accurate and well-informed public announcements which properly explain the actual risk level are fundamental, as the OSEP recognizes[31]. These will go a very long way to providing the necessary reassurance to people. Appropriate assurances would assuage concerns of residents, in light of the "minor" potential doses involved. Since there would be no need in radiological terms (per AWE's consistent evidence) for any form of evacuation / relocation for the appeal Scheme residents, there would be no compelling reasons to impose recovery stage actions on them.

8.30 Those who choose to live (and work) in the vicinity of the AWE sites do so in the knowledge of the proximity of those facilities, and the remote risk of a radiation emergency, not least because of the reassuring leaflets circulated by West Berkshire Council (as required by REPPIR[32]).

8.31 Anyone newly moving to the area would do their research first, and can be expected to make such a decision in full knowledge of the AWE sites. Thus, those who choose to live and remain in the DEPZ accept the remote risk of a radiation emergency. An example of public acceptance of the very low risk of living in proximity to AWE(B) is the evidence of a Freedom of Information Act (FOIA) response from the Council indicating that 547 households (around 45% of those on the Wokingham Housing Register) would be happy to accept a new home in Three Mile Cross as would 581 households in relation to Spencers Wood, notwithstanding that both have been fully enveloped by the extended DEPZ.[33]

Individual Risk

8.32 Our emergency planning proof of evidence[34] assesses the risk of harm to a resident of the appeal site at 1 in 1,000,000,000 years. The AWE nuclear witness did not dispute any of these inputs as a reasonable basis for assessing individual risk in relation to the accident which drives delineation of the UPA/DEPZ.

8.33 The significance of such an individual risk level can be assessed in the context of HSE's advice[35]: "[130] *HSE believes that an individual risk of death of one in a million per annum for both workers and the public corresponds to a very low level of risk and should be used as a guideline for the boundary between the broadly acceptable and tolerable regions. …* [138] *Thus in the case of most housing developments, for example, HSE advises against granting planning permission for any significant development where individual risk of death for the hypothetical person is more than 10 in a million per year, and does not advise against granting*

[31] CD13.5, §5.6
[32] CD13.41
[33] CD25.23
[34] at para 180 [CD19.14]
[35] CD13.28, para 130, para 138, pdf p53, p56

planning permission on safety grounds for developments where such individual risk is less than 1 in a million per year". Our emergency planning witness's assessment places individual risk 1000 times below the identified threshold. None of these matters (including the relevance of the HSE's assessment) were disputed by AWE. A comparable analysis was accepted by the Hollies 2 Inspector, who observed[36] that the risk at a site over 1 km closer to the centre of the UPA was "*considerably below the threshold identified by the HSE for refusing planning permission on safety grounds*".

8.34 In summary, and contrary to AWE's contentions, the level of risk to those living at the appeal site provides no justification for refusing this appeal. Any other conclusion would be unjustified in light of the analysis summarised above. Such a conclusion is also consistent with the facts that ONR and AWE view the residual risk to the 7000+ full time equivalent employees on the AWE sites (which includes risk of death to some employees from the explosion scenario as well as from criticality events) as within acceptable ranges.

The Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPIR 19)

8.35 REPPIR 19 are emergency planning regulations and not land use planning regulations. The Crest Nicholson judgment[37] is clear. Thornton J summarising said: "*The purpose of the DEPZ is to set a zone around a site where it is proportionate to pre-define 'protective actions' which can be implemented for public safety in the event of a radiation emergency*."

8.36 REPPIR 19 says nothing about what might be described as "planning balance" considerations. It is not a land use planning regime. Thus, REPPIR 19 has nothing to say about issues such as (i) the remoteness of an accident (the UPA-defining accident or any other) affecting the appeal site, (ii) the remoteness of harm befalling a resident of the appeal site, or (iii) the wider benefits of the appeal Scheme. Similarly, and as confirmed by the ONR's REPPIR witness and reflecting ONR's published material[38], the above-listed matters of planning judgment are outside ONR's brief.

8.37 Parliament could have imposed via REPPIR 19 some sort of restriction or near-moratorium on residential or other development in the DEPZ but it has not. Nor does any other part of Government policy impose a moratorium on new development in the DEPZ. The PPG advises that the implications of development in consultation zones need to be understood but they do not impose the moratorium which is a characteristic of the Council's (West Berkshire) Emergency

[36] CD24.9, DL25
[37] at para 76 CD8.11
[38] CD13.35

Planning witness's approach, that sees West Berkshire refusing 1-unit schemes in the DEPZ[39] says nothing explicit about restricting population.

8.38 Although, REPPIR 19 is not a land use planning regime, ONR and AWE, found their objection on REPPIR 19.

MDD Policy TB04

8.39 This requires demonstration that the appeal Scheme can be "safely accommodated" having regard to the needs of Blue Light services and the OSEP.

8.40 The Appellant considers that the appeal Scheme can be "safely accommodated" within emergency planning arrangements. It would be a 1.4% increase in the DEPZ's permanent population. They say it will have no quantifiable material impact, and so will not add any material degree of "strain" or "pressure" that is likely to imperil the effectiveness of the OSEP or the emergency response in a manner that causes "safety" issues.

8.41 Neither the Council (nor any other party) has produced capacity or quantitative analysis with a view to establishing some material impact on safety.

8.42 Many issues were raised in the Council's evidence where we consider that the appeal Scheme would have no impact. Examples included staffing the tactical control and co-ordination centres for the emergency response; the need for "assistance centres"; food restrictions; and road closures to control entry to affected or potentially affected areas. These steps would happen, and to the same extent, whether the appeal Scheme is built out or not. Similarly, other matters about which the Council was concerned would not arise, for example the impact of any self-evacuees from the site which would be nil, as any such persons would be heading east along Church Lane, and thus in the opposite direction to any emergency services heading towards AWE(B) or Three Mile Cross.

8.43 Sheltering: Almost all residents of the appeal Scheme would likely to be able to get through a 48 hour sheltering period without requiring any significant assistance from the Blue Light services. Emergency service call-outs for 148 homes over 2 days would be unquantifiably low. An AWE(B) radiation emergency would not affect power supplies to homes, nor running water. UKHSA advice is that there would be useable water in the mains supply throughout any shelter period[40], and the OSEP confirms that contamination of the water supply is not expected[41]. Even without advance warning or special arrangements, people could be expected to have food in their homes to last 2 days. Residents receive the West Berkshire leaflets[42], which expressly advise as to the possibility of sheltering for 48 hours, so enabling recipients to make advance preparations.

[39] (see eg the 132 Recreation Rd decision letter at [CD9.25]). The "Defence in Depth" approach (AWE proof [CD21.2, §9.7])
[40] see CD13.80, p11
[41] CD13.5, p39, p77
[42] CD13.41

8.44 In the event of an initial plume passing over the appeal site, it is common ground between the relevant experts on the topic (Appellant's emergency planning witness and AWE's nuclear witness) that resuspension doses following the initial plume are so low that they are within "normal background" and would not have radiological significance at the appeal site. Therefore, there is no reason why the emergency / Blue Light services would be unable to attend an emergency that did occur at the appeal site. If necessary, as a precaution, the relevant trained staff would wear the PPE and dust masks for which advance provision has been made pursuant to REPPIR reg 11(6) and as stated in the OSEP[43].

8.45 One important example of the OSEP's flexibility / headroom was provided during the Council's (West Berkshire) XX. She was asked about the reference in her written evidence to emergency responders visiting the DEPZ to encourage people to shelter[44]. She said this related to people fishing on the lakes (on the northern extremities of the DEPZ). However, unless these emergency responders were dispatched to and arrived at the lakes within 25 minutes of the explosion (which is not credible), almost all the potential benefits of sheltering would be too late for the fishermen. The Appellant's view is the fact that the OSEP makes provision for emergency responders to conduct such essentially valueless visits into the DEPZ provides demonstrable, positive assurance that there is sufficient flexibility / headroom for the appeal Scheme to be accommodated safely; as well as confirming that emergency responders (particularly the Blue Light services) would be operating in the DEPZ during any shelter period.

8.46 The appeal Scheme is not a proposal for a caravan park, nor for some other vulnerable use. Those living in on the site would all be occupying independent homes. Accordingly, the number of residents who would be "vulnerable" (in the specific sense of requiring third party assistance to get through a 2-day shelter period) would be expected to be at *de minimis* levels. Very few older and disabled persons living in their own independent C3 units would be vulnerable in the relevant sense, i.e., unable to get through a 2-day shelter period without third party help. The oral evidence of our Planning Witness was that less than 1% of the population of Wokingham is in possession of some form of care arrangement. Only a small proportion of these arrangements would involve a significant degree of care. Realistically, therefore, the appeal site would not be likely to have more than 1 or 2 such residents.

8.47 Even assuming there were a small number of vulnerable persons at the appeal site who required assistance to get through a 2-day shelter period:

8.48 The OSEP[45] confirms that plans to support the vulnerable in the community are "in place" and will be "confirmed on an individual basis depending on needs".

[43] Para 3.8 CD13.5, p37-38
[44] see Richardson App 1, p24 CD20.12
[45] CD13.5, at p42-3

8.49 If it were necessary to attend to or evacuate a vulnerable person, they could be attended to when people on the adjoining housing estate are attended to. Additional demand is not the same as additional demand that cannot be coped with. There is no evidence that Blue Light services would not cope with the additional demand. The Ambulance and fire services have not said that they would not cope. There are standing arrangements between Ambulance Trusts whereby, in the event of a significant incident, neighbouring Trusts provide necessary back-up.

8.50 There would be no increased burden on the OSEP relating to school children because local schools are all full and schools are required by OFSTED to have their own emergency plans. This includes a plan for children who cannot get home. If the explosion happened at night, children would not be in school.

8.51 Wokingham Council's witness wrote to the Blue Light services and a local NHS hospital trust just before the Inquiry[46], but the responses provide no support for the Council's concerns. The Fire Service did not respond so can be assumed to have no concerns about the appeal Scheme. The relevant Ambulance Foundation Trust and Thames Valley Police responded, but in both cases, did not say anything relating to their own resourcing capabilities. The only response provided was an email from an employee of a local NHS Trust. The response was expressly provided as the employee's personal comment and not on behalf of the relevant Trust. Further, the response (a) confirms that elective procedures would likely be suspended in the event of an AWE(B) radiation emergency. It is the appellant's case that this would happen whether the appeal Scheme is built out or not; and (b) the reference to "significant" increases in local population was agreed by the witness to be ambiguous, as it is unclear what the writer had in mind. In any event, the relevant NHS Trust is just one of many that operates hospitals in Reading and the surrounding area.

8.52 The relevant Ambulance NHS Trust is the South Central Ambulance Service NHS Trust. This Trust covers Berkshire, Buckinghamshire, Hampshire, Oxfordshire and Sussex. Its FOIA response[47] states that it "has a capability for specific staff to potentially work in an area subject to shelter advice" and that it "provides training to all staff to respond to incidents".[48] Accordingly:

- The relevant Ambulance NHS Trust's reassuring FOIA response confirms its capacity and readiness to attend emergencies during a shelter advisory.
- The relevant Ambulance NHS Trust did not object to the planning application. Nor did it seek a s106 contribution (by contrast with the NHS's request for a primary care contribution). Nor, as above, did it respond to the Council's efforts

[46] questions at CD25.24
[47] CD2.44, p2
[48] For clarification, in the UK, the ambulance service operates as a separate NHS entity from hospital trusts. This is why the relevant Ambulance NHS Trust is listed separately as part of AWE Off-Site Working Group: see OSEP p11 [CD13.5].

casting around for some evidence supporting the Council's safety / TB04 objection.

8.53 Similarly reassuring is the Fire Brigade's FOIA response, which sets out an extensive list of operational training which is undertaken to maintain preparedness to be able to respond to an "incident involving radiation":[49] The Fire Brigade likewise offered no objection to the appeal Scheme and did not seek a s106 contribution[50].

8.54 It is common knowledge that Blue Light services are required to plan for major events e.g., pandemics and terrorist attacks in an urban centre. It can fairly be inferred that such preparations go a long way to addressing a radiation emergency at AWE(B) too. Some emergency scenarios would affect significantly more members of the public than the AWE(B) explosion, with likely casualty numbers well in excess too.

8.55 In addition, Blue Light services may well need to carry out significant numbers of urgent evacuations from Tadley in the event of an explosion and contaminated plume from AWE(A)[51], given the close proximity of a substantial population to the site fence, where doses would be substantially above those assumed for the appeal site. That is not credible in the AWE(B) DEPZ, where there is only a miniscule number of properties within 1 mile of the site fence. The fact that the OSEP is adequate to address the more challenging potential requirements in Tadley provides significant confirmatory comfort that the Blue Light services are prepared for all aspects of an AWE(B) emergency such that a 1.4% increase in the permanent population could be coped with.

8.56 No emergency responder has sought a s106 contribution. Public bodies are very used to lodging such requests as part of the planning process. There is no good reason why a s106 contribution could not have been sought here, subject of course to justification of its necessity and causative link to the appeal Scheme's impact. It is hard to see how the Council could suggest that there would be a material impact on safety where no public body has made such a financial request. The Council has sought to claim that it would be difficult to calculate a s106 contribution, but this lacks substance. It is impossible to see how the exercise could be any more challenging than the process of seeking to quantify and justify contributions for other matters which are regularly sought, as listed above.

8.57 The appeal Scheme is not in some out of the way or hard to reach part of the DEPZ, but is in Three Mile Cross, a populated area where (in the event of a radiation emergency) the emergency services would need to have some sort of presence.

8.58 The Tadley (and AWE(A)) position is materially more challenging than at the appeal site, but the OSEP (which applies to both AWE(A) and AWE(B)) is

[49] CD2.42 at p1-2 (q3)
[50] see its consultation response at CD4.33
[51] see the plan at CD13.5, p124

adequate to deal with it. It is much more likely that, in the event of a plume towards Tadley, all 6 Tadley sectors (comprising around 7000 homes, about 16,800 residents) would be likely to be kept under shelter for all or much of the initial 48 hours.

8.59 Further, due to proximity, doses in some parts of Tadley would be likely to be materially higher. In addition, Tadley's c7,000 homes are well in excess of the permanent population of the Three Mile Cross and surrounding sectors. Sectors C, D and E of the AWE(B) DEPZ have, assuming all consented units are built out, 4,794 homes. Tadley has a comparable number of workplaces, more care homes and more school children than the Three Mile Cross area. Again, as the same OSEP is adequate to cater for the needs of Tadley, it is unclear why the same judgment is not applicable in relation to the area in which the appeal Scheme is located.

8.60 Finally, it can be noted that ONR's 29/11/23 letter[52] makes no mention at all of issues or improvements needed regarding emergency / Blue Light services, or arrangements relating to vulnerable persons. Blue Light response capacity is not among the matters which the regulator has identified as of concern to it. The matters listed in the first paragraph on the second page of the ONR letter do not raise or relate to material safety issues.

Scaling back shelter

8.61 The Council's position is that the whole of the DEPZ would be under shelter for 48 hours. This is not necessary. The F2 plume would only contaminate 1% of the DEPZ. Therefore, around 90%-95% of the DEPZ could be released from the shelter advisory within 2-6 hours. There is no reason why scaling back shelter should or might take "days". That may be applicable with a nuclear reactor accident, where there is a continuing uncontrolled release and groundshine issues in the contaminated areas. In this case, impacts would be more limited. Only 1% of the DEPZ would be affected, and it would be alpha radiation only. Which end of this 2-6 hour spectrum is achieved may depend on the priority this issue is given "on the day. Either way, this more realistic assumption of 2-6 hours shelter for most of the DEPZ, against 48 hours for the whole DEPZ indicates that substantial "scoped in" emergency response would thus be freed up in a relatively short period.

8.62 The evidence of AWE's nuclear witness was that the explosion scenario which drives the UPA/DEPZ involves a "peak" release with substantially all the contamination released in the initial plume. The emergency response should be scaled back as soon as practicable in the unaffected areas. Responsible scaling back of the shelter advisory would allow the vast majority of the DEPZ population to be released from it, and would allow emergency services to focus within the more limited areas where the shelter advisory stands.

8.63 There is no dispute from opposing parties that it is an important objective of the emergency response to reduce the extent of the DEPZ under a shelter advisory when this can responsibly be done. The assumption that the whole DEPZ would shelter for 2 days is overly conservative. It is a worst-case scenario. The fact that

[52] CD20.12b, App 2

the OSEP and emergency response have been scoped on this basis demonstrates that there exists flexibility to accommodate the appeal Scheme safely.

8.64 The OSEP says in substance, that decisions can be made about reducing the shelter advisory when "monitoring" has provided an appropriate level of information for a responsible decision to be made to this effect.[53]

8.65 AWE's evidence at the Inquiry confirmed that, as stated in the OSEP[54], AWE is "set up" to carry out initial monitoring involving air/ground sampling at the AWE(B) site boundary, as well as at various distances beyond. AWE's nuclear witness explained that, as soon as possible after an explosion, AWE would dispatch two teams to conduct monitoring of the air (using air sampling equipment) and ground (using Alpha Probes). She confirmed that both forms of monitoring would deliver "real-time" results as to whether Plutonium contamination was present or not.

8.66 Monitoring in this way, coupled with retrodictive modelling which the Met Office is set up to carry out 24/7 with very little notice[55] from its measuring station at the University of Reading, will enable one to know which direction the plume has gone and where it has not gone.

8.67 The OSEP contemplates that the monitoring information from AWE will (alongside the Met Office information) be used to make any necessary "urgent evacuation" decisions[56], so it is envisaged to be sufficient for decision-making on significant and important matters. As a result of this monitoring, within 2 hours, upwind and crosswind areas and those in almost all outer parts of the DEPZ could responsibly be released from the shelter advisory.

8.68 There is no good reason why decisions substantially scaling back shelter should be delayed beyond 4-6 hours post-explosion. The UKHSA paper[57] indicates that, for purposes of ALDEX23[58], by 6 hours post-explosion, it was assumed that there would be seven non-AWE monitoring teams on site (with numerous others en route, to arrive that day or the next). Four of the teams came from UKHSA Chilton, which is just 22 miles away, with two other teams from Dungeness (around 2 hours' drive away). Some of these teams would readily be able to provide whatever additional real-time confirmation was thought necessary to release the substantial parts of the DEPZ from shelter which had already demonstrated were clean.

8.69 Even allowing for an additional monitoring period by the non-AWE teams of several hours, a more realistic expectation is for significant scaling back of the shelter advisory within 4-6 hours. And while the ONR[59] carefully notes that the shelter advisory had not been removed from the whole of the DEPZ after 6.5 hours of ALDEX23, that is not the point.

[53] §6.3 CD13.5, p72
[54] CD13.5, §6.4
[55] see OSEP p224 CD13.5
[56] OSEP CD13.5, p80, 84
[57] CD22.8, p2
[58] ALDEX 23 was a simulated emergency planning exercise.
[59] CD22.2, p21

8.70 Opposing parties have also worried that there could be delays in mobilizing Strategic Coordinating Groups (SCG) and the Scientific and Technical Advisory Cell (STAC). Much of that evidence appeared to ignore the ability for virtual communication (among people who will have each-others' contact details, if even the most basic pre-planning has been done) and who, if properly trained for an AWE(B) explosion event, would be aware that the F2 plume contaminates around 1% of the DEPZ. They will be aware that the quicker 95% or more of the DEPZ is released from shelter the better.

8.71 The Inquiry has not received proper assistance or advice from UKHSA. No UKHSA witness attended the Inquiry, either to explain current thinking on the issue referenced above, nor to elucidate earlier UKHSA papers which had attracted heavy criticism at the Hollies 2 Inquiry. In particular, opposing parties placed considerable reliance on the UKHSA paper[60] (which refers to a need for "positive confirmation" upwind etc areas are uncontaminated before scaling back shelter advisories) but the author(s) of this paper have not been called to appear at the Inquiry, so it was not possible to explore numerous matters with them about the completeness or accuracy of it.

8.72 The key question is why AWE's initial monitoring, together with the Met Office Procedures and Communications in the Event of a release of Radioactive Material (PACRAM) plots do not provide the necessary positive confirmation for an initial round of substantial but responsible scaling back of the shelter advisory. Such matters would appear to constitute precisely the necessary positive confirmation" referred to.

8.73 The appellant in the Hollies redetermination appeal raised identical questions as to what UKHSA's vague reference to "positive confirmation" meant[61] but UKHSA has declined to shed any further light on it for the purposes of this Inquiry.

8.74 The next important but unanswered question relates to what the UKHSA observer commented at ALDEX 23, which, as ONR witnesses confirmed, simulated the UPA-setting explosion scenario in F2 conditions. The UKHSA observer[62] considered that "*doses were low, that no monitoring or decontamination would be required, and that people could be released from sheltering after self-decontamination*". Opposing parties have sought to suggest that these views were inconsistent with the OSEP, but they are most definitely not – this is what is apparent from the advice to STAC at p235 of the OSEP[63].

8.75 Even more telling, when AWE's nuclear witness was asked about this advice, she agreed with all material parts of it. For reasons that have not been explained, UKHSA's paper[64] does not appear consistent with the relevant observer's accurate commentary. This point too was made at the Hollies 2 Inquiry, with a senior UKHSA official in attendance, but there has been not a word of response or explanation from UKHSA in the 6 months subsequent.

[60] CD22.7
[61] see Closing Submissions at CD24.39, §27.4
[62] CD13.36, p9, 3rd para,
[63] CD13.5
[64] CD22.7

8.76 More broadly, the UKHSA paper[65] contains a series of fundamental misunderstandings and errors. For example, the comments at section 3.5 (referencing previous radiation emergencies and the need for "years" of monitoring) indicate, as the appellant's unchallenged oral evidence explained, that the author(s) have mixed up the AWE(B) scenario with the much more harmful and concerning beta/gamma contamination that would be released in a reactor accident. In addition, in section 3.1 (pp5-6), the UKHSA paper challenges the appellant's evidence that resuspension doses would be very low and essentially at normal background level shortly after the initial plume. Scepticism on these aspects of the appellant's nuclear/emergency planning witness's assessment would lead to an overly conservative approach as to what "positive confirmation" is thought to be required to lift a shelter advisory. However, it is common ground that resuspension doses would be below the normal background level following the initial plume. The UKHSA paper, and associated advice on "positive confirmation" matters, are seriously flawed. It is to be hoped that this will be recognized by ONR and UKHSA.

8.77 Overall, the relevant paper is a poor quality piece of evidence, and in the absence of an opportunity to cross examine the author(s) does not take matters forward. As stated, the criticisms of this UKHSA paper set out above were all made by the appellant in the Hollies 2 Inquiry[66]. UKHSA has declined to respond or engage with any of those criticisms, and it is disappointing that the UKHSA paper has been peddled out again by other parties without any recognition of or response to these criticisms.

8.78 It is also disappointing that UKHSA's response to the proposal for air sampling stations on the site was[67] to express concerns that it was "here to support the local authority". This is not the independent approach that should be expected from such an agency.

8.79 It is to be hoped that the re-written OSEP currently in production will take a realistic approach to what will be known from AWE's initial monitoring and the PACRAM plot. Even if, however, additional monitoring were required, no good reason has been offered as to why early real time data could not be secured, using mobile air samplers and Alpha Probes, in a matter of hours to facilitate significant scaling back of the shelter advisory within a 4-6 hour window at most. ALDEX 23 indicates this is entirely realistic.

8.80 Draft condition 38 relates to the siting of air monitoring stations at either end of the appeal site. The primary intention of the proposal is to provide early real-time information as to whether the appeal site has been contaminated by Plutonium or not. Precise levels do not need to be established. This real-time information can be fed into the SCG, and assist in the provision of sufficient evidence as to where the initial plume has gone and where it has not gone, and so inform expeditious decisions as to where the shelter advisory can be scaled back. Indeed, if air samplers at both ends of the appeal site register no radiation contamination during the initial plume period, that will be clear positive confirmation that the northern

[65] CD22.7
[66] CD24.39, §27.4, §29.3
[67] CD26.03

half of Three Mile Cross has been unaffected. It is disappointing that AWE's pre-Inquiry response[68] commented on a range of scenarios, but entirely ignored the one purpose which was the basis of the proposal. Practical matters relating to siting, management and maintenance of the air sampling equipment can be secured through a Grampian scheme condition, as drafted taking into account opposing parties' comments. AWE refused to meet with the Appellant to discuss these practicalities.

8.81 The proposal is acceptable without the air monitoring arrangements. However, the benefits of the air sampling proposals would be a benefit in the planning balance.

Displaced residents unable to return home due to a shelter period.

8.83 This is not a "safety" issue for purposes of Policy TB04, it is inconvenient/distressing. Residents would know the risks. They could stay with family or friends or in a hotel. There are likely to be a very substantial number of hotel rooms available. From a brief internet search, there are 2177 rooms in large hotels in Reading, equating to around 1,000 rooms if one assumes an industry standard occupancy rate of 60%. Smaller hotels, hotels in the DEPZ, and hotels in nearby towns such as Wokingham, Bracknell, Newbury or Basingstoke were not considered.

8.84 The Council's evidence is that the OSEP can call on 23 facilities capable of providing up to 3500 rest centre spaces[69]. There is no evidence from West Berkshire or the Council that there is a capacity issue in this regard, and no good reason at all why the assumed level of displaced persons who require a rest centre and will not be able to make alternative arrangements, in a hotel or with friends/relatives, cannot be catered for.

Urgent evacuation and subsequent relocation.

8.86 These issues are not relevant for the appeal Scheme, which is therefore not capable of adding to relevant burdens either materially or otherwise. There is confusion, exaggeration and error in the Council's evidence.

8.87 The OSEP[70] contemplates urgent evacuation (something only to be considered where the potential avertable dose is at least 30 mSv) up to 150m from the AWE(B) boundary, and subsequent relocation out to 600m. The site is around 3 km beyond the 600m outer "subsequent relocation" parameter.

8.88 Subsequent relocation / decontamination issues are recovery phase (not response phase) actions, and they pose inconvenience not safety questions for purposes of policy TB04.

8.89 The AWE witness confirmed that from a "radiation dose point of view", there would be no justification for evacuation of appeal Scheme residents, nor for destructive decontamination activities at the appeal site. All that is necessary[71] is to hose down hard surfaces (walls, cars etc) in order further to reduce resuspension

[68] CD21.6
[69] see CD13.44 at q9 (p2)
[70] at section 11AA CD13.5, p235
[71] as contemplated within the OSEP CD13.5, p19, p174

doses. By contrast, destructive decontamination would involve stripping carpets, walls, roof tiles etc, and removing topsoil.

8.90 The basis for that view is that after the initial plume, resuspension doses would be too low to justify any such actions. We calculated the resuspension dose over the 1-year post-plume period as 0.048mSv[72] and this was not seriously challenged by any party at the Inquiry. They agreed that our calculation of the resuspension dose was reasonable. On this basis, the resuspension dose is (a) substantially below the "long-term objective" figure stated in the OSEP[73], and (b) within the <1 mSv category which is described in the ACOP's "impact table"[74], as "normal background". It can also be noted that ONR did not dispute our resuspension dose.

8.91 There is no justification at all for causing residents the distress of destructive decontamination which is not necessary on health / radiation dose grounds. This is quite apart from the unnecessary costs that would fall on the taxpayer, and the need to find somewhere to store the materials and soils removed.

8.92 It is not credible that AWE would engage in disruptive clean-up activities (or increase their own burden of waste to deal with) at residual levels which are safe. AWE's witness declined to offer a guarantee when asked if AWE would promise to fund unnecessary and expensive clean-up activities which others might nonetheless request.

8.93 The Council's evidence is misconceived on these issues. The Council's emergency planning (West Berkshire) proof contemplates houses at the appeal site being deemed unfit for human habitation, and the entirety of the DEPZ needing to be evacuated. These errors must have exacerbated the Council's concern and their witness's desire for a total moratorium on new homes in the DEPZ. The same witness also repeated reference to the catastrophic category of the National Risk Register. There is no evidence that any of the key impact scale indicators could apply here[75], such as (i) 201-1000 UK fatalities, (ii) 20,000 people evacuated over 3 days, or (iii) electricity disrupted for 1 million people for more than 18 hours.

8.94 Similarly, the primary justification for the Council's emergency planning (Wokingham) witness's conclusion on the appeal Scheme appears to be an assessment that the entirety of 3 sectors (over 7,200 residents) would need to be accommodated in rest centres during subsequent evacuation/relocation. This is wrong and misunderstands the nature and extent of what the OSEP should be preparing for. The appeal site would not require relocation for decontamination. Even if it did, the long thin cigar of an F2 plume would not contaminate the entirety of 3 sectors, or anywhere close to this. Further, any clean-up works would be in stages, and hotels / people staying with friends and relatives would substantially reduce any "call" on rest centres.

[72] see footnote 35 (p22) of his proof at CD19.14
[73] 1mSv – see CD13.5, p120-1
[74] CD13.3, p180
[75] listed at CD24.4, p16, §5.22

8.95 It is unfortunate that ONR has relied on the conclusions of the local emergency planners, which are based on fundamental flaws and exaggerations, and misunderstanding as to the consequences of the F2 explosion.

Monitoring and reassurance/welfare.

8.96 The appeal Scheme will not have any material impact on recovery phase issues.

8.97 Reading FC Stadium (which also hosts concerts etc) has a capacity of 24,161 with permission to expand by an additional 12,400. It is an open-air stadium, so any initial plume blown in this direction could not be sheltered from. The Stadium is a licensed site, and so when operational will already have its own safety and emergency arrangements including substantial marshalling and Police / Medical presence. Given that the OSEP is judged adequate for the scenario of a plume through the Stadium, it is not easy to follow why concerns about reassurance monitoring have been raised.

8.98 The Council's claims about providing reassurance monitoring to everyone in the DEPZ at the relevant time are unmeritorious. For those at the appeal site, as set out by our radiation monitoring witness, and not challenged by any party during his XX, monitoring would be unable to detect the assumed dose of 6.4mSv or 3.8mSv if sheltering. In any event, there is no medical treatment that could be prescribed for such a low dose. Public information announcements would be able to provide significant reassurance to those remote from AWE(B) such as appeal Scheme residents. Even if it were determined that all appeal Scheme residents should undergo reassurance monitoring, a radiation monitoring unit (RMU) can monitor up to 400 people per day[76], so the appeal Scheme would add less than 1 day of additional monitoring. As there is no treatment, there would be no safety implication of any delay before a reassurance monitoring appointment. Given that these matters only potentially arise for appeal Scheme residents once every 2,000,000 years, and in circumstances where the assumed dose carries at most very limited risk, they are not a basis to refuse consent.

8.99 In summary, the proposals can be safely accommodated within emergency planning arrangements in accordance with policy TB04. It would have no material impact on the effectiveness of the OSEP. Further, there is evidence that the OSEP has been scoped in a manner that provides a measure of flexibility or "headroom". No evidence has been given by ONR or anyone else that there is some identifiable population-related number above which the OSEP does not work. There is no planning harm in making a small part of that "headroom" available for a highly beneficial scheme.

Precedent and cumulative development

8.100 It is not the case that the proposal would set a precedent and contribute to an accumulation of new consents resulting in existing headroom in the OSEP being used up and exceeded.

[76] see the Council's evidence at CD24.27, para 1.23 (p8)

8.101 Opposing parties rely on a number of appeal decisions where concern about the cumulative impact of "uncontrolled growth" is the key feature of their reasoning.[77] These cases are all distinguishable from the present. The Inspectors' reasoning was that merely having a trivial effect individually on the OSEP was insufficient to justify the relevant schemes, because the same argument could be repeated and exhaust the capacity of the OSEP. This trilogy of cases and the approach exemplified should assuage opposing parties' concerns about future consideration of smaller schemes in the DEPZ at this time. Indeed, there is no recent example of a small scheme being consented on appeal, and a long list of failed appeals. The approach set out above in relation to small proposals is entirely justifiable. Consenting the appeal Scheme would not change the appropriateness of this analysis for small speculative proposals in the DEPZ, nor would it create a harmful precedent for larger schemes.

8.102 It is perfectly sensible to put a hold on small schemes, which bring only trivial planning benefits and invariably include no affordable housing, to ensure uncontrolled growth does not occur under the radar and lead, before anyone notices, to OSEP headroom being used up or exceeded. But it is equally sensible to permit the appeal Scheme at this time, because it is able to bring very substantial planning benefits in a highly sustainable location, and where it can be demonstrated that the appeal Scheme itself can be accommodated safely.

8.103 This would not open the floodgates to any future application for a large scheme, which would need to be assessed on its own facts and the evidence available at the time as to (a) whether that scheme could itself be accommodated safely within the DEPZ in addition to the appeal Scheme (assumed to be consented), and (b) even if it could be, what the evidence as to OSEP flexibility / headroom was at that time (and on the assumption that 148 units at the appeal Scheme were committed), and (c) whether the benefits of that scheme were sufficiently weighty to justify attribution of any remaining headroom to it. There is no serious prospect that a future large application in the DEPZ will go under the radar.

8.104 AWE's planning witness suggested that only unique schemes should be allowed in the DEPZ. This has no basis in policy. The PPG at paragraph 69-039 reminds decision-makers to be alive to the implications of new consents in the consultation zones, not to require uniqueness.

8.105 The true question is whether the planning benefits of a scheme justify a grant of permission. The appeal Scheme passes that test on every metric. Indeed, none of the earlier DEPZ cases cited by AWE's planning witness has considered an appeal where (a) the benefits of the scheme are as substantial as here (whether in terms of the number of proposed market or affordable homes), nor where (b) the land supply deficit was at the woefully poor levels that now apply in this District (with no short or medium term prospect of being redressed).

8.106 This is not a Green Belt case, and there is no policy test for "very special circumstances" (the highest hurdle in planning policy). But it can be noted that (a) a material contribution of market homes where the 5 year deficit is 4,693 without a

[77] (e.g. Shyshack Lane at DL12 [CD9.21], Benham's Farm at DL19 [CD9.22] and Recreation Road at DL13 [CD9.25]).

foreseeable prospect of being addressed; (b) a material contribution of affordable homes where the position is “acute” and shortfalls “persistent”; (c) a site which is highly sustainable; and (d) a site which has no more than modest and localized visual impacts; would ordinarily be a very strong candidate to establish very special circumstances. This puts in focus quite how advantageous the planning benefits of the appeal Scheme are.

8.106 Each case depends on its own facts. The Council explicitly accepted that allowing this appeal would not create a precedent.

8.107 That is also how the Inspectors who have recently allowed appeals in the DEPZ have explained their decisions[78]. Kingfisher Grove (referencing that the scheme would not create a precedent) was referenced with apparent approval in the SoS’s screening direction.[79]

8.108 Our analysis is consistent with the advice on cumulative development around hazardous installations at paragraphs 39-069 of the PPG. The relevant guidance is not to the effect that no further population increases should be consented in any case. In substance, what the PPG is cautioning is that there should be an awareness, taking into account the potential impact on the cumulative position. Doing so in this case does not create a precedent for the future, and so cumulative implications are not a sufficient basis for dismissing the appeal.

8.109 Some opposing party witnesses have sought to present evidence about development pressures in the area. Even if that were so, it would not contradict the arguments set out above that allowing the appeal will not “open the floodgates” to a position where future schemes cannot be opposed on OSEP grounds.

8.110 Further, the evidential position put forward by opposing parties on development pressures in the DEPZ is exaggerated. Considerable care needs to be taken in relation to AWE’s planning witness’s plans of HELAA sites in his proof[80]. These plans collate submissions over a considerable period of time (reflecting the extensive genesis periods of new Local Plans in the area) covering at least the last 6+ years. Many submissions pre-date the extension of the DEPZ in mid-2020, and have not been seriously pursued thereafter.

8.111 Many sites included were submitted in the period prior to the expansion of the DEPZ. A clear example of this is the Grazeley proposal for 15,000 new homes just outside the old DEPZ. Although a draft allocation in the 2020 draft of the eLP, this has long been abandoned. Some of the sites have already been built out or consented. Only a few sites are within the South of M4 SDL of these, some are small and have poor road access, some are too small for affordable housing, some are woodland, some are prominent in the settlement gap, and one site has been acquired by a garden centre. It is not known about the circumstances of any future applications in this area and notwithstanding the HELAA submissions, there are no proposed allocations in DEPZ in the eLP.

[78] see Kingfisher Grove DL21 [CD9.2] and Hollies 2 at DL31 [CD9.24]
[79] CD2.14, p4.
[80] CD21.5

8.112 The substantial majority of the AWE(B) DEPZ lies within West Berkshire. After the Hollies 2 consent, there are no more unconsented allocated sites in the DEPZ. Further, West Berkshire's eLP proposes no further allocation in the DEPZ. In addition, West Berkshire claims to have a 5.7 year housing supply[81] and the Local Plan Inspector is working to ensure a 5 year supply will be demonstrable upon adoption of the new plan. In addition, the West Berkshire eLP is currently proposing a strict DEPZ policy (SP4). Only limited weight can be given to such a proposal at this time given outstanding objections but were such a policy adopted in its current form, it would presume strongly against a scheme which ONR had advised against. Overall, it is hard to identify any material and current development pressures in the West Berkshire part of the DEPZ. Finally, the opposition to such proposals would put people off submitting them.

8.112 There are no unconsented allocated sites in the Wokingham part of the DEPZ. Inevitably, new proposals in Wokingham are "unplanned" in the sense that they are not allocated in a development plan. This is the consequence of the Council's delays over the last 9 years of new plan-making. Moreover, it can be noted that the submitted (28/2/25) version of the Local Plan[82] proposes no new allocations in the Wokingham part of the DEPZ.

8.113 Reading claims a 6.11 year supply. There are no unconsented allocations in the (small) part of the DEPZ within that District. There is no evidence of development pressures in the Reading part of the DEPZ, and AWE's planning witness was not able to identify any during.

8.114 In summary, the appeal Scheme would not create a precedent, and consideration of cumulative implications is not a sufficient basis for rejecting the very substantial planning benefits of the appeal Scheme.

DEPZ Review

8.115 The DEPZ boundary can be reviewed if practical implementation problems arise with the OSEP. This would lawfully reduce the area and population contained within it. The other parties have not provided any coherent reasons why this would not be done. REPPIR 19 Regulation 8 does provide for a review on town and country planning grounds but it does where there has been a change in circumstances, which could be a grant of planning permission.

8.116 The starting-point on this issue is to note the ill-informed basis on which the DEPZ lines were drawn in May 2020. The Council and ONR confirmed that they did not know about the scale of consented homes within the DEPZ. The evidence is that there were 6,651 homes within the revised DEPZ in early 2020[83], but there were at that time unbuilt consents to increase that figure by around 3,300 new homes. There was a very limited consultation exercise carried out and no public consultation.

8.117 The Council and ONR confirmed in that in 2020 it was not appreciated how substantial the proportion of the population lived beyond the UPA. As at the 2021

[81] see AMR at [CD10.25, p12]
[82] CD7.14
[83] see the report at [CD13.6, p8]

census, only 39% of the total DEPZ population lived within the UPA, the remaining 61% living beyond the UPA. If population numbers are contributing to strain on the OSEP, this is because the extension of the DEPZ far beyond the UPA results in a more than doubling of the permanent population. It is appreciated that the DEPZ has been made lawfully but it is time for a review on a fully informed basis.

8.118 The DEPZ boundary has anomalies. There are numerous locations within south-west Reading (where the DEPZ boundary is closely aligned to the UPA) which are outside the DEPZ, but at the same distance from the centre of the UPA as is the appeal site. The Council' emergency planning witness (West Berkshire) confirmed that there could be no DEPZ related objection to the redevelopment of the Holiday Inn (Reading South) with a 148 unit block of flats, notwithstanding that it is both closer to the centre of the UPA than the appeal site and in the prevailing wind direction. The same point applies to development on open land in south-west Reading or a redevelopment of one of the commercial sites in that vicinity. The fact that there is land closer to the centre of the UPA which is not in the DEPZ underscores that it is not inevitable or essential in any sense that the appeal site need be within the DEPZ.

8.119 In considering a DEPZ boundary the starting-point is that the UPA is fixed having regard to the lower Emergency Reference Level (ERL) for sheltering, which is 3mSv. The Government's 2018 Consultation Response explained[84]: "ERLs are provided in pairs; the lower level is the smallest quantity of averted dose that would justify a protective action". PHE's subsequent 2019 advice similarly states: "The lower ERL indicates the likely balance of averted dose against all the other consequences of implementing the protective action in situations that are favourable for its implementation. In other words, this is likely to be the smallest quantity of expected averted dose for which it would be justified to implement the action"[85]. No opposing party witness was able to offer a coherent explanation as to why this DEPZ has 54% of its permanent population (c13,000 people) in locations where relevant advice indicates that the disbenefits of shelter outweigh the benefits. If the Government wished to create a "cordon sanitaire" around the AWE(B) facility, but in a manner consistent with the national priority of significantly boosting housing delivery, the starting point would be a comprehensible DEPZ which accords with Government and PHE/UKHSA advice on where sheltering as an urgent protective action is justifiable and where it is not.

8.120 The focus on whether net harm or good will be done is also apparent from ONR's advice. ONR's 2019 workshop on setting DEPZs advised [CD13.96, p14] that the DEPZ boundary "*should be based on the minimum geographical extent proposed by the operator in the consequences report and should (1) be of sufficient extent to enable an adequate response to a range of emergencies, and (2) reflect the benefits and detriments of protective action by considering an appropriate balance between dose aversion and implementing protective action in a radiation emergency across too wide an area which could divert important resource from the affected areas which require the most attention*". Demonstrably, this balance was not conducted on an informed basis in early 2020.

[84] CD13.17, §91 at p24
[85] CD13.14, p18 / PDF p32]

8.121 REPPIR 19 Regulation 8(1) sets out a range of factors to be balanced when the DEPZ boundary is set or reviewed. Avoiding the bisection of communities is just one of these factors, and anyway it is caveated with the words "where practicable" (reg 8(1)(b)). The Council's emergency planning (Wokingham) witness agreed that there were innumerable ways in which the DEPZ boundary could be lawfully re-drawn, balancing the relevant regulation 8(1) factors. ONR's planning witness accepted that there was no evidence that a smaller DEPZ could not be lawfully designated. The precise contours of a redesignation are for West Berkshire Council in due course.

8.122 The Basingstoke Road / Beech Hill Road appear to offer an obvious alternative boundary. People can readily understand which side of a wide distributor road they live. There is currently only limited development west/north of the Basingstoke Road / Beech Hill Road, so this would be a coherent boundary. It would likely take at least 2,000 homes out of the DEPZ. And whether or not the whole of Three Mile Cross (including the appeal site) remains within a reviewed DEPZ, the removal of the substantial population of Spencers Wood would provide clear relief for any actual "practical implementation" issues. A glance at a map of Three Mile Cross illustrates that it is entirely possible to delineate a comprehensible line (including on footways and around certain small estates) which includes the minimum number of additional properties where (per PHE) shelter is a net harm not a net benefit. The ACOP[86] strongly supports ensuring that the DEPZ does not result in the planned emergency response being spread too thin.

8.123 Opposing parties rely on DL18 of the Shyshack Lane DL[87]. But this is distinguishable on its facts, alternatively wrong in principle. Specifically, the Shyshack Lane decision followed a 1 day hearing not a 9 day Inquiry. The arguments above do not appear to have been before the Inspector. Shyshack Lane concerned the AWE(A) DEPZ, not the DEPZ here. The AWE(A) DEPZ has been the same for many years. The proposal was for 3 dwellings. The ACOP[88] advises that a DEPZ should not be reviewed frequently. It is accepted that it is not appropriate to review a DEPZ in relation to a development of 3 homes.

8.124 Finally on this, the ONR's speculations about the impact of a possible revision to plutonium dose coefficients turned out to be unsubstantiated as they had not yet been published in final form. Our monitoring witness explained by way of comparison between the relevant figures in the current publication[89] and the consultation version which he understood was intended to be enacted, that the relevant dose coefficients (ie, those arising from the PU oxides that would be produced[90] in an explosion) will reduce (from 0.05 to 0.048 mSv per Bq), albeit not leading to a material reduction in the UPA.

8.125 In summary, if West Berkshire Council, ONR and AWE as operator perceive there to be "practical implementation" issues from the appeal Scheme which affect the effective and safe roll-out of the OSEP, those issues will assuredly be addressed

[86] CD13.3
[87] CD9.21
[88] CD13.3, §253
[89] CD13.54
[90] CD13.100

by way of reviewing, and pulling in, the DEPZ boundaries. Opposing parties have not claimed it would be impossible for them to act as described, nor provided any coherent reason why they would not so act in the circumstances described. And of course, if there are and will be no such "practical implementation" issues, the appeal Scheme should not be impeded anyway.

Alleged risk of the appeal Scheme impacting on the adequacy of the OSEP

8.126 There is no evidence before the Inquiry that the appeal Scheme will drive the OSEP into inadequacy, or that there is any material risk to this effect. It cannot be understood how the OSEP would be driven or tipped into "inadequacy" if our primary submission that the proposal can be safely accommodated without breach of policy TB04 is accepted.

8.127 The site is 3.6-3.8km from the centre of the UPA. The objecting parties have not adequately substantiated their concern. There is an absence of quantitative assessment to show that the appeal Scheme would threaten or cause capacity issues that could impinge of the adequacy of the OSEP.

8.128 The meaning of OSEP adequacy is dictated by the terms of REPPIR reg 11(2): "The plan required by paragraph (1) must be designed to mitigate, so far as is reasonably practicable, the consequences of a radiation emergency outside the operator's premises". The words "*so far as is reasonably practicable*" are of critical importance.

8.129 Accordingly, even if there were areas where a capacity issue existed, REPPIR 19 would not deem the OSEP inadequate so long as "reasonably practicable" efforts had been made to mobilise and maximise emergency resources as were realistically available. The whole OSEP adequacy issue has thus been pursued by opposing parties on a flawed basis that fails to account for the critical statutory requirements of regulation 11(2).

8.130 It is important to consider ONR's overall position on OSEP adequacy now and in the period until the next statutory test (which must take place by April 2026 at the latest), particularly taking account of consented/unbuilt development.

8.131 ONR's planning witness confirmed that, following ALDEX 22 and ALDEX 23, ONR's view was that the OSEP was judged "adequate", albeit with improvements indicated. He further confirmed that, as at the date of his evidence to the Inquiry (27/2/25), ONR's assessment was that the OSEP remained adequate for the now existing population of the DEPZ. He expressly agreed that there was no evidence the OSEP had passed into inadequacy. ONR had said a similar thing at each of the two Hollies Inquiries. Further, he confirmed that, ONR's present assessment of OSEP adequacy will stand until at least the time of the next ALDEX test (likely to be April 2026), absent some unforeseen and exceptional change. These are significant confirmations because at least 852 new homes have been completed in the DEPZ (ie, about 2,044 new residents) since the Hollies 1 Inquiry.

8.132 In respect of the Hollies 1, ONR told the High Court in December 2023[91]: "*If the scheme is built out in addition to other already consented schemes, the ONR has*

[91] CD24.17, §52

no confidence that the OSEP would be adequate. Indeed, even if the other consented schemes are not built out, and only the Developer's scheme comes forward, WBDC's evidence at the Inquiry supports the ONR's concern that the adequacy of the OSEP will not be sustained". Significantly, the concern in the passage above turns out to be a gross exaggeration, on ONR's own considered view 15 months later. ONR confirmed to this Inquiry that the OSEP remains adequate notwithstanding development since the first Hollies Inquiry which (at 852 homes) is nearly 6 times the scale of the appeal Scheme. The credibility of ONR's stance at this Inquiry is undermined by such matters.

8.133 The consented/unbuilt development has now substantially "worked its way through the system". About 3,300 consented/unbuilt units as at March 2020 has now reduced to 301. Thus, less than 10% are left to come forward. It is likely that this bank of permissions will be exhausted by the time of the next ALDEX test. These unbuilt units will thus come forward within the aegis of ONR's above confirmation that OSEP adequacy is expected to last until the next ALDEX test.

8.134 The Hollies 2 Inspector's conclusion that that scheme would not have a material impact on the emergency response and that the OSEP had sufficient flexibility to accommodate it[92]. This conclusion was a rejection of ONR's view that it "does not have confidence" that the scheme could be accommodated. The ONR's opposition to this appeal Scheme is no better justified and is similarly over-pessimistic.

8.135 There is no evidence that AWE or the Council / West Berkshire have been put on notice of some possible declaration of OSEP inadequacy. AWE would certainly be entitled to such notice, both so it can participate in any necessary fix (pursuant to "polluter pays" principles evident from ss2-3 of the Health and Safety at Work etc Act 1974), alternatively to ask the sorts of questions the Appellant has had to explore at this Inquiry. Further, the MoD witness reminded the Inquiry that the ONR's oversight/enforcement process has three stages – advice, improvement notices, and only thereafter would more robust steps such as a declaration of plan inadequacy be considered. At present, ONR's oversight is in the first of these stages (advice), and this has not changed with the recent Hollies 2 consent. There is no evidence the OSEP is "on the brink" of being declared inadequate, or anywhere close to this point.

8.136 The emergency planning witness's (West Berkshire) proof at Hollies 1[93] stated that West Berkshire Council had appraised and taken account of consented/unbuilt development in its emergency planning. Her 4/3/20 paper[94] stated that this was exactly what the Council was proposing to do, i.e., to identify the consented/unbuilt development as part of the process of what led to the August 2022 OSEP.[95]

8.137 No quantitative assessment has been placed before the Inquiry to suggest that the OSEP is near, at or beyond a capacity limit in any identified respect; let alone that the appeal Scheme would somehow push the OSEP into inadequacy. ONR claims that quantitative assessment is not possible or required by REPPIR 19. No cogent

[92] CD9.24, DL28, DL32
[93] CD24.4, §7.12
[94] CD13.6 at §5.11.1
[95] CD13.5

explanation has been provided as to why a quantitative assessment of various capacity or capability matters could not be carried out. There is no quantifiable evidence in relation to how much rest centre capacity is needed, or how many fire engines, or sets of PPE would be needed. It is puzzling as to how a responder can carry out their responsibilities without knowing the quantity of resources required. Thus, while quantitative assessment is not explicitly spelled out in REPPIR 19, it is implicit in every angle from which OSEP adequacy might be considered.

8.138 ONR's stance is contradicted by the fact that[96] ONR has asked West Berkshire Council to prepare a Capability Matrix. Two key observations may be made. First, this sounds exactly like the sort of quantitative assessment which ONR claim cannot be done. But ONR's 29/11/23 letter[97] could not be clearer in asking West Berkshire Council to consider any capacity or capability-related concerns, for both the current population, but also for consented/unbuilt homes.

8.139 Second, the Capability Matrix is not yet finalised, but the Inquiry (a) knows that the Council's emergency planning (West Berkshire) witness was given the relevant task by ONR 15 months ago (in the 29/11/23 letter), and she must be well embarked on it by now, and (b) can be absolutely sure that, in order to advance her preference for a total moratorium on new development, if she had learned anything showing a potential or actual deficiency that the appeal Scheme would materially exacerbate, this would have been placed before the Inquiry.

8.140 The Council and the ONR have not produced any evidence, correspondence or corroborative analysis from Blue Light services or other emergency responders setting out some specific limitation that the appeal Scheme would cause or exacerbate.

8.141 ONR claims that a test exercise cannot consider future populations. The appellant's emergency planning witness explained, based on his extensive experience of testing OSEPs for nuclear sites, that as no member of the public is involved in a test exercise, there is no reason why maps cannot accommodate consented/unbuilt development. However, this is an academic point here, where ALDEX 23 did not investigate quantities[98].

Departing from ONR's "advise against"

8.142 In Together against Sizewell C Limited v Secretary of State [2023] EWHC 1526[99], Holgate J explained that a "*decision-maker is expected to give significant weight to the views of an expert body … and to give "cogent reasons" for disagreeing with their views. Here, even giving significant weight to ONR's "advise against*", there are cogent reasons for disagreeing with and/or overriding that advice as has been explained above.

8.143 ONR does not assess general planning matters, benefits etc. These fall outside ONR's area of expertise, and outside its relevant policy[100]. In the SoS's conclusion

[96] per its 29/11/23 letter [CD20.12b]
[97] CD20.12b, p2
[98] CD24.39, §34.6b at p32
[99] at [106, 108] [CD8.15]
[100] CD13.35

on the Boundary Hall, Tadley appeal[101], the decision letter observed at DL15 that it was the role of HSE (here taken by ONR) to "advise Ministers", but for the planning decision-maker to weigh that advice in the planning balance alongside other material considerations. In that case, the SoS concluded at DL22-23 that life is not 100% risk-free, and that the low risk of a 30mSv dose from an accident at AWE(A) was outweighed by the planning benefits of 115 new homes and some B1 space.

8.144 The Hollies 2 DL[102] was accepted by ONR as a lawful decision. No doubt this is because the decision letter appropriately accorded significant weight to ONR's views, before providing cogent reasons for departing from that advice.

Prejudice to AWE(B)'s Operations

8.145 AWE worries that the appeal Scheme's impact on the adequacy of the OSEP could lead to it being banned from operating with ionizing radiation pursuant to REPPIR reg 10(4). However, the appeal Scheme can be safely accommodated, and in any event the OSEP is judged "adequate" to deal with more challenging circumstances (e.g., Tadley).

8.146 Even in the theoretical event that the OSEP were to be declared inadequate, it is completely inconceivable that national security interests would be allowed to be compromised in any way. AWE could seek to reduce the DEPZ to the point where practical implementation issues are assuaged, and OSEP adequacy restored. There is no good reason why such a request from the operator would not be accommodated forthwith on the basis of a review dictated by practical implementation issues. The same result could be achieved either via a tailored / targeted use of the REPPIR regulation 25(2) exemption[103], or by Parliament amending REPPIR to impose a slimmed down DEPZ around AWE(B) which was sufficient to restore OSEP adequacy.

8.147 The regulation 25(2) exemption would plainly be available to the Secretary of State in the assumed circumstances here, which engage "the interests of national security". Further, the SoS's policy on the use of such exemptions[104] would not be offended, because the objective of having in place arrangements "*at least as good as those required by UK legislation*" is qualified by the words "*so far as is reasonably practicable*". In such circumstances, it could not be anticipated that there would be any significant safety gap as a result of using the regulation 25(2) exemption for the short period necessary to restore the OSEP to adequacy.

8.148 The MoD witness's evidence that the SoS's policy would require exactly the same off-site arrangements as currently applied by REPPIR is wrong. There would be no purpose or value in an exemption which did not exempt AWE from anything. The Regulation 25(2) exemption can be deployed on as limited or far-reaching a basis as the SoS determines appropriate (the exemption being applicable to "all or any of the requirements or prohibitions imposed by these Regulations" and "subject to conditions"). Thus, an example of a limited use of the exemption power would be

[101] CD9.1
[102] CD9.24
[103] Exemption from all or any of the requirements or prohibitions imposed by the Regulations.
[104] CD13.77, §3

to condition it on a smaller DEPZ, for which the existing OSEP remained adequate.

8.149 The MoD witness sought to suggest at this Inquiry that there would be a burden / costs for the MoD in having to administer the replacement regime for an off-site plan in the event the reg 25(2) exemption were used, and that this alleged burden would offend Framework paragraphs 102(b) and 200. However, that would not breach paragraph 102(b). The relevant words are "*ensuring that operational sites are not affected adversely by the impact of other development proposed in the area*". The administrative burden point does not adversely affect the operational site (ie, AWE(B)). On normal principles of corporate personality, a burden on a shareholder (MoD) is not a burden on the company (AWE).

8.150 Nor would Framework paragraph 200 be breached. The operative text says "*Existing businesses and facilities should not have unreasonable restrictions placed on them* …". But the business/facility which is AWE(B) is not affected by a restriction on MoD. There is nothing unreasonable about MoD engaging in a modicum of regulation in order to facilitate the operations of a subsidiary company which is a potential polluter. Moreover, any administrative burden need not be more than modest or short-term given that MoD could adopt the current OSEP as that which can be provided "*so far as reasonably practicable*".

8.151 As AWE conceded at the Inquiry, the SoS's policy can be changed or discarded as considered necessary, in the interests of national security. This is the clear result on the Court of appeal's decision in West Berkshire DC v SSCLG[105]. Thus, even if the above administrative burden contention had survived the arguments above, it would remain the case that the MoD could avoid the administrative burden entirely, and it is again a matter within the MoD's control whether that happens or not. Either way, it would not be the Appellant's scheme but the MoD's response which is the cause of any administrative burden.

8.152 The MoD proof at paragraph 8.1.2a referred to duties under s3 of the Health and Safety at Work Act 1974. But this duty is discharged by operating risk at as low as reasonably practicable (ALARP), and creates no civil liability anyway (see s47(1) of the Act). The proof also noted at paragraph 8.1.2b that an adequate OSEP is a prerequisite for grant of a site licence. AWE has obviously already been granted such a licence. There is no evidence of any condition regarding off-site emergency planning. AWE's site licence has not been put in evidence. And the Model Conditions[106] only require retention of an on-site emergency plan, and say nothing about off-site emergency planning.

8.153 For all these reasons, and reminding oneself that ONR's interest remains at the advice stage, the suggestion that the appeal Scheme might lead to national security being compromised is not plausible. It is of note that the Hollies 2 Inspector[107] found very limited harm from the "remote" risk of an impact to AWE(B) activities, but concluded that this very limited harm was outweighed in the planning balance. This appeal involves a site on the outer edges of the DEPZ, 1.2km-1.4km further from the centre of the UPA. Even if a similar approach were taken here, the

[105] 2016 EWCA Civ 441 [CD8.13]
[106] CD13.90
[107] CD24.9, DL35-36, DL38

risk of the appeal Scheme affecting AWE(B)'s operations is at most remote such that the harm is at most very limited.

Restriction on AWE Activities

8.154 The MoD is concerned that an increased population could present a risk that AWE might be compelled to limit or constrain its activities to remain in compliance with its regulatory obligations. However, AWE's nuclear witness's evidence was that such future permissioning or restriction decisions would not be affected by population growth/density in the DEPZ. There is no evidence that AWE is contemplating imposing operational restrictions on itself, and no evidence that ONR is contemplating imposing any such restrictions either.

8.155 The Hollies 2 Inspector found breaches of the Framework (what are now §§102(b) and 200) in relation to the permissioning issue[108], but given that the risk was regarded as "very limited" only "very limited harm" was identified (and this was outweighed in the planning balance)[109]. However, the Hollies 2 Inspector was not, unfortunately, provided with the evidence of Person AW on this issue summarised above.

Compensation

8.156 AWE said that the appeal Scheme could increase its potential liabilities to pay compensation in accordance with its obligations under the Nuclear Installations Act 1965. These complaints should carry no weight against the appeal Scheme. It is not for the polluter to exercise a veto on future developments, in respect of which it self-insures.

Character and appearance of the countryside

8.157 The site is agreed not to comprise a valued landscape, and no landscape designation applies to it.

8.158 The key landscape features of the site (the veteran/mature trees) would be retained. In addition, the appeal Scheme would provide a soft and appropriate transitional edge on all sides. Landscaped boundaries would remain to north, east and west. Development would be set back from the northern and eastern boundaries. There would be a generous buffer to the south, with the southern field retained as a community orchard.

8.159 The development platforms within the site would require modest land raising of only some 0.71m average. The neighbouring Orchard Rise scheme required an average of 1.1m of land-raising. The development platforms would not be noticeable from off site or appear unusual within the site. The houses would fit comfortably into local character and would not appear any higher than surrounding residential development.

8.160 Given the substantial vegetation, and the retention of undeveloped areas on and around the appeal site, visual effects would be relatively modest and local, even when seen from the ridge to the south. The Viewpoint and Photomontage analysis

[108] DL36-37
[109] DL38, 49

in our landscape evidence illustrates that views from the ridge would show an entirely natural extension of existing development. Otherwise, views from north, west and east would be either heavily filtered or seen in the context of the current built form. It would be in character with the settlement pattern of Three Mile Cross.

8.161 At the round table session, the Council's witness eventually agreed that the landscape features on the site are not themselves medieval, but were planted up many centuries later on ridges within a previously open field system. This arrangement is not rare. The Council's witness said that there are extensive examples of this throughout the Midlands. It is very common in East Berkshire as well, with 2,329 hectares of such piecemeal enclosure in that area. Accordingly, the lines of hedges/trees are not an undesignated heritage asset and they would be retained in situ with only very limited pieces removed.

8.162 The appeal Scheme would not cause coalescence with Reading or Shinfield. Separation from Reading is maintained by the M4 and associated embankments, and the various intervening wooded areas and fields. Separation distance would be 276m – 450m, which is comparable to the distance between Shinfield and Reading (261m). When seen together, they would be perceived as different settlements. When seen from Junction 11 of the M4, the appeal Scheme would be seen as a continuation of Three Mile Cross, not a joining together with Reading. Anyway, Orchard Rise in the foreground means the appeal Scheme would introduce no meaningful additional perception of coalescence.

8.163 Separation from Shinfield would not be reduced. The 200m gap between Shinfield Court and Shinfield would be unaffected by the appeal Scheme. The site is about 630m from Shinfield. There would be very limited intervisibility between the settlement edges of Three Mile Cross and Shinfield.

8.164 The Council draws attention to text in the relating to the South of M4 SDL Supplementary Planning Document[110] to the effect that development should not occur to the north of, nor on the northern slopes of, the landscape ridge. The appeal site is not on the northern slopes of the Ridge, but it is north of the Ridge. However, this is a matter of no materiality for present purposes. The SPD is demonstrably out of date taking account of the Council's current massive 5-year housing land supply deficits. The key consideration is that the appeal Scheme can come forward without compromising the separate identity of settlements in the area, and without discordant visual impact.

8.165 Overall, the appeal Scheme would constitute a logical extension of Three Mile Cross, and will represent a highly quality addition in a verdant setting, which can come forward in a manner that is respectful of, and would cause no material harm to the character and appearance of the local area. If that is wrong, any harm would be limited and localised, and demonstrably outweighed by the need for new market and affordable homes.

Drainage

8.166 The Council accepts that the proposed Option 2A is viable and deliverable, and it can come forward without any material adverse landscape impact, certainly when

[110] CD6.9, p39

compared to alternatives that have been tested. That is all the Appellant needs to demonstrate at this outline stage. The Council has ignored the fact that this is an outline scheme. It should have been satisfied that a drainage condition in normal form suffices to protect its interests for present purposes.

8.167 Our drainage proof[111] explains the series of applicable requirements and constraints that have been factored into the proposed pumping scheme.

8.168 Much of the Council's objection appeared to be founded on an assumption that some "improved" arrangement could be facilitated by reducing the scale and extent of the development proposed on site. This is not realistic or sustainable given the massive housing need in this area. We are obliged to make effective use of its land, this being a fundamental objective of the Framework, recently specifically written into the tilted balance in paragraph 11(d).

8.169 A pumped solution is acceptable where there is clear evidence a gravity solution is impracticable, per Framework paragraph 181c. The Environment Agency owns and operates over 2,000 surface water pumping stations.

8.170 All other requirements for a pumped solution are satisfied, including use of the most energy efficient equipment; use of at least two separate power systems to reduce the risk of failure; and exceedance flow routes have been worked out in the event of pump failure which safeguard residents and their properties.

8.171 The Council has not demonstrated how a gravity scheme could be delivered without substantial adverse effects. A gravity scheme would appear to involve development platforms and retaining structures which the Council's own landscape consultant describes as "*completely unacceptable and frankly ridiculous*"[112]. The gravity scheme's substantially higher development platforms would also appear to involve an additional 9,432 HGV journeys delivering soil (over and above the pumped solution).[113]

8.172 Moreover, the northern ditch and the land further north of that has been subjected to the dumping of a large amount of materials. This has resulted in the northern ditch becoming clogged up so that it no longer functions, and it has also caused the appeal site to be waterlogged in a manner that threatens the veteran/mature trees on site. Fortunately, the appeal Scheme and Option 2A would address these problems without causing flooding to increase elsewhere. It is noted that the Council has, for some months, been pursuing pre-enforcement discussions with the developer which carried out the dumping. So far, the party responsible for the dumping has not positively committed to spoil removal. Nor is there any clarity what levels the land to the north will be restored to which is fundamental to understanding whether a northern ditch would work or not. There is no clarity how the northern ditch (ditch 5) could be reconstituted without substantial harmful works in the root protection areas (RPA) of various veteran/mature trees. This is all vital information. It is impossible to determine the efficacy of a drainage system on the appeal site without knowing the level of the connection point at Orchard Rise or the effect of recontoured land to the north. We have no rights to carry out

[111] CD19.6
[112] CD4.25
[113] see Turner para 7.5 [CD9.6]

restoration works on the land north of its site. A gravity solution draining to the north is presently undeliverable and thus impracticable.

Benefits of the appeal Scheme

8.173 Very substantial weight should be attributed to the 148 new homes that will be provided, 67 of which (45%) will be affordable. The Council can only demonstrate a 1.7-year supply[114]. The Council's 5-year trajectory has been declining steeply over the last few years. The graph at the Appellant's Planning proof of evidence [115] illustrates this. A year ago, the Watmore Lane Inspector described the Council's HLS strategy (when it could show a 3.2 year supply) as having "run out of steam" at DL116 of [CD9.5]. Since then the position has worsened further.

8.174 The Council acknowledges that greenfield development will be essential to meet future needs.[116] The larger proposed allocations (including a new settlement east of Shinfield) are all on greenfield land.

8.175 The Council at this time has no credible proposals for getting to grips with its current and future housing needs to the degree required. The *Hallam Land* judgement should be considered[117] in respect of the weight to be attached to the proposed new homes. Specifically, as regards the Council's emerging Local Plan:

- This has been emerging since work began nearly 9 years ago, in early 2016;
- The Council's behaviour has delayed the eLP, e.g., it paused the eLP process to lobby the Conservative Government to reduce its housing requirements. This indicates the speed at which the eLP is likely to progress;
- It is apparent the submitted eLP is unsound, as it fails to provide for 15 years of needs upon adoption, hence will likely need to add at least 2 years' further requirements (1502 units);
- The submitted eLP proposes housing provision of 751dpa for 2023-2040[118], but local housing need (LHN) is now 1336dpa. The eLP thus proposes only 56% of the LHN, and so proposes to under-perform against the LHN by around 9,945 new homes over the relevant 17-year period. As proposed provision is less than 80% of LHN, the Council must start work on an immediate review, per Framework paragraph 236.
- It is agreed that only limited weight can be afforded to the eLP. There are 1500 objections to the submitted eLP, with objections to all significant new policies and the overall strategy. There are objections to the replacement policy for TB04, including from the Appellant[119]. It would hardly be surprising if the deliverability of the new settlement which provides much of the new draft allocations proves to be locally controversial and necessitates time-consuming consideration in the eLP process.

[114] CD10.4
[115] at p45 [CD19.2]
[116] see the submitted eLP §5.10 [CD7.14, p51]
[117] CD8.14
[118] see policy SS10 at [CD7.14, p68]
[119] CD25.15

8.176 The Council has abandoned its contention that the tilted balance is tempered in Wokingham by alleged "over-supply" in past years. This claim was fully ventilated in a series of appeals last year, and rejected, with Inspectors noting that the requirement on LPAs to deliver housing is essentially "*forward facing*".[120]

8.177 The appeal Scheme will deliver a meaningful contribution to 5-year needs (as well as generally), with 125 completions achievable in the period to March 2029[121]. This analysis is accepted by the Council.

8.178 Further, Wokingham is a highly constrained district. In addition to the DEPZ affecting the settlements south of Reading, there are significant areas of Green Belt, floodplain, and rural areas with limited / no sustainable facilities[122]. None of these constraints are applicable to the appeal site.

8.179 Recent Inspectors have given substantial weight to affordable housing provision, noting the acute needs in the district. Trowes Lane;[123] School Lane[124]; and Twyford,[125] refer to an "*acute*" need for affordable housing in an area where the delivery of affordable homes has fallen persistently short of meeting these identified need, such that there was a clear and pressing need for the delivery of both affordable and market homes in Wokingham.

8.180 This is reinforced when taking into account that the tilted balance in the Framework now includes at paragraph 11(d) additional emphasis placed on providing affordable homes.

8.181 The Appellant's Planning proof of evidence in Table 9[126] illustrates shortfalls of affordable housing provision against needs of 2,188 in the period since 2013, and 799 in the period since 2018.

8.182 Future supply is demonstrably unable to meet the needs of the moment. On the assumption that 24% of the existing 5-year supply of 2,321 is affordable (in line with past performance, per Table 9), this equates to 557 affordable homes. Considered against the existing affordable need of 407dpa, this amounts to a deficit in the 5-year period of 1,480.

8.183 There are over 1,200 households on the Housing Register[127]. The Affordability Ratio in Wokingham District is around 11.8%. This is well above Berkshire, South East and UK averages. Undaunted by the current DEPZ, 547 households (ie, about 45% of those on the Housing Register) have indicated Three Mile Cross as one place they would be content to be found an affordable home[128].

Rushborough

[120] see Trowes Lane DL39 [CD9.18], and last month's decision at Twyford DL62 [CD9.48]
[121] see Wates' letter [CD19.12].
[122] see Core Strategy Key Diagram [CD6.2, last page]
[123] DL55 ("a real problem of affordability in the area, with a persistent unmet demand from those unable to afford housing on the open market") CD 9.18
[124] DL87 [CD9.26]
[125] DL63 [CD9.48]
[126] CD19.2, p50
[127] CD25.23
[128] CD25.23

8.184 The appeal Scheme proposes 67 affordable units, which includes an extra 10% affordable contribution (45%, against a local requirement of 35%). Per Holgate J in Vistry v SoS[129], provision of a benefit such as affordable housing must be taken into account even where it is a development plan requirement, and additional weight may be afforded to provision which is "above and beyond".

8.185 Shelter has highlighted[130] a number of serious adverse consequences from lack of affordable home supply, including increasing homelessness; detriment to a healthy and acceptable quality of life in consequence of being forced into more expensive accommodation; consequential over-stretched household budgets leading in particular to adverse outcomes for children's physical and mental wellbeing and education. None of this was disputed by the Council's Planning Witness. These adverse consequences were also recognized by the Sondes Place Inspector[131], who stated:

"*The consequence of not providing enough affordable homes affect people. Being able to access good housing has a bearing upon everyday life and there are socio-economic effects such as financial security and stability, physical and mental health, decreased social mobility and adverse effects on children's education and development*."

8.186 These current adverse effects on health and well-being fall to be contrasted with opposing parties' worries about a possibly "overstretched" response to a 1 in 10,000 year accident, 97% of which will not contaminate the appeal site at all, and where there is only a 1 in 2 million year chance the explosion will directly affect the appeal site with the (unmitigated) 6.4mSv dose considered above.

8.187 The new Framework at paragraph 11(d) includes within the tilted balance increased emphasis on the need to direct development to sustainable locations. Not only could the appeal Scheme make a meaningful contribution to redressing current shortfalls, it could do so at a highly sustainable location. Numerous local amenities are within walking and cycling distance, including schools, shops, community and medical facilities. There is very extensive job availability within the Reading / Green Park and Shinfield areas. This includes 26,000 jobs in Central Reading, 6000+ jobs at Manor Commercial Centre, 10,000 jobs in Green Park/Campus Reading, and up to 8,000 jobs at the Science Park / Shinfield Studios, when complete.

8.188 The MoD witness confirmed that AWE(B) intends to expand to create a world-class campus in the fields of science and engineering when the Project MENSA[132] building completes; so there may be employment opportunities 3.5-4km away too, within cycling distance. This would also contribute to improving AWE(B)'s own very poor sustainability performance. AWE's own recent (2024) travel plan indicates that 89% of AWE(B) employees live over 6 miles (10 km) from the facility, with 96% driving to work (79% by themselves)[133].

[129] [2024 EWHC 2088 at [150-154] [CD8.28]
[130] CD25.7
[131] CD9.20, DL88
[132] Project MENSA is a new-build £1.8Bn warhead assembly/disassembly facility.
[133] CD24.20, pp458, 460, 465

8.189 There is good bus connectivity into Reading on the 600 service, with stops about 550m away, and further buses available at the Mereoak Park and Ride.

8.190 The scheme would improve sustainability even further and would include (a) new walking/cycling/crossing facilities on Church Lane[134] and widening an existing pinch-point from 0.8m to 1.8m, (b) upgrading FP17 walking routes to Alder Grove school, and Shinfield West's facilities, (c) a bus contribution to the South of M4 Bus Strategy [p14], and (d) a Brompton Bike locker and Car Club [p13].

8.191 The Council's approach to other schemes within SDLs and outside development limits has been to grant consent where, as here, the site is sustainable and there would be no significant harm to the local area. The Council has accepted that any accompanying SPD "should not be seen as static"[135]. Further, the Council confirmed at the Inquiry that, since the start of the Core Strategy period, 6% of its total supply has come forward on sites outside settlement boundaries, equating to 1,452 units. Clearly, the current housing deficits would be all the greater were it not for such a source of supply.

8.192 There would also be benefits to veteran and mature trees as the scheme would get rid of the water-logging on the site which is bad for the trees' health. There would also be management of the trees, such as pruning heavy side branches, which could be brought down in a storm causing lasting damage to the tree. The new Framework at paragraph 11(d) includes within the tilted balance increased emphasis on the need to direct development to sustainable locations. Should this appeal fail but the sitHe fall for reconsideration in a few years (say, because the UPA/DEPZ has reduced in consequence of the £2 billion MENSA facility, with its 70+ year safety improvements coming fully on stream) the intervening period of continued waterlogging and lack of management is likely to have harmed a number of veteran trees.

8.193 Economic benefits[136] were not disputed at the Inquiry. These include a construction spend of £32 million and resident expenditure of £4.7m pa, much of which would be expended locally. While these are the benefits of any 148 unit scheme, the Council's 1.7 year land supply demonstrates that the district is being deprived of a very significant proportion of such economic benefits, as against policy requirements.

8.194 There would be a biodiversity Net Gain of 22.5% habitat units and 19.73% hedgerow units. This should be seen in the context that the Scheme is not subject to the 10% statutory condition (and that even a 0.001% gain would be policy compliant).

8.195 Public open space (POS) within the development would be 3 times policy requirements. Policy TB08 of the MDD requires 2.42 ha of POS, but the appeal Scheme provides 7.5 ha, an excess of 5.08 ha. The appeal site currently has no public access, parts of the proposed POS (in particular the southern field adjacent to Church Lane, would be available for use by residents of the area.

[134] CD19.13, p12
[135] CD19.2 p37
[136] CD19.2 p121-2

8.196 Subject to the necessity of providing them, on-site air monitoring stations, whose real-time data supplied to Emergency Responders at SCG could contribute to accelerating the process of lifting any shelter advisory in the 97% of explosion scenarios where the wind is not blowing towards the northern half of Three Mile Cross, as well as lifting the shelter advisory elsewhere in the DEPZ in the 3% of explosion scenarios where the wind is blowing towards the site.

8.197 A very low level of less than substantial harm to the setting of the Thatch it acknowledged. It is common ground with the Council that the public benefits of the scheme would outweigh that harm.

Planning Balance

8.198 The appeal Scheme would accord with the overall spatial strategy because it is a sustainable site within an SDL. But even if that were not so, the LP policies in relation to settlement boundaries are out of date.

8.199 As regards policies such as CP9, CP11 and CC02, the Nine Mile Ride Inspector concluded[137] that a "sufficient supply of homes is a fundamental objective of the Framework but cannot be achieved through adherence to polices CP9, CP11 and CC02, which are all dependent on the development limits. These policies are therefore out of date". And the Twyford Inspector concluded[138] that "these policies present a more restrictive approach to development outside of defined development limits than the Framework. As such, this reduces the weight I attach to this development plan conflict". A comparable approach is appropriate here.

8.200 For reasons explained above, policy TB04 is satisfied here and it is demonstrated that the appeal Scheme can be safely accommodated.

8.201 Even if not, the weight to attach to any such breach should be limited having regard to the remote risk that it would come to fruition; the low doses; and the likelihood that the OSEP will generally protect residents.

8.202 In any event, as the SoS said in the Boundary Hall, Tadley decision[139], life is not 100% risk free, and on balance judgments that remote risks are outweighed can justifiably be taken in the cause of securing substantial planning benefits which will alleviate health, education and other harmful effects occurring today. There is no credible possibility that the appeal Scheme would result in AWE(B) ceasing to operate or being materially restricted – there are numerous routes to ensuring that will not occur.

8.203 Any adverse impacts of the appeal Scheme do not significantly and demonstrably outweigh the very substantial benefits which it can bring.

[137] at DL 26 [CD9.3]
[138] at DL67 [CD9.48]
[139] CD9.1

9. THE CASE FOR WOKINGHAM BOROUGH COUNCIL

9.1 Reasons for refusal 5-8 listed in the Council's decision notice[140] have been resolved by the planning obligations proposed in the draft section 106 agreement. They are no longer maintained by the Council in this appeal.

9.2 The case on each of the main considerations which remain in dispute is as follows:

Character and appearance of the countryside

9.3 The proposed development would cause an unacceptable adverse impact on the character and appearance of the countryside by closing a significant part of an important landscape gap between the settlements of Three Mile Cross and Shinfield, by harming a rare historic agricultural field system and by resulting in an overall urbanising effect in this countryside location.

9.4 It is agreed with the Appellant that the appeal site is located outside of the settlement boundary of Three Mile Cross and is in the countryside. The eastern extent of Three Mile Cross has recently been extended into the countryside with the construction of the Taylor Wimpey development at Hayes Drive. This development was planned as part of the Council's South of the M4 Strategic Development Location (SDL) and the Three Mile Cross settlement boundary was revised accordingly. That development – particularly its provision of allotments, play areas and a balancing pond, flanked by mature hedgerows and trees – provides for a soft settlement edge, transitioning into the countryside. That planned settlement edge was designed and implemented in accordance with the design and landscape principles set out in the South of the M4 SDL supplementary planning document[141].

9.5 The appeal site forms part of a network of agricultural fields which lie between Three Mile Cross and Shinfield. Our Landscape witness observed in his proof of evidence[142], this open landscape is crossed by a "rich network of footpaths and significant recreational attributes". With reference to the valuable landscape attributes listed in the landscape character assessment for I3: Grazeley Farmed Clay Lowland Landscape Character Area[143], the following are most relevant to the appeal site:

- "rural character of the working agricultural landscape with its mix of large arable fields and smaller areas of pasture bound by thorn hedges and banks with characteristic hedgerow oaks";
- "hidden wetland character of the network of drainage ditches, ponds and small streams, … adds visual diversity and important ecological habitats";
- "remnant historic field patterns, … to the east of Three Mile Cross (ancient field system defined by hedgerows and hedgerow oaks)";

[140] CD5.2
[141] CD6.09
[142] CD30.3 para 3.12
[143] CD18.3

- "scattered settlement pattern of farm and rural hamlets. Time-depth is provided by the Grade II listed farm buildings".

9.6 The undeveloped countryside between Three Mile Cross and, respectively, Shinfield and Greater Reading, which includes the appeal site, has been recognised as significant in landscape terms by the development plan. CS Policy CP19,[144] as well as providing for the development of around 2,500 homes in the South of the M4 SDL, also requires measures to maintain the separation of Three Mile Cross from Shinfield and Reading. This is emphasised throughout the South of the M4 SDL SPD[145] which justifies such measures as being necessary to retain the distinct identities of each settlement and the character of the wider rural landscape. Similarly, the landscape strategy set out in the Landscape Character Assessment places emphasis on conserving the rural setting and gaps between settlements and maintaining the integrity of settlement identity[146].

9.7 The landscape gap has also been recognised as important in at least two appeal decisions relating to proposed development off Church Lane: a proposed care home at Shinfield Court[147] and 175 proposed dwellings at Shinfield Glebe[148].

9.8 The proposed development would significantly extend the eastern edge of Three Mile Cross into the open countryside beyond. The current planned settlement boundary provides a soft but clearly defined edge through the allotments, play area and attenuation pond. The proposed development would therefore be detached from the settlement by that countryside buffer, with a spreading form at odds with the existing settlement pattern. This point is well illustrated in Viewpoint 8 of the Landscape Visual Impact Statement[149] which shows the poor inter-relationship between the proposed development and the existing settlement edge.

9.9 The proposed development would result in the loss of the agricultural fields which lie between the settlement edge and the distinct cluster of buildings (including the Gospel Hall) at Shinfield Court. This would be an obvious and significant change in the character of the landscape, not least by eroding the agricultural setting for the mature hedgerows and veteran and ancient trees which are valuable landscape attributes. This would be most apparent in views represented by those at Viewpoint 14[150] in which, even at year 15, more or less continuous built form is clearly visible across the field of view from Three Mile Cross in the west to Shinfield in the east. Closer to the appeal site, the highway works along Church Lane would urbanise a road which currently has a strong rural character, flanked by mature hedgerows and provides a pronounced sense of departure when leaving Three Mile Cross to the east. This would influence the perception of the settlement gap for users of this road travelling between the settlements.

9.10 The proposed extension Three Mile Cross will also have an impact on the settlement gap from Greater Reading. The point can be illustrated with reference

[144] CD6.2
[145] CD6.9
[146] CD18.3, p.52
[147] CD9.44
[148] CD9.35
[149] CD19.05, Part 1, pp.65-70
[150] CD19.05, Part 2, pp.7-9

to Viewpoint 8[151] in which the respective settlement edges are clearly discernible. This viewpoint amply demonstrates the important role played the appeal site in maintaining their separation and effective enclosure of all the open land between Three Mile Cross and Shinfield Court. Similarly in Viewpoints 13 and 14[152], the proposed development would be visible through and between the surrounding vegetation and would extend the settlement boundary well beyond the existing edge of Three Mile Cross. In Viewpoint 14, in particular, the proposed development would introduce built form into the foreground of Green Park Business Park in Reading, resulting in the perception of the two settlements merging.

9.11 The value of the landscape is enhanced by an ancient field pattern which remains discernible from the network of mature hedgerows that continue to divide the agricultural fields. Virtually all of those hedgerows, which include a number of ancient and veteran trees, can be dated back almost 200 years, with some precision but are likely much older than that. The hedgerows "fossilise" or encapsulate the boundaries of an earlier, medieval open field system. These hedges follow earlier historic earthworks and reflect the gaps between the individually-cultivated strips (the selions) that were ploughed by the common ploughboys of the medieval period.

9.12 Although the Appellant is correct that there are examples of fossilised medieval field systems in southern England, this is a rare example in Berkshire and is therefore of real importance in the borough. There are no known surviving medieval ridge and furrow earthworks in West Berkshire and almost all examples of ridge and furrow in Berkshire lay north of the chalk in a line around Wallingford (now in Oxfordshire county). Therefore' it is right to describe the appeal site as a "*rare, fossilised Berkshire outlier of the great ridge and furrow systems of the Midlands*". Although it is accepted that the landscape is not valued landscape for the purposes of paragraph 187(a) of the Framework, the site has heritage significance which adds to its value in landscape character terms and amplifies the negative landscape effects, particularly for the flat pasture field receptor.

9.13 It is acknowledged that limited hedgerow removal is proposed and that sufficient steps would be taken to avoid harm to ancient and veteran trees. In addition, landscape mitigation is proposed. However, these factors do not overcome the Council's fundamental objections on landscape grounds: the proposed development would unacceptably encroach into and urbanise the open, rural landscape to the east of Three Mile Cross and erode a rare and historic field pattern. The proposed development is therefore contrary to CS Policies CP3 and CP11 and MDD Local Plan Policy CC03.

The safety and wellbeing of future residents of the proposed development, and the wider public, with regard to the proximity of AWE(B)

9.14 The proposed development would be located within the DEPZ for AWE(B) and would therefore increase the number of people subject to the protective actions set out in the OSEP in the event of a radiological emergency at AWE(B). The

[151] CD19.05, Part 1, pp.65-70
[152] CD19.05, Part 2, pp.1-12

likelihood of such an emergency is assumed by the relevant legislation to be very low. However, the legislation nonetheless imposes an onerous legal duty on responding agencies to be prepared to take prompt and effective action to protect the population from the off-site consequences of a radiological emergency. Those consequences extend beyond radiological exposure. That duty is principally discharged by preparing an "adequate" OSEP. This proposed development unacceptably puts the OSEP at risk of inadequacy by straining to breaking point the resources of the emergency services and responding agencies. That is the considered and unanimous view of the principal agencies with responsibility for the OSEP and therefore should carry no less than significant weight in the planning balance.

The future capability and capacity of AWE(B) to operate effectively

9.15 The Council fully supports AWE/MOD's case that granting permission for the proposed development would adversely affect the operation of AWE(B). This is contrary to paragraph 102(b) of the Framework and is therefore a material consideration of very substantial weight.

9.16 As a Category 1 emergency responder for the purposes of the Civil Contingencies Act 2004 and the OSEP, the Council's principal concern relates to whether the proposed development can be safely accommodated under the OSEP. This in turn relates to the policy test in MDD Local Plan Policy TB04 which requires the Appellant to demonstrate that the increase in the number of people living, working, shopping and/or visiting the development can be safely accommodated having regard to the needs of the Blue Light services and the OSEP.

9.17 The considered and unanimous view of the principal agencies with responsibility for developing, testing and regulating the OSEP is that this policy test is not satisfied: the proposed development unacceptably puts the OSEP at risk of inadequacy by straining to breaking point the resources of the emergency services and responding agencies who will have the daunting task of responding to a radiological emergency.

9.18 It is common ground that the risk of an off-site radiological emergency at AWE(B) is very low. However, it is also common ground that this does not affect the legal duty of West Berkshire Council (the local authority with statutory responsibility for the OSEP) and its partner agencies to be prepared to deal with the off-site consequences in the event of an emergency.

9.19 The likelihood of an accident occurring with off-site consequences is expressly required to be considered by the operator – in this case, AWE – when conducting a hazard evaluation under Regulation 4 of REPPIR 19[153]. AWE is required to plot the likelihood of an accident against its impact, applying the criteria set out in the risk Framework in Appendix 2 of the Approved Code of Practice (ACOP) issued by the Health and Safety Executive[154]. The outcome of that exercise determines whether detailed emergency planning is required as a matter of law. In the case of AWE(B), the outcome of the hazard evaluation conducted by AWE in 2019

[153] CD8.2
[154] CD13.3

established that the likelihood and impact of such an accident was such that detailed emergency planning was required.

9.20 The starting point for the detailed emergency planning required in this case is the consequence assessment carried out by AWE under Regulation 5 of REPPIR 19. This process determines the minimum geographical extent of the DEPZ and what protective action is recommended for people who happen to be within it at the time of an emergency. The AWE(B) consequence assessment determined the minimum extent of the DEPZ is a circle with a radius of 3.16km from the centre of the site and that the recommended urgent protective action (UPA) is sheltering for a period of up to 48 hours.

9.21 The outcome of the consequence assessment is presented to the local authority in the form of a Consequences Report[155] under Regulation 7 of REPPIR 19 and is binding on the authority. The authority cannot challenge the technical basis for calculating the minimum extent of the DEPZ and nor can it reduce the minimum extent when determining the DEPZ's boundaries (see ACOP para 236). It follows, from an emergency planning perspective, that the probability of an off-site accident occurring is immaterial. REPPIR 19 requires West Berkshire Council and its partners to be prepared to mitigate the consequences, notwithstanding that the likelihood is very low.

9.22 The task of the local authority under Regulation 8(1) of REPPIR is to translate the recommendations in the Consequences Report into something capable of being quickly implemented in response to an emergency. The need for speed is particularly acute in the case of AWE(B) because it is common ground that there will be no advance notice of an accident and the Consequences Report explains there will likely be approximately 10 minutes for people in the DEPZ to find shelter once an alert has been issued.

9.23 The UPA circle produced by the consequence assessment is calculated without reference to any features on the ground and therefore is unlikely to be conducive to rapid implementation of the OSEP without some adjustment. If applied strictly, it tends to result in arbitrary lines being drawn through the middle of communities which is not consistent with coherent emergency planning and risks undermining public confidence in the emergency planning system. It was for this reason that a deliberate policy choice was made when REPPIR 19 was enacted to move away from the former practice of circular DEPZs. It is also for this reason that there is not a single mention of an Urgent Protective Action Zone (UPAZ) in ACOP.

9.24 Therefore Regulation 8(1) requires the authority to determine the boundaries of the DEPZ with reference to three criteria:

- local geographic, demographic and practical implementation issues;
- the need to avoid, where practicable, the bisection of local communities; and
- the inclusion of vulnerable groups immediately adjacent to the area proposed by the operator.

[155] CD13.2

9.25 These are the only criteria that can be taken into account: they do not include the probability of an off-site emergency occurring; nor do they include land use planning considerations or the aspirations of developers with property interests in the DEPZ.

9.26 The local authority with administrative responsibility for the area in question is best-placed to make an assessment as to where the boundaries ought to be extended beyond the minimum recommended area in order to facilitate effective implementation of the OSEP (see ACOP para 237). However, the authority does not make that assessment in isolation. Following the guidance set out in ACOP para 241, West Berkshire Council's determination of the DEPZ boundaries in 2020 followed a careful process of consultation, feedback and review with members of the AWE(B) Off-Site Emergency Planning Group[156] to identify any issues or improvements with the proposed boundaries.

9.27 A central aspect of that consultation process would have been the question of whether the proposed DEPZ boundaries were proportionate and struck an appropriate balance between harms and benefits. This goes to the heart of the definition of a DEPZ which (in ACOP para 233) is "a defined zone around premises where it is proportionate to pre-define protective actions which would be implemented without delay (eg within a few hours) to mitigate the most likely consequences of a radiation emergency." The concept of balance is encapsulated by para 231 of ACOP: The detailed emergency planning zone … should:

- be of sufficient extent to enable an adequate response to a range of emergencies; and
- reflect the benefits and detriments of protective action by considering an appropriate balance between: dose averted and the impact of implementing protective actions in a radiation emergency across too wide an area.

9.28 It is evident that in the years since – including at the review of the DEPZ boundaries carried out under Regulation 8(5) of REPPIR in January 2023, no one, with the exception of the Appellant's Emergency Planning witness has called into question the proportionality of the DEPZ boundaries. This is despite ACOP expressly warning against excessively large DEPZs and instructing operators to raise such concerns with the local authority and the ONR (ACOP para 238). Although it is right to acknowledge that this was not an issue specifically considered in the judicial review challenge[157], it is equally evident that no one, including those with development interests in the appeal site, was sufficiently concerned about the "lumps and bumps" in the boundary, to pursue it.

9.29 Accordingly, the boundaries of the DEPZ are settled as not only lawful but proportionate. They are not open to extra-statutory review by way of a planning appeal. While there is power to formally review the boundaries of the DEPZ, the ACOP is clear that this should be done sparingly "because of the potential to

[156] West Berkshire Council, AWE Detailed Emergency Planning Zone report to Corporate Board, 4 March 2020 [CD13.6] paras 5.6.4-5.8.2

[157] (1) Crest Nicholson Operations Ltd (2) Hallam Land Management Ltd (3) Wilson Enterprises Ltd v West Berkshire District Council and (1) AWE plc (2) Secretary of State for Defence (3) Public Health England (4) Office for Nuclear Regulation [2021] EWHC 289 (Admin) [CD8.11]

cause confusion to members of the public living in the area" (ACOP para 253. The evidence heard at this Inquiry has made clear that a reduction in DEPZ boundaries to accommodate new development is not the direction of travel from a regulatory perspective.

9.30 It follows that scaling back those boundaries would be likely to undermine the effective implementation of the OSEP by introducing uncertainty as to which areas are instructed to take protective actions. Just as the DEPZ is determined following a process of consultation with the experts working for the responsible agencies, the OSEP is likewise developed through an iterative process involving the organisations who will be expected to implement it in the event of an off-site emergency. Consultation on the OSEP is a statutory requirement under Regulation 11(5) of REPPIR and its purpose is to "maximise [the] effectiveness" of the OSEP (ACOP para 351).

9.31 One of the crucial issues to be consulted on is the issue posed by para 340 of ACOP: "*The local authority should seek confirmation, to the extent possible, from other responding agencies that the underpinning capabilities required to implement the plan are in place and readily available*." That crucial question of resources is kept under constant review and is obviously central to the question of the OSEP's adequacy. As the ONR's Planning witness has observed, an adequate OSEP is one which sets out "*the arrangement for co-ordinating resources necessary to implement the OSEP, including the activation, deployment, management and sustainment of specific local and national emergency response capabilities needed to provide a response at any time, without delay."* [158]

9.32 That observation is based on ACOP para 760, which requires that "*response capabilities and their supporting action are pre-agreed between local planners in advance. Capabilities are maintained, regularly tested and ready to deploy without delay when needed*."

9.33 The OSEP is under enormous strain. As the ONR observed in its letter to West Berkshire Council[159] following the statutory ALDEX 23 test of the OSEP, this is a direct consequence of the increase in the population of the DEPZ following the changes enacted by REPPIR 19.

9.34 The letter said "The significant expansion of the Burghfield detailed emergency planning zone in 2019 (to accommodate changes introduced in REPPIR'19), together with proposals for development of land surrounding the AWE sites, has substantially increased the number of people requiring protection in the event of a radiation emergency. This is resulting in pressures that impact on the practical implementation of the OSEP. ONR is concerned that apparent issues with the delivery of the plan will be exacerbated by further increases in population and improvements are required to address these."

9.35 The Council's emergency planning (West Berkshire) evidence was that some of the practical implementation issues identified by the ONR following ALDEX 23 had yet to be resolved and were proving extremely challenging to overcome. The

[158] Para 14a CD22.10
[159] CD13.36

evidence heard by the Inquiry is that there is a real risk they are not capable of resolution.

9.36 It is difficult to overstate the significance of the evidence given by the Council's emergency planners and the ONR's witnesses as to the risks to the AWE(B) OSEP's adequacy. Their evidence is that the OSEP cannot cope with continual incremental increases in the permanent residential population within the DEPZ. The ONR's Planning witness, told the Inquiry he had no confidence that the OSEP was adequate at present. That is without the addition of 148 homes at this site.

9.37 None of the witnesses has suggested that the question of the OSEP's adequacy can be determined through a simple tally of the number of houses built in the DEPZ. There are clearly too many variables, for instance, the time of day, or the day of the week on which the emergency occurs would have a profound influence on the number of people who happen to be in the DEPZ. It is therefore not a credible argument that the proposed development would result in a "small" or unnoticeable increase in the DEPZ population. This "drop in the ocean" argument could be (and in the growing number of appeal decisions on this topic increasingly is) all too easily repeated for other schemes.

9.38 We wish to make clear that the OSEP is struggling to accommodate the existing permanent residential population within the DEPZ even without the addition of consented but unbuilt developments. While the DEPZ boundaries have taken account of potential future developments to ensure they will remain coherent[160], the Council's and ONR's witnesses all confirmed that the OSEP can only plan for the people already present within the DEPZ. Therefore, the fact that the Appellant can point to approved but unbuilt developments within the DEPZ does not imply there is headroom in the OSEP.

9.39 It is not the case that resources allocated to emergency services can straightforwardly correlate with an increase in the local resident population. The comments submitted by Royal Berkshire NHS Foundation Trust[161] are relevant:

"The existing pressures upon NHS services in the Reading area are consistent with those seen nationwide, however, the specific additional risk of an incident occurring within the AWE DEPZ does increase these. … the demand on services to deliver emergency care to patients extracted or displaced from the affected zone would likely overwhelm any normal operational response capability. This would include the disruption to elective care (already underperforming against national standards due to the Pandemic), staffing levels and potential decontamination requirements both in immediate response and for a lengthy post incident recovery period. The impact upon the Community, and the Mental Health of those living within it, could potentially increase the current operational pressures also.

Therefore, any significant increase in the local population, by way of development and additional dwellings, must be equally considered as having a significant

[160] West Berkshire Council, AWE Detailed Emergency Planning Zone, report to Service Director Development and Regulation, 19 Jan 2023 [CD13.07] para 3.26(c)
[161] CD25.24

impact on local NHS services, both acute and community, which are already struggling to match national expectations in levels of performance and delivery."

9.40 There are numerous aspects of the OSEP which are sensitive to increases in the resident population within the DEPZ. This begins from the very earliest stages of implementing the OSEP, when the initial alert is issued to members of the public in the DEPZ. The Appellant has argued that public communications, including alerting the public to the need to shelter, involves little more than distributing a few more leaflets and is not sensitive to a population increase. It is true that the method of issuing the alert remains the same but an increase in the DEPZ population increases the number of people who need to be contacted, and therefore the number of people who might not see that crucial instruction in time, with the result that they suffer avertible radiological harms (i.e. receiving avertible doses of radiation) and non-radiological harms (particularly from the perceived risks associated with actual or potential radiological exposure) harms. The public alerting system is currently under review but it is common ground that the existing landline alert is not ideal. Therefore, getting the message through to an increased population requires more people to be logged in to public communications issued through alternative channels, with more people at risk of falling through the net.

9.41 In the event of the OSEP being activated, the Council and its partner agencies would immediately declare a business continuity critical incident. Activating the OSEP would divert an enormous volume of public resources, particularly members of staff, so it would have adverse consequences for other critical service areas. For example, rest and reception centres would need to be staffed and supported by health and social care workers who would otherwise be providing essential services to residents, including life-sustaining care. Also, in a scenario where large numbers of people are under shelter, people who would not otherwise be considered vulnerable could unexpectedly become so. e.g, someone might suffer a heart attack or give birth. Very difficult decisions about prioritising resources would need to be made, with potentially harmful consequences for people who find themselves lower down the list. Increasing the resident population increases the potential for coincidental demands on these resources during an emergency and avoidable harm to people who might not be at direct risk from the radioactive plume itself.

9.42 The Appellant is right to say that the decision-makers will be aiming to withdraw the instruction to shelter as soon as possible to avoid these kinds of indirect harms. However, following extensive examination of this point in evidence, it is clear that this decision would take time. It would be very much longer than the estimates proposed by the Appellant. Even when shelter is lifted, it would not signal an immediate return to normality for the people released and it would require deployment of scarce resources to ensure it is done in a safe and controlled manner.

9.43 The ONR identified "management of people displaced by the response to the radiation emergency, either by urgent evacuation or subsequent relocation after the period of sheltering (the protective action during the early phase of an emergency)"[162] as a particular area of concern following the ALDEX 23 test the.

[162] CD13.36

Although the Appellant has questioned the need for these actions, the fact is that they have been planned for in the OSEP and, as the ONR letter demonstrates, tested and found to be struggling.

9.44 Increasing the population within the DEPZ increases the likelihood of people becoming displaced in an emergency. For example, there might be more people out shopping or enjoying local amenities who find themselves more than 10 minutes away from home. There could be more people working locally but away from home. There could be more people travelling or working outside the DEPZ altogether and unable to get back. There could be children at school separated from their parents; and more people who did not see or did not follow the instruction to shelter. The Emergency Planning (West Berkshire) witness's recent experience of local responses to more commonly-occurring emergencies, such as flooding, is that a surprising number of people have nowhere else to go and therefore space must be found for them in the limited humanitarian centre capacity.

9.45 The need for evacuation and relocation during the acute phase of the emergency should not be swept aside. This has been planned for, with a particular focus applied to the significant number of vulnerable locations present in the DEPZ such as care homes, educational establishments, mobile homes and Reading Stadium. Evacuation and relocation at these locations may be needed for radiological reasons (principally because they are in inadequate shelter) or for non-radiological reasons (including pre-existing health conditions) and would itself be resource-intensive.

9.46 All of these protective action options have been planned for in the OSEP[163] and none can be ruled out with certainty prior to an emergency. The decision-makers will make their decisions in response to the actual parameters of the emergency based on the data, evidence and advice given to them at the time. They will not rely on the theoretical advance modelling proposed by the Appellant and will require a very high level of assurance that any decision will achieve net public safety benefits before committing to it.

9.47 Displaced people are likely to be a priority for the reassurance measures which are planned for in the recovery phase of the emergency response. However, they are not going to be the only people seeking reassurance, given that a very large number of people will have experienced the stress of an unexpected radiological emergency. Although the Appellant's Emergency Planning witness suggested that reassurance would be mostly a matter of effective public communication, he did accept as a "fair comment" that communication on its own would not be sufficient to provide reassurance. It is for this reason that the OSEP plans for visible and tangible reassurance measures, such as personal and environmental monitoring. It is clear in the wake of the ALDEX 23 test, that capacity for personal monitoring is limited and an area of concern for the ONR. The Council and its partner agencies cannot just ignore people just because they were not in a contaminated area. There will be demand for reassurance monitoring which the test has shown is at risk of exceeding capacity. It is plausible to suppose that at least some residents of the proposed development would seek that reassurance, whether or

[163] CD13.5

not they have received a radiological dose of significance, and would therefore add to that demand.

9.48 The Appellant's proposed answer to the concerns about adequacy advanced by the other parties to this appeal is a radical re-write of the OSEP as it currently is, by considerably reducing its scope, potentially to a "minimal plan" which simply tells people in the DEPZ when they should and should not shelter and that there are no health risks.

9.49 There are a number of flaws in this approach. Firstly, it assumes that granting permission for the proposed development would unacceptably compromise the OSEP as it exists today. It is common ground that the SoS has no power through this appeal to revise the OSEP. This power rests with West Berkshire Council through the processes set out in REPPIR 19. Therefore, as was put to the Appellant's Planning witness in XX, if the SoS finds that the policy test in MDD Local Plan Policy TB04 is not satisfied by this proposed development, the Appellant is effectively inviting the SoS to grant planning permission with no assurance that it can be safely accommodated in the event of an off-site emergency.

9.50 Secondly, and in any event, it is not tenable to suggest that the OSEP can be scaled back without compromising public safety. As with the extent of the DEPZ, proportionality is key to the OSEP. That concept has been carried over into the OSEP (ACOP para 335[164]) which incorporates proportionality in two of the three "principles of protective actions": justification ("*the action should be used if it is expected to achieve more good than harm*") and optimisation ("*the quantities criteria used for introducing and withdrawing protective actions optimizes public protection*"). The careful and detailed process of consultation and revision carried out through the AWE(B) Off-Site Emergency Planning Group is clear evidence that, from the perspective of those with responsibility for implementing and regulating the OSEP, it is proportionate. In other words, the position is that the OSEP strikes the correct balance between the benefits and harms of protective actions and does no more harm than is necessary.

9.51 The Appellant's Emergency Planning witness argued that the OSEP is premised on a flawed and exaggerated understanding of the emergency and is therefore disproportionate. However, in this regard, his opinion is at odds with the responding agencies, the operator and the regulator – all of whom are intimately involved in the development, revision and testing of the OSEP. If his evidence on this point is to be accepted, it must follow that all the experts who take a contrary view are wrong.

9.52 It should be noted that he has had no direct involvement in the process of preparing, consulting on, reviewing or testing the OSEP which represents a very important limitation on his ability to critique the plan. His evidence does not provide a sufficient basis for departing from the shared view expressed by the Council, AWE and, in particular, the ONR whose views as the regulator must attract great weight.

[164] CD13.03

9.53 It follows that the Appellant has not demonstrated that the proposed development could be safely accommodated and therefore it is contrary to Policy TB04 of the MDD Local Plan.

Surface drainage

9.54 The proposed development relies on a pumped system for draining surface water from the appeal site which, in turn, relies on significant raising of ground levels. This is not a sustainable urban drainage system and that the Appellant's proposed surface water strategy has been dictated by its preferred masterplan rather than by sustainable urban drainage considerations. A gravity-based solution which outflows to the ditch at the north end of the appeal site, adjacent to the housing development at Hayes Drive, is a viable and sustainable strategy and is the preferred option of the Lead Local Flood Authority, whose advice must be taken account of under paragraph 182(a) of the Framework.

9.55 While it is recognised that the site has a largely flat topography, it has a natural gentle gradient to the north. A surface water flood risk modelling report commissioned by Taylor Wimpey in 2016[165] confirms that it is feasible to drain the site to the north (see Fig.B) which is the natural direction of flow. This is evident from the waterlogging currently experienced on the site which is made significantly worse by the unlawful land raising on the neighbouring housing site which has obstructed the natural outfalls to the north.

9.56 The layout of the proposed development has remained effectively unchanged since the submission of the Drainage Strategy as part of the original application for planning permission[166]. That layout has remained a consistent feature throughout the various drainage options subsequently presented by the Appellant. This does not reflect a working through a hierarchy of more sustainable drainage options – bearing in mind it is common ground that a pumped solution should be an option of last resort[167], where there is no other practicable method of surface water drainage[168].

9.57 Instead, it shows that the Appellant has remained wedded to its preferred housing layout which has determined the approach to drainage. A drainage strategy designed to take advantage of existing flow paths and features would look very different to the current proposed layout and drainage. If the layout were to be adjusted, it would be possible to achieve a gravity-based solution with lower levels of land raising than have been indicated for Option 6. Because the Appellant has never presented a drainage option with an alternative layout, it is not possible to say whether the Council's preferred option would result in a lower quantum of housing.

9.58 Our preferred solution requires a resolution of the obstructed outfalls to the north caused by unlawful activity on the adjacent housing site. This is being actively pursued through enforcement cases by both the Lead Local Flood Authority and the Local Planning Authority's enforcement team. The enforcement case is

[165] CD3.38
[166] CD1.15 see Appendix E p.31
[167] CD20.11 p.16
[168] CD16.26 para C5.8 p.60

progressing rapidly and that the housing developer has provided a commitment to enable an outfall from the ditch running alongside the site's northern boundary and to remove the material from the infilled area on its northern bank. Should a voluntary approach fail, the Council has default enforcement powers available to it under the Land Drainage Act 1991 and the Town and Country Planning Act 1990. The Council's preferred, gravity-based solution is therefore a feasible option.

9.59 For these reasons, the Appellant has not demonstrated that it is not practicable to implement a fully sustainable urban drainage system. The proposed development therefore conflicts with MDD Local Plan Policy CC10 and paragraph 181 of the Framework.

The Planning Balance

Conflict with Spatial Strategy

9.60 It is agreed that there is a housing land supply of 1.7 years and therefore the "tilted balance" in paragraph 11(d) of the Framework applies. However, the amount of weight to be given to policies that are deemed to be out-of-date is a question of planning judgment:

9.61 "*The Framework does not state that the decision-maker must reduce the weight to be given to restrictive policies according to some notional scale derived from the extent of the shortfall against the five-year supply of housing land. The policy in the Framework para. [11] requires the appropriate balance to be struck, and a balance can only be struck if the considerations on either side of it are given due weight*."[169]

9.62 When considering the extent of the shortfall, it is relevant to note that the current housing land supply figure is heavily influenced by the recent re-calculation of the Council's local housing need, following publication of the new standard method in the 2024 Framework. This has resulted in an overnight 78% increase in housing need.

9.63 While accepting that housing land supply is a forward-looking exercise, it is also relevant to note that on the Appellant's own figures, there has been a surplus of housing completions against all national policy requirements since the CS period began in 2006.[170] Therefore, while there is a shortfall today, it is common ground that there has been no under-supply of homes in earlier years: the Council has made good on the longstanding policy instruction to significantly boost the supply of homes in its area. Indeed, between 2011 and 2021, the housing stock in the borough increased by 14.5% and the population increased by 15%. Since the standard method for calculating local housing need was introduced in 2018, the Council has completed 7,191 dwellings against a cumulative need of 4,801.[171]

[169] Hallam Land Management Ltd v SSCLG [2018] EWCA Civ 1808 [CD8.14], [47]
[170] 111 homes per Appellant's Planning proof of evidence, Table 3 [CD19.02]. The Council considers that number to be a significant under-estimate due to double-counting but is prepared to accept it at face value for the purposes of this appeal.
[171] Wokingham Borough Council, Five Year Housing Land Supply Statement 31 March 2024 [CD10.04] paras 3.46-3.48

This strong housing performance has been commended in recent appeal decisions.[172]

9.64 A housing surplus has been achieved by applying the spatial strategy set out in the development plan, which has sought to concentrate growth within the four SDLs by planning for the expansion of the existing settlements within them. Although it is true that settlement boundaries were defined with reference to a superseded housing requirement (13,230 in Core Strategy Policy CP17), the reality is that a much higher number of dwellings have been completed without routinely breaching planned settlement boundaries. The Appellant cited a total of 1,063 dwellings beyond development limits which have contributed to its housing supply. However, between 2006 and 2024 14,265 dwellings[173] were completed and there is a deliverable supply of 2,321 dwellings to 2029[174], a total of 16,581. That means just 6% of the Council's supply has depended on overriding its spatial strategy, and even then, as the Trowes Lane inspector noted, the majority of those consents were granted to unlock strategic infrastructure and so were allowed under the conventional planning balance[175]. The Appellant's Planning witness accepted in XX that the proposed development does not provide any wider strategic benefits of this kind, apart from contributing to housing supply.

9.65 The proposed development, although within an SDL, is outside of the planned settlement boundary of Three Mile Cross. Its location, in the countryside between Three Mile Cross and Shinfield and Greater Reading, would cause landscape harms and undermine a strategic objective of protecting separate settlement identity. It would therefore conflict with the spatial strategy of the development plan. While that conflict cannot attract full weight in the planning balance, given that the spatial strategy has functioned effectively to secure a surplus of housing to date, the conflict should nonetheless be afforded significant weight.

9.66 The proposed development also conflicts with the spatial strategy of the emerging local plan. The site is not allocated for development and is located in the DEPZ, in which no housing growth is planned due to the adverse impact of such development on the OSEP. It should also be noted in any event that no further growth is planned for the South of the M4 SDL[176], which has achieved 2,826 completions[177] against an initial requirement of around 2,500 dwellings[178] That conflict should attract limited weight.

9.67 The eLP has been submitted for examination, which marks a significant milestone on the journey to adoption of a new local plan. On the timetable set out in the Local Development Scheme, examination of the draft plan is estimated to complete by the end of 2025 and adoption is anticipated to be mid-way through

[172] Watmore Lane appeal decision, para 98 [CD9.05], Trowes Lane appeal decision, para 39 [CD9.18]
[173] CD10.04 Table 3.9 p.24
[174] CD10.04 Table 4.1 p.29
[175] CD9.18 para 40
[176] CD7.14, para 4.52 p.42
[177] CD10.04 Table A3.2 p.48
[178] Core Strategy Policy CP19(1) CD6.2

2026. The eLP contains allocations sufficient to meet the housing needs against which it will be examined.[179]

9.68 The Council also has a developable supply of just under 3000 dwellings, some of which can be expected to come forward within the next five years[180].

9.69 The Appellant lays great emphasis on the adverse social impacts of a shortage of affordable homes. That point is well made. However, as was put to the Appellant's Planning witness in cross-examination, it is unlikely to be true for the majority of households in affordable housing need in Wokingham. The most recent assessment of affordable housing need was conducted in 2022. This assessment identified an overall affordable housing need of 6,689 during the period 2021-2040, of which 1,529 (23%) were in the most acute category of being unable to afford to meet their housing needs in the open rental or ownership market. The remaining 5,159 (77%) are able to meet their housing needs in the open rental market but who aspire to home ownership[181].

9.70 Therefore, of the overall annual affordable housing need claimed the Appellant (352), approximately 80 dwellings per year are required to meet the most acute needs. The Council has delivered well in excess of that every year since 2013[182] and is projected to do so over the next five years and beyond[183].

9.71 It should also be borne in mind that although the Council has significantly boosted the supply of homes in the borough over the past few decades, its affordability ratio has continued to increase[184] It is the Council's case that this demonstrates that there is no straightforward correlation between increasing housing supply and improved affordability.

9.72 The Appellant cites a number of additional aspects of the scheme which are not benefits. These include the development's sustainable location, its form and density, its housing mix and preservation of trees and hedgerows which are all requirements of the development plan and therefore are neutral in the planning balance. Similarly, most of the claimed environmental benefits should also be neutral in the planning balance, given that they are also policy requirements, e.g POS. In any event, they would be more than outweighed by the landscape harms and the negative environmental impact of using a less sustainable drainage strategy when a more sustainable solution is viable. The economic benefits are not unique to the proposed development and would be realised by any development of the same scale elsewhere in the borough.

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[179] [CD7.14] Policy SS10. It will be examined under the transitional arrangements set out in para 234(b) of the Framework and therefore local housing need calculated under the 2023 Framework will apply. A review of the plan will be required (under para 236 of the Framework) once section 97 of the Levelling Up and Regeneration Act 2023 is enacted, which introduces new streamlined local plan-making arrangements with an expectation that new local plans are adopted within 30 months.
[180] CD10.04 paras 3.50-3.51
[181] CD7.10 Fig 2 p.7
[182] CD19.02 Table 9 p.51
[183] CD9.05(a) paras 4.1-4.3
[184] CD19.2 para 5.49

AWE(B) issues

9.73 The proposed development puts the AWE(B) OSEP at unacceptable risk of inadequacy. This would represent an adverse social impact which puts members of the public (not just those residents at the proposed development) within the DEPZ at risk of harm in the event of an off-site emergency. It would also jeopardise the UK's national security through undermining the Continuous At Sea Deterrent policy of the Ministry of Defence.

9.74 The Appellant suggested that the weight which should be attached to these matters should be reduced because the likelihood of an off-site emergency is very low. It is common ground that the likelihood of an accident is very low. However, that is not a tenable reason for reducing the weight to be given to these matters in the planning balance: REPPIR 19 requires the emergency services to be prepared to deal with an off-site emergency notwithstanding that the probability of one materialising is very low; and the impacts on national security would be immediate should the ONR declare the OSEP to be inadequate. In light of the evidence given to this Inquiry, there is already a very real risk that the OSEP is inadequate and that risk should not be exacerbated by granting planning permission for a development that further increases strain on the OSEP.

Overall planning balance

9.75 While the proposed development undoubtedly has a number of benefits, they are significantly and demonstrably outweighed by its social and environment harms. Therefore, planning permission should be refused and this appeal dismissed.

10. THE CASE FOR AWE/MOD

10.1 It is AWE/MOD's case that more development in the DEPZ would put more pressure on an already strained OSEP. The OSEP is a crucial layer of safety, put in place to protect the public in the very unlikely event that the safety controls at AWE(B), designed to prevent and mitigate a radiation emergency, fail. An adequate OSEP is also required for AWE to work with ionising radiation[185]. AWE's work with ionising radiation is a vital part of MOD's maintenance of the Continuous at Sea Deterrent (CASD): known as Operation RELENTLESS. CASD has been in place for over sixty years and is the longest sustained military operation ever undertaken by the UK. It is the cornerstone of the UK's national security, protecting against the most serious threats to the nation's security. As the MOD witness has indicated, the need for that protection has only been reinforced in the current global security landscape[186].

10.2 AWE and MOD's concerns about the impacts of the appeal Scheme are twofold. First, further residential development in the DEPZ would put more people at risk of being involved in a radiation emergency. As explicitly recognised in the PPG: "such cumulative development, by whatever means, leads to a rise in population within the consultation zone and a proportionate increase in the consequences should a major accident occur." Increasing population increases the societal risk:

[185] Regulation 10(4) of the Radiation (Emergency Preparedness and Public Information) Regulations 2019 ("REPPIR 2019"), CD 13.76.
[186] CD21.3 para 3.2

that is not just putting more people at risk of receiving a dose above background levels (which is the Appellant's focus) it also exposes new populations to all the consequences that would flow from activation of the OSEP and being caught up in a radiation emergency and gives rise to additional risks of harm to the existing population from an increased strain on emergency resources. The health risks to individuals at the appeal site are not limited to radiological health impacts, but also include well-documented and complex psychological effects, which could arise during the initial emergency and during recovery.

10.3 Secondly, there would be further strain on an already overstretched OSEP, which would increase the risk that the OSEP would become inadequate. Both West Berkshire Council and the ONR are united in their evidence that the OSEP is reaching the point of inadequacy. The Council's Emergency Planner (West Berkshire) noted during XX that, while the ONR has not formally concluded that the plan is inadequate, she was working with the ONR through the regulatory intervention process, so "they may well do". The ONR's Planning witness also stated in Evidence in Chief that he was "not confident that the OSEP remains adequate". This position was repeated under XX. Under re- examination, the ONR's Emergency Preparedness witness similarly commented that "the fact that my organisation has never participated in planning Inquiries until very recently, it is reflective of our ever-growing concern that [inadequacy] is the finding we will make".

10.4 Overburdening the OSEP has the potential to exacerbate the harm that would be caused to the population of the DEPZ, should a radiation emergency occur and poses a serious risk to AWE's ability to continue performing its vital role in responding to the needs of CASD, in clear breach of paragraph 102(b) of the Framework. The risk of OSEP inadequacy is a real risk that is present now. It is clear from the Council's Emergency Planners' evidence and the ONR's evidence that the ONR is stepping-up its regulatory oversight. The situation arising from increasing population in the DEPZ is getting worse not better. The evidence at this Inquiry is that, following the outcome of the Hollies 2 appeal, the ONR is now planning a series of interventions.

The legal Framework for emergency planning and its relationship to land use planning

10.5 The current Framework for emergency planning for radiation emergencies is contained in the REPPIR 19[187]. The regulations apply to any sites working with ionising radiation that have a radioactive substance which could, in a radiation emergency, result in an annual effective dose to persons offsite greater than 1 mSv[188]. Pursuant to this regime, following an assessment of the potential hazards and consequences at AWE (the HECA), detailed emergency planning is required. AWE therefore prepared a Consequences Report for West Berkshire District Council that recommended a minimum radius for urgent protective action (sheltering in place) for up to 48 hours.

[187] CD13.76
[188] Regulation 3(1) and (2) [CD 13.76]

10.6 The requirement to model the first 48 hours of the emergency comes from the Approved Code of Practice (ACOP) for REPPIR 19[189]. West Berkshire then set the DEPZ, taking into account local conditions (as set out regulation 8(1) and the statutory guidance in the ACOP and PHE (now UKHSA) Guidance). The setting of the DEPZ was challenged in a judicial review: *R (Crest Nicholson and Others) v West Berkshire District Council* [2021] EWHC 28913 (Admin)[190] and found to be lawful. The boundaries of the DEPZ are not, nor could they be, under challenge in this planning appeal.

10.7 The figure of 1mSv is lower than the threshold of 5mSv that applied under the previous regulations, REPPIR 2001[191]. This reduction in the trigger dose for a radiation emergency under REPPIR 19 is one part of a broader change in the international consensus on radiation risks in response to the Fukushima disaster of March 2011. Following that accident, the international community as a whole, adopted a more precautionary approach to planning for radiation emergencies which, while unlikely, have the potential to cause catastrophic harm.

10.8 The risk of a nuclear emergency is low, and the radiation doses that may be experienced by individuals during such an emergency are low. Those facts, which are not disputed, are not reasons to dismiss or diminish the concerns of AWE, MOD, ONR, Wokingham Borough Council and West Berkshire District Council as the owner of the OSEP. Low individual risk is a given in the regulatory and planning regime. REPPIR 19 requires emergency planning for such low likelihood events.

10.9 As well as lowering the dose trigger for emergency planning, REPPIR 19 made the following important changes to the REPPIR 2001 definition of radiation emergencies:

(1) The definition was widened to encompass all hazards, not just “reasonably foreseeable” hazards. In practice, this means that emergency planners and operators must plan for accidents that will materialise in less frequent weather conditions. PHE (now UKHSA) guidance defines this as weather categories that occur at least 5% of the time.

(2) The definition was widened to take account of emergencies that will cause harms other than those brought about directly by receiving a dose of radiation. These include the perception of risk, and detriments to human life, health and safety, quality of life, property, and the environment. The range of considerations that must be taken into account in the preparation of the OSEP, and by emergency planners in responding to an emergency, is therefore much wider than simply averting radiation doses. The constant refrain of the Appellant’s witnesses that the main focus of the OSEP should be to get people to shelter, and then lift shelter quickly once the plume has passed, is out of date and downplays the wide range of other considerations that REPPIR 19 explicitly requires decision-makers to take into account.

[189] see also PHE Guidance CD13.95 p.13 of the PDF
[190] CD8.11
[191] CD8.01 1.1

10.10 The individual risk to any one person at the appeal site is completely irrelevant to the adequacy of the OSEP, as accepted by the Appellant's Emergency Planning witness.

10.11 Another important element of the REPPIR 19 Framework is the hard barrier that it puts in place when a duty holder has not complied with one of its obligations. Operators to which the regulations apply cannot continue working with ionising radiation if the local authority responsible for maintaining an adequate OSEP fails to do so[192]. In the present case, this means that if the OSEP maintained by WBDC becomes inadequate, AWE(B) cannot continue operating, and cannot continue performing its essential function in delivering CASD.

10.12 Land use planning decisions can have an impact on those working within the REPPIR 19 Framework. If a land use planning decision were to render an OSEP inadequate, or contribute to that eventuality, it would have the consequence of preventing an operator (in this case AWE) from working with ionising radiation in accordance with REPPIR 19.

Planning Policy

10.13 The parties agree that the 'tilted balance', set out at paragraph 11(d)(ii) Framework, applies. However, the development plan remains the starting point. Conflict or compliance with development plan policies affect the assessment required by the tilted balance.

10.14 The key development plan policy in this appeal is Policy TB04 of the MDD[193]. The Appellant's Planning Witness agreed that policy TB04 is up-to-date and should be given full weight.

10.15 Policy TB04(1) reads as follows:

"*Development will only be permitted where the applicant demonstrates that the increase in the number of people living, working, shopping and/or visiting the proposal (including at different times of the day) can be safely accommodated having regard to the needs of Blue Light services and the emergency off-site plan for the Atomic Weapons Establishment site at Burghfield*."

10.16 It is a restrictive policy which puts the burden on the applicant to demonstrate that a proposal in the AWE(B) DEPZ can safely be accommodated. TB04 requires the applicant (and decision-maker) to have regard to both (a) the needs of 'Blue Light' services, and (b) the needs of the AWE(B) OSEP. The purpose of the policy is to secure public safety and the integrity of AWE(B) and the OSEP[194]. It is consistent with national policy principles on protecting public safety in the Framework and reflective of the PPG's express consideration of the risks around population increases in safety consultation zones such as the DEPZ. The development plan, national policy and national guidance are consistent.

10.17 The supporting text to policy TB04 refers expressly to the potential cumulative effects of any population increases surrounding AWE(B). It states that the LPA will

[192] Regulation 10(4) REPPIR 2019, [CD 13.76]
[193] CD 6.03 p30
[194] AWE Planning Proof CD 21.5, paragraph 7.4

work with other local authorities in the consultation zones surrounding AWE(B) to monitor the potential cumulative effects of any population increase surrounding the installations.

10.18 In seeking to demonstrate whether this appeal Scheme complies with policy TB04, the Appellant has argued that the effects of the scheme on the OSEP should only be taken into account to the extent that they give rise to safety concerns. The Appellant draws a distinction between these factors on the one hand, and increased pressures on the OSEP that give rise to 'inconvenience' on the other. The Appellant has characterised many of the LPA and West Berkshire's concerns as falling into the latter category.

10.19 This is an unduly narrow reading of the policy. There is no distinction between a narrow concept of "safety" and "inconvenience" set out in the policy. Such a distinction is contrary to the purpose of the policy, which is to ensure the OSEP is able to function for the public it seeks to protect, having regard to the wide range of public safety matters set out in REPPIR 19. It is also unworkable as it would require decision-makers to comb through the OSEP to identify elements that are directed at a narrow concept of safety and work out whether these safety matters are affected by further residential development. That is clearly not what the policy envisages. The more natural and ordinary reading of policy TB04 in its context is that it recognises the fact that the OSEP as a whole is designed to protect the safety of the public in a broad sense. That is why, when an OSEP is found to be inadequate for whatever reason, operators are prohibited from working with ionising radiation until the plan is restored to adequacy[195].

Emerging Policy

10.20 The emerging plan was submitted to the Planning Inspectorate for examination on 28 February 2025. It is a material consideration in accordance with paragraph 49 Framework. The parties agree that the eLP should be given limited weight. The AWE/MOD Planning witness considers that this should be at the upper end of limited weight.

10.21 The emerging local plan includes policy SS7, which addresses development in the vicinity of AWE Aldermaston and Burghfield. Policy SS7 takes as its starting point that development proposals within the consultation zones surrounding AWE(B) – which includes the whole of the DEPZ – will be refused unless certain criteria are met. These criteria include:

- That the development will not adversely affect the current or future operation of AWE(B); and
- That the increase in the number of people living, working, shopping and/or visiting the proposal (including at different times of the day), individually and cumulatively, will not have an unacceptable risk to human health, and will not have an adverse impact on the AWE OSEP.

10.22 The supporting text clarifies that, where it is considered that a development proposal would result in an unacceptable risk to the OSEP, planning permission

[195] Regulation 10(4), REPPIR 2019, CD 13.76

will be refused. Policy SS7 is itself reflective of policy SP4 of the West Berkshire District Council emerging local plan, which has already progressed to the main modifications stage and is therefore a clear indicator of the direction of travel for planning policies that relate to AWE(B), all of which show the DEPZ as a constraint for residential development. These policies all take the same approach in recognising that the OSEP is not infinitely scalable and therefore residential development within the DEPZ needs to be managed and controlled.

National Policy

10.23 Paragraph 102 of the Framework says "*Planning policies and decisions should promote public safety and take into account wider security and defence requirements by…b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area*."

10.24 Paragraph 102(b) does not include any requirement that such effects be significant adverse effects.

10.25 The PPG recognises the concept of societal risk arising from increasing residential development in consultation zones[196] and is therefore consistent with and supportive of existing and emerging development plan policies. It also makes clear that (a) the views of the regulator (ONR) and (b) local authority planners will have a key role to play in advising local planning authorities on developments around nuclear installations[197].

10.26 Paragraph 200 of the Framework reflects the 'agent of change' principle, namely that an applicant for new development is responsible for managing and mitigating its impacts on existing development. In the present case, it is therefore for the Appellant to demonstrate that its proposal does not adversely affect AWE or that it can mitigate any impacts. It is not for the MOD, AWE, or any other party to change the status quo or restrict their own operations in order to accommodate the appeal Scheme. The only response to AWE and MOD's arguments on the 'agent of change' is that (a) there is no conflict with TB04 and (b) a reliance on potential exemptions from REPPIR 19 or future changes to the DEPZ.

The appeal proposals

10.27 We note that: (1) the site is in open countryside, outside settlement boundaries and unallocated and falls within a clear nationally important constraint (the DEPZ); (2) the Appellant has relied on an old and out of date Strategic Development Location that has now been built out: (3) the emerging local plan update is forward looking and should be a guide to further development: it does not propose allocations within the DEPZ[198]; and (4) there is no need to develop within the DEPZ as housing is coming forward elsewhere in the Borough. These include approximately 3930 homes in the proposed Loddon Valley Garden Village SDL; 111 dwellings on Reading Road Arborfield and 191 dwellings at Shinfield.

[196] Paragraph: 069 Reference ID: 39-069-20161209, CD 24.29
[197] Paragraph: 075 Reference ID: 39-075-20140306, CD 24.30
[198] The LPA's HELAA assessment sets out the LPA's approach to assessing planning constraints. See CD7.12.

However, it is also clear that there are other proposals coming forward within the DEPZ and that the risk of precedent on other unallocated sites outside the settlement boundaries in the DEPZ is real.[199]

The Main Issues for AWE/MOD

10.28 The OSEP is currently under pressure and is at risk of becoming inadequate at the next statutory test. The ONR gave evidence that it has been closely involved in testing and scrutinising the OSEP, including through the ALDEX 23 exercise, and has identified areas sensitive to population increases requiring improvement[200]. A growing population in the DEPZ will add to the already stretched OSEP, if more residential development is permitted or consented development built out[201].

10.29 The Appellant's witnesses for Emergency Planning and for Monitoring do not have any operational role in overseeing, implementing, nor reviewing the OSEP. They have no direct experience of responding to emergencies off-site, and no direct experience of carrying out emergency planning for accidents of the type that could occur at AWE. The Appellant's Emergency Planner's experience of participating in emergency response exercises when employed by a civilian nuclear operator all pre-date REPPIR 19.

10.30 The Appellant's witnesses' suggestions as to how the OSEP could operate are based on personal views about the risks arising from radiation emergencies that is not shared by the ONR, the UK Health Security Agency ("UKHSA") [CD20.9 Appendix 4] or its predecessor Public Health England (PHE). PHE has made it clear that lifting shelter is a decision taken after having considered radiological and non-radiological factors. The decision to lift shelter is not as straightforward as waiting for the plume to pass, even in areas upwind of the release.

10.31 Once the OSEP is activated, difficult decisions will need to be made about lifting shelter, subsequent evacuation, decontamination and monitoring. The Appellant looks at those issues through the lens of radiological health risk (i.e. the risk of a dose of radiation leading to an early death from cancer) and has taken almost no account of the wide variety of human factors that may present themselves to emergency responders. By contrast, the actual decision makers in an emergency will be taking decisions on the basis of public health and wellbeing in its widest possible sense. Critically, the Council's evidence addresses the OSEP as it has been written, reviewed by stakeholders and tested with the regulator. This Inquiry needs to consider the OSEP as it is today and not a theoretical version which does not exist.

Rushmoor

[199] XIC Fidgett. These include not just this appeal, but also separate proposals for 63 dwellings and 475 dwellings at Spencer's Wood on sites 5SH013 and 5SH105 shown in his Proof and the appeal at CD9.22 (which was refused).
[200] Ingham Proof of Evidence, CD 22.10; Aldex23 ONR Contact Record, CD 13.36.
[201] CD22.10 para 81-82

Issue 1: Public Safety

10.32 There is no dispute that the likelihood of a radiation emergency is low, nor that AWE is operating in a manner that seeks to ensure that risks are tolerable and kept as low as reasonably practicable (ALARP). AWE is heavily regulated and takes safety incredibly seriously. The principles of "defence in depth" are there to ensure, so far as practicable, that emergencies do not occur. The concepts of tolerability and ALARP relate to the licensee's operations (layers 1-4 of defence in depth). Nonetheless, the principles still require there to be a functioning off-site emergency response, in the form of an OSEP, to protect the public and the environment from harm (the fifth layer of defence in depth)[202].

10.33 The OSEP only covers the initial days of an emergency. There is a much longer period of recovery. The Appellant's evidence does not realistically grapple with recovery. The recovery process is described at Appendix 1 to the Council's (West Berkshire) Emergency Planning Proof of Evidence.[203] This Appendix explains that recovery will be "resource intensive". How long recovery will take cannot be specified before an incident happens because there are so many variables to take into account which will only be known at the time of the incident.

Effects on individuals at the appeal site

10.34 It is not in dispute that, in the event of a radiation emergency occurring at AWE(B), the individual risk to residents of the appeal Scheme of early death following exposure to radiation is low. Even so, it is not denied by the Appellant that there is the potential for residents of the appeal Scheme to receive a dose of radiation above background levels if the appeal Scheme is downwind from the plume.

10.35 The Appellant's Emergency Planning witness has estimated that, in category F weather (most likely, but not exclusively, a cold, clear night with low turbulence) that dose would be approximately 6.4mSv. This is over six times the trigger dose for REPPIR 19, and well above the 0.01 mSv dose that the ONR's Safety Assessment Principles regard as "significant", should such a dose be received by the public during potential accident scenarios. The dose the public would receive would be unconsented, and from which they would not perceive any benefit. In any event, the understanding of radiation and its effects on the human body is not static and is subject to change as understanding develops. As both international and domestic guidance makes clear, there is no clear dividing line between a safe and an unsafe dose of radiation[204]. The fact that the appeal site lies outside the radial UPA distance, and that the averted dose is lower than the Emergency Reference Level for shelter (3-30 mSv) does not matter: the DEPZ has been determined through a lawful process and consideration as to the benefits and disbenefits of applying the DEPZ to this area has been followed in accordance with the legislation and guidance.

10.36 AWE's Nuclear Safety and Continuity witness agreed that the methodology underlying the Appellant's 6.4 mSv estimate were "reasonable". AWE note that it should be borne in mind that the figure is based on incomplete information. There

[202] CD 13.65, paragraph 17 and Table 1
[203] CD 20.12, pp.43-47
[204] CD13.12 at paragraph 180 p.85.60

are national security concerns restricting disclosure of information about AWE's operations, and the details of the reference accident underlying the HECA. The Appellant's calculations are, therefore, based on various unverified assumptions. It should also be borne in mind that the Appellant's argument assumes that residents of the appeal Scheme will actually be present at the appeal site at the time of an accident at AWE(B). It is uncontroversial to say that future residents of the appeal Scheme would leave their homes to walk, shop, play, work, attend the nearby allotments, and attend school. At the time of an emergency, they may be outside in another part of the DEPZ. The Appellant's figures make no allowance for this unpredictability. It is this unpredictability which illustrates that non-radiological harm could be caused, which the OSEP must cater for.

10.37 It is AWE's case that the most that can be taken from the Appellant's calculations is that it is unlikely that individual residents present at the appeal site at the time of an emergency will suffer serious physical health effects from a radiation dose. That low individual risk has no bearing on establishing the radial UPA distance or the extent of the DEPZ. Nor can it relieve WBDC of its duty to maintain an adequate OSEP for the whole of the DEPZ, or the consequences that would flow from a failure to do so.

10.38 The Appellant's Emergency Planning witness's individual radiation risk calculations are of no assistance in assessing any of the other harms that could arise from a radiation emergency at AWE(B). There is a myriad of other types of harm that could flow from a nuclear accident, and which must be planned for under REPPIR 19. These include:

10.39 The perceived risks of a nuclear emergency. REPPIR 19 expressly recognises that these risks can have serious consequences.[205] Members of the public who become aware of a radiation emergency at AWE(B) may overestimate the radiological risks posed to them by that emergency[206]. Not everyone is a nuclear physicist with knowledge of the estimated dose that they may receive. It is not as simple as sending a leaflet to residents of the DEPZ, and having conversations with members of the public about the low risk posed by AWE(B). The Appellant's Emergency Planning witness does not have any direct experience in simulating such conversations with real members of the public in exercises. He has vastly underestimated the fear and panic that many non-experts will feel on hearing that there has been an accident at AWE(B). This is particularly so given that there has not been a nuclear accident in the UK for many decades. The reference points for many members of the public will therefore be catastrophic nuclear reactor incidents such as Fukushima and Chernobyl, or the earlier nuclear bombings in Japan in 1945. The perceived risk of harm has the potential to be overestimated by members of the public.

10.40 The Appellant's calculations have no insight into the potential psychological impacts of a radiation emergency at AWE(B). As ONR's Planning Proof of Evidence highlighted, the WHO has described radiation emergencies as carrying "substantial and unique stressors".[207] This can lead to impacts on people's mental

[205] Regulation 2(1) REPPIR 2019, CD 13.76
[206] CD13.38 on p.6
[207] para 22 CD22.10

health and psychological and social standing, which in turn can impact on their well-being and physical health. As the WHO explains, proximity to a nuclear accident can be "particularly frightening" due to the invisible nature of ionising radiation; people cannot assess whether they are at a safe distance from a dangerous source of radiation, nor whether they are contaminated.[208] The Appellant's suggestion that most members of the public involved in an AWE(B) emergency would appreciate that their estimated received dose is low then carry out a rational comparison exercise against those received in everyday life is simply not credible. It was accepted that sources such as TiKTok may spread misinformation.

10.41 There would be also effects of sheltering and the subsequent disruption to daily living.

10.42 The Appellant's sheltering evidence is not accepted. It presents a simple scenario of an instantaneous explosive release of radioactive material. After the explosion, the scenario is that the plume moves downwind in a short period of time before dissipating and sheltering would be short. AWE's Nuclear Safety and Continuity witness (who has years of experience in this specific field) gave evidence that this scenario does not take into account the nature of the release, which would be likely to involve a longer passive release from the site (up to 2 days)[209]. Although it is agreed that most of the radiation would be released with the initial plume, the relevant guidance is clear that the question of whether the release has stopped is one of the factors taken into account when lifting shelter[210]. The Appellant's conjecture about the nature of the plume, the design intent of the "gravel gerties" and the consequent short duration of sheltering for upwind sectors of the DEPZ is based on an incomplete understanding of AWE's operations and inventory.

10.43 In addition, as the Appellant accepted, the decision to end sheltering is one for those managing the emergency response, balancing a number of factors and based on information available at the time and is not based solely on radiological dose[211].

10.44 In respect of the impact of sheltering on vulnerable groups, the Appellant's Planning witness is of the opinion that the number of 'vulnerable' residents living at the appeal Scheme would be "immaterial", but there is no evidence-based analysis before the Inquiry underlying that assertion. Neither the Appellant's Emergency Planning proof nor the ES[212] contains any explanation of the numbers of vulnerable people living at the appeal Scheme, or the impact that a radiation emergency could have on those individuals. While recognising that there may be overlap between his figures, in his evidence in chief, AWE/MOD's Planning witness estimated that, based on borough averages, there could be 33 disabled people living at the appeal Scheme along with 48 people above the age of 70, and 74 children under the age of 10. The Appellant has offered no explanation of how these vulnerable groups would be affected by being required to shelter for up to

[208] CD13.19 para 20
[209] See AWE Proof CD 21.2 at 8.4.2, summarising the conclusions in the Consequences Report.
[210] See CD13.14 p.vii of the PDF where "official confirmation that the release stopped" is identified as one of the factors to be taken into account when deciding to lift shelter.
[211] UKHSA Report, CD 22.7, Section 3.3.
[212] CD2.09

two days (or even the various shorter periods contended for by the Appellant). The appeal site will not be occupied solely by healthy, single, adults. There will be families, children, the elderly and those with health and social care needs.

10.45 In respect of recovery, the focus of the OSEP is on the first two days after the emergency, but there is a much longer period of recovery. There would be consideration of longer-term relocation of residents and decontamination. Even though there may be no need to carry out decontamination and reassurance monitoring at the appeal site on the grounds of physical health, there may be a need for reassurance.

10.46 In respect of decontamination and compensation, there are other considerations which are not related to physical health. There is the right to compensation for personal injury and property damage under the Nuclear Installations Act 1965 which AWE/MOD may have to fund.

10.47 A decision would have to be made at the time as to whether the presence of any contamination caused personal injury and/or amounted to property damage and what was required by way of monitoring and decontamination. These considerations are determined by legal principles which do not follow a simple health physics approach. For example, in *Blue Circle Industries PLC v Ministry of Defence* [1998] EWCA Civ 945, the Claimant's property was contaminated by flood water originating from AWE's Aldermaston site. The flood water contained radioactivity that did not endanger health but were above the threshold for radioactive waste as set out in the Radioactive Substances Act 1960. The MOD undertook remediation voluntarily (and prior to the claim) to remove the radioactive waste and were ordered to pay compensation for diminution in value of the land. The Appellant has rebutted this point by stating that it is an example of MoD seeking to litigate its liability up to the Court of appeal: that is a bad point. The MoD was ordered to pay compensation and this case now reflects the law on property damage under the Nuclear Installations Act 1965, and the entitlement to compensation for economic losses arising from property damage. Further, these costs fall on the public purse and amount to the sort of adverse effects contemplated by paragraph 101(b) of the Framework.

Adequacy of the OSEP and Impacts on AWE

10.48 There is no dispute that AWE's contribution to CASD is unique and critical. Nor is there any dispute that if AWE were required to pause or alter its operations in response to issues with the OSEP, this would have a significant effect on national security. The risks that CASD must respond to are dynamic, and AWE(B) must be capable of responding to MOD's evolving requirements. This includes requirements associated with decommissioning as part of the full implementation of the Treaty on the Non-Proliferation of Nuclear Weapons in which, as the MOD witness explained[213], AWE will play a central role.

10.49 The main issue between the Appellant and AWE/MOD is whether AWE's concerns about the impact on its operations will materialise. It is not possible to quantify the precise impact of the addition of approximately 374 residents on the adequacy of the OSEP. Notwithstanding this, the fact that ONR, WBDC, the LPA and

[213] CD 21.3, para 6.4

AWE/MOD, i.e., the parties who will be responsible for responding to an emergency at AWE(B), are united in their concern that the appeal Scheme cannot safely be accommodated by the OSEP should be a clear warning sign that these concerns are real and serious. It is not in dispute that the ONR's advice to refuse planning permission should carry significant weight.

10.50 The adequacy of the plan is binary: it is either is adequate or it is not. In circumstances where the OSEP is inadequate, the immediate consequence is that AWE cannot work with ionising radiation (REPPIR 19, regulation 10(4)). That is the law. That engages the agent of change principle. If AWE is unable to contribute to CASD, that is not just the significant impact on national security, there are economic impacts as well because AWE is a significant employer in the area and is a world leading centre of technology. The Inspector in The Hollies gave the impacts on AWE from an inadequate OSEP moderate weight[214]. This Scheme is much larger and ONR's intervention and concern as to the adequacy of the OSEP is more acute now than it was 6 months ago.

Changed DEPZ boundary

10.51 The Appellant's suggestion of a changed boundary to reduce pressure on the OSEP is not supported. This suggestion appears to be based in part on the Appellant's Emergency Planning witness's opinion that any DEPZ boundary that extends beyond the area necessary to meet the lower ERL of averted dose for sheltering will cause more harm than good. It is outdated that there should be no DEPZ beyond the area which has the potential to deliver a 3 mSv dose saving when sheltering. This would require the DEPZ to align exactly with the UPA area, as it did under REPPIR 2001. The Government expressly moved away from this approach with the enactment of REPPIR 19.

10.52 The suggestion that the DEPZ could be redrawn is completely unevidenced and far too speculative to warrant any serious consideration. There is no evidence that (a) any such new boundary would be legible and understandable and adequately reflect the need to consider local geographic, demographic and practical implementation issues and avoiding the bisection of communities as is required by REPPIR 19; and (b) that it would actually resolve any of the issues that are currently stressing the OSEP given the scale of the issues, and the pipeline of consented but unbuilt development that is yet to be taken into account in the ONR's assessments of adequacy. The prospect of any re-drawing of the DEPZ should carry no weight in this appeal and the Appellant's argument should be rejected. The parties' agreement that other lawful DEPZs could be drawn does not, on analysis, answer the issues in this appeal.

10.53 Second, the Appellant's written evidence speculates that the MENSA project, by which AWE(B)'s facilities are being improved, could improve safety at the site such that the UPA radius may reduce in future. The Appellant's Emergency Planning witness, in his oral evidence strongly agreed that it is not possible to speculate on this point. In any event, AWE's Nuclear and Continuity witness gave evidence as to the possibility that notwithstanding MENSA, there are other factors that could see the UPA and DEPZ increase in scale.

[214] CD9.24 paragraph 49

Exemption under REPPIR

10.54 AWE/MOD consider that exemption under REPPIR is not the answer. It is accepted that there is a power under Regulation 25(2)(d) to exempt an operator (such as AWE) who is working for or on behalf of the Secretary of State for Defence from any or all of the requirements or prohibitions under REPPIR 19. It is not possible to say what an exemption would look like. It would be unprecedented and would be subject to wider public law considerations.

10.55 There are wider factors such as MOD health and safety policy and other regulatory regimes. Such exemptions are only applied in times of "extreme national security emergency" and not in order to facilitate the commercial aspirations of housing developers.

10.56 As to the reality of issuing an exemption, the power has to be exercised lawfully, balancing numerous factors, including the need to ensure that the public remain safe. It is likely to be highly controversial, given that the practical effect of an exemption would be to remove or water down the application of REPPIR 19, the fifth level of defence in depth that is designed to protect the public in the event of a radiation emergency.

10.57 The Secretary of State for Defence's Policy Statement on Health, Safety and Environment in Defence requires maintaining arrangements that "*produce outcomes that are so far as reasonably practicable, at least as good as those required by UK legislation*".[215] In practice, this means an exempted site would, so far as reasonably practicable, still need adequate off-site emergency planning in place. It is a policy which reflects the need to protect Defence personnel and the general public and, any decision to depart from such a policy must be taken in accordance with normal public law principles. It is a speculative suggestion that the appeal site could simply be excluded from those alternative arrangements on the grounds of reasonable practicability. No evidence has been presented to support the contention that MOD could put in place workable alternative emergency planning arrangements that would exclude the appeal site.

Other Material Considerations

Precedent

10.58 The potential for a precedent to adversely impact on the OSEP and on AWE's operations has been recognised by Planning Inspectors in numerous recent appeal Decisions[216], most recently in the Hollies 2 decision in which the Inspector stated, in paragraph 31:

"*I do, however, accept that the OSEP is not infinitely scalable and that incremental, unplanned development could, over time, erode the effective management of the land use planning consultation zones and be detrimental to public safety. In that sense, I agree with the Inspectors in the Shyshack Lane appeal the Benham's Farm appeal and the 132 Recreation Road appeal. However, such concerns do not arise in the present case due to the fact that the*

[215] CD 13.77
[216] Benham's Farm CD 9.22, Shyshack Lane CD 9.21, UKHSA Report, CD 22.7, Recreation Road CD 9.25. The UKHSA Report refers to the Wokingham BC Appeal, see CD 22.7.

appeal site is the only remaining allocated site within the DEPZ. As such, the circumstances of this appeal are unlikely to be repeated elsewhere in the DEPZ."

10.59 The site is not allocated. It is in open countryside, outside settlement boundaries and situated within a clear area of constraint (the DEPZ). The Appellant has not identified any benefits associated with the appeal Scheme which could not be replicated in other residential housing proposals of a similar scale. It is telling that before this scheme, both the Hollies and Kingfisher Grove were presented as "one of a kind" development.

10.60 The fact that this is a scheme for 148 houses does not avoid a precedent. It is correct that recent decisions related to schemes which are small in scale, but a larger scheme poses an even greater risk of harm to public safety and to the OSEP because it brings with it a larger increase in residential population. If the SoS in this appeal were to decide that the benefits of a larger, unplanned scheme nonetheless outweigh those harms, this would create a precedent that would threaten the future adequacy of the OSEP and therefore CASD, even more so than smaller-scale incremental development.

Proposed mitigation: monitoring stations

10.61 There is no evidence that a condition to require the installation of radiation monitoring stations on the site would meet the test of necessity required for a planning condition. AWE's position is as follows[217]:

10.62 As set out in the OSEP, in the event of an incident at AWE(B), initial monitoring would be carried out by AWE's radiation monitoring teams. Those teams would travel by van into the prevailing wind direction, monitoring for radiation using air and surface monitors. AWE's monitoring teams would take readings at the site fence of AWE(B) and distances of 2.5km, 5km, and 10km from the site. The purpose of this monitoring is to ensure that the emergency response team know where the plume has travelled and where contamination has settled. Initial data would then be sent back to the Off-Site emergency response team so that decisions could be made as to how the emergency response should progress, with UKHSA then assuming responsibility for monitoring. Given the scale of the monitoring task, AWE's initial monitoring would not be completed in a matter of minutes.

10.63 The Appellant has offered to put in place two monitoring stations at the appeal site. These are intended to carry out air monitoring to measure total alpha activity concentrations in the air passing through the monitoring stations.[218] As the Appellant accepted, these monitoring stations were advanced as mitigation.

10.64 The Appellant accepted that the proposed monitoring stations were (1) bespoke in that they involve combining two pieces of existing equipment; and (2) would provide only confirmatory data, rather than alternative data capable of replacing the monitoring data that will already be carried out by AWE and UKHSA, and the modelling provided by the Met Office. As he also accepted, AWE and UKHSA's monitoring would likely take a "significant period of time". As such, it has not been

[217] CD21.6
[218] CD 13.50, page 3

explained how the proposed monitoring stations would assist decision-makers in making decisions whether to release residents of the appeal Scheme from shelter.

10.65 The evidence is that the monitoring stations would simply provide an additional datapoint with which STAC and SCG can make those decisions. They would still remain reliant upon AWE and UKHSA data.

10.66 The condition is not necessary to make the development acceptable in planning terms. The monitoring takes place once the emergency alert has been triggered. It is not there to protect the residents from radiation. The Appellant has produced a scheme that is bespoke and untested. It is wholly unclear if it is even workable. The condition requires the installation of an air monitoring system that is installed and operated in accordance with a strategy approved by the local planning authority, and the maintenance of that strategy in perpetuity. Such a strategy will be dependent on third parties for its effective operation, notably the emergency. It is unclear how the condition could be enforced against these third parties so as to ensure that the monitoring system remains effective. The condition is therefore not compliant with the relevant tests at paragraph 57 of the Framework.

Planning Balance

10.67 The following tip the balance in favour of refusing planning permission:

10.68 The appeal Scheme is in breach of MDD Policy TB04. It is AWE/MOD's case that the Appellant has failed to demonstrate that the proposal can be 'safely accommodated' within the DEPZ because the proposal would put further pressure on an OSEP which is getting ever closer to the point of inadequacy. For the same reasons, the proposal conflicts with policy eLP SS7 of the emerging local plan.

10.69 There is a risk that future residents of the appeal Scheme will suffer both radiological and non-radiological harm in the event of an AWE(B) emergency.

10.70 The appeal Scheme would be in breach of paragraphs 102(b) and 200 of the Framework. There is a risk that the appeal Scheme would adversely affect AWE(B)'s operations by contributing to the OSEP becoming inadequate. This would have unacceptable consequences for AWE(B)'s ability to perform its vital, unique, and irreplaceable role in delivering CASD.

10.71 This is not a "one off" development. It is part of a concerted effort to continue building residential development in the DEPZ.[219] The risks to the OSEP are therefore exacerbated due to the precedent effect which would lead to further residential development within the DEPZ.

10.72 The material considerations in favour of the scheme, are simply the local contribution this scheme makes to housing need and affordable housing need, and other benefits that could easily be repeated across other housing schemes within the DEPZ. Those benefits fall to be balanced against the significant consequences

[219] The DEPZ is under pressure from further planning applications, as explained by Mr Fidgett in XIC with reference to a number of EIA screening requests: 63 dwellings on a greenfield site west of Spencer's Wood on the parcel of land labelled 5SH015 in Mr Fidgett's Appendix 1; 475 dwellings, 1ha of employment land, primary school and local centre on land east of Spencer's Wood on 5SH013. See also Figure 4 of Mr Fidgett's proof CD21.5 showing land within the DEPZ that has been promoted for residential development.

of a progressive degradation of the OSEP, both in terms of the impact on public safety from an inadequate OSEP, and the impact on AWE's operations which are of national and international security significance. The risk to AWE(B) goes to the heart of our national security. Those harms must be given "very significant weight".

10.73 The proposed condition for air monitoring stations should not be given any weight. The condition is not necessary because it does not mitigate any of the harms. Similarly, there are questions as to the enforceability of condition.

Conclusion

10.74 Central Government can only deliver on its missions for change on the foundations of a stable economy, secure borders and national security. Housing delivery and national security are not incompatible.

10.75 Through its contribution to the maintenance of the UK's CASD, AWE(B) is of critical national importance in ensuring national security AWE(B) is a unique site and a key component in the delivery of CASD. Its critical national and international security importance cannot be overstated and its ability to operate now and in the future need to be protected. The DEPZ for AWE(B) is just 7% of the area of Wokingham and adherence to policy TB04 does not prevent Wokingham delivering its local housing provision.

10.76 Weighing all of the relevant factors, this appeal should be dismissed. Development Plan policy does not support it, national policy does not support it and the clear weight of material considerations (including the advice of the ONR) does not support it.

11. THE CASE FOR OFFICE FOR NUCLEAR REGULATION (ONR)

11.1 ONR's over-arching submission is that there are significant implications to public safety which result from the appeal Scheme which should be treated as an issue of paramount importance. The ONR is not assured that the appeal Scheme can be safely accommodated within the OSEP, which ONR has already determined to be exhibiting substantial, population-based weaknesses and those concerns have significantly increased in the last few months.

11.2 Introducing around 350 more residents into the DEPZ would have consequences. In the event of a nuclear emergency, the appeal Scheme would require emergency planning resources which are finite and would otherwise be utilised elsewhere in the DEPZ. It would degrade the emergency response under the OSEP which would impact the health and wellbeing of future residents and the wider DEPZ.

11.3 The Courts have found that appreciation must be afforded to decisions based upon scientific, technical and predictive assessments by those with appropriate expertise[220]. The Appellant's Emergency Planning witness made clear that he was advising on the emergency planning and response, not the OSEP, so the experts in determining whether the OSEP can accommodate an expanded population are the ONR and the Council.

[220] CD8.11 Crest Nicholson v West Berkshire Council [2021] EWHC 289 (Admin) at [81]

11.4 It must be shown that the appeal Scheme can be accommodated in the current OSEP. There is nothing in the regulations which suggests that the OSEP can or should be changed in order to create capacity for the appeal Scheme. The OSEP is not infinitely scalable. There must be a limit to what can be accommodated safety within the OSEP. The Appellant's witnesses appear to accept that, as did the Inspector in the Hollies 2 decision.[221]

11.5 The Appellant's case on nuclear safety is that is unrealistic. The general approach was that everything else should move: statutory plans ought to be amended, risks minimised, exemptions granted, so as to allow the appeal Scheme to come forward. There is nothing in REPPIR 19 or wider nuclear safety guidance and legislation to suggest that there is any requirement for the Council, AWE, or ONR to facilitate future development. The ONR considers that where nuclear safety is concerned, any erring must be on the side of caution. The REPPIR 19 regime is founded on a precautionary approach.

11.6 It is agreed between the parties that:

- The DEPZ is lawful;
- An OSEP is needed;
- The starting position in the OSEP is that the nuclear accident has happened;
- The OSEP could be triggered in an actual or a perceived emergency;
- The reference event which unpins the OSEP is not the only potential emergency that would result in the OSEP being activated. The reference event is a reasonable worse case;
- Individual risk calculations are not relevant to pressure on the OSEP;
- The OSEP deals with the DEPZ as a whole and not the appeal site in particular;
- The ONR is the only organisation which has the authority to declare an OSEP adequate or inadequate;
- The ONR's views on nuclear safety should be given significant weight;
- Policy TB04 is up-to-date and carries full weight.

11.7 What is not agreed:

- Whether the actual radiation dose at the appeal site is relevant to whether or not the OSEP is adequate.
- Whether the Inquiry should be concerned with the DEPZ and OSEP as they are today or what they could or should be in the future.

11.8 Firstly, the evidence from the opposing parties is that the OSEP is required to do more than simply avert the radiation dose. It contains the response to the nuclear emergency, the immediate actions, the later actions and the transition to recovery.

[221] CD9.24

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Once it is understood that the OSEP assumes that the nuclear accident has happened, it is obvious that the radiation dose at the appeal site is not relevant to its adequacy – the Appellant's evidence was that the bulk of the radiation dose was delivered in the first few minutes, yet there was no suggestion that the OSEP would fall away at that point. Moreover, the Appellant's Emergency Planning witness accepted that he had only considered Schedule 7 Part 1 (principles) and not Schedule 7 Part 2 (purpose) or Schedule 6 Part 2 (what must be included in an OSEP) of REPPIR 19 in his written evidence. This is a critical omission.

11.9 Second, the Inquiry can only be concerned with the DEPZ and the OSEP as they are. REPPIR 19 is an emergency planning regulation and not a land use planning regulation. In all of the Appellant's evidence, nowhere has it been identified how, in a planning appeal, an Inspector or the SoS has any power to amend, edit, or ignore the OSEP and the DEPZ.

11.10 The Inspector and the SoS must deal with the DEPZ and the OSEP as they are today.

11.11 While in legal and regulatory terms the OSEP is assumed to be adequate today, that is because the statutory testing regime is retrospective. However, the ONR does not require a statutory test to find an OSEP to be inadequate if there are exceptional circumstances.

11.12 Our Planning witness explained that ALDEX 22 and ALDEX 23 highlighted population-sensitive issues within the OSEP. That, and other changes within the DEPZ, caused ONR to be concerned that the OSEP was stretched and under-pressure. The Council's Emergency Planning witness's (West Berkshire) evidence was that those issues had not been resolved and were proving difficult to address.

11.13 Our Planning witness found further new issues which were identified though his engagements with the Councils, AWE and emergency responders during February 2025.

11.14 Both of these witnesses confirmed that ONR had notified West Berkshire Council that it was planning to undertake a regulatory intervention to interrogate the adequacy of the OSEP (i.e. well ahead of the next statutory test). This is the first ever such intervention under REPPIR 19 and represents a significant escalation.

11.15 We have no confidence that the OSEP was adequate.

11.16 If the OSEP is inadequate or if the appeal Scheme is not compliant with Policy TB04 that risk should be determinative of this appeal.

11.17 The Appellant's attempts to suggest that there are alternative smaller DEPZs or alternative OSEPs available are not supported by any reliable evidence and are beyond the scope of the Inquiry. There has been no successful challenge by anyone to the DEPZ or the OSEP, and there has been no approach made to West Berkshire Council to even suggest that there are reasons why the determination of the DEPZ and/or OSEP should be revisited.

The Hollies 2

11.18 Given the areas of agreement identified arising from the Hollies 2, it is a useful exercise to consider why that decision was made and what the Hollies 2 Inspector

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determined. This current appeal would introduce 350 residents into the DEPZ cumulative with the 77 residents in the Hollies 2. The current appeal site is not allocated. It is precisely the incremental, unplanned development which the Hollies inspector identified. In planning terms, the policy difference is critical.

11.19 The Hollies Inspector 2 started from the development plan policy, CS8, and analysed that policy in paragraphs 11 – 22. At paragraph 27, the Hollies 2 inspector found that the OSEP is sensitive to population density and noted that "*the PPG makes clear that when considering public safety in planning decisions, account should be taken of the total number of people that are present…[the PPG recognises] that cumulative development…leads to a rise in population…and a proportionate increase in the consequences should a major accident occur*".

11.20 At paragraph 28, the Hollies 2 Inspector agreed that the addition of more residents in the DEPZ "*will place an increased burden on emergency responders…will require the deployment of further resources….increase the burden during the recovery period…as well as the need for radiation monitoring and alternative accommodation…[but] the quantifiable effect on those resources would be limited and, in itself, is unlikely to materially impact on the effectiveness of the OSEP*".

11.21 The Hollies 2 Inspector also found that (a) the ONR is best placed to understand the pressures faced by the OSEP and the likely impact of population growth in the DEPZ; and (b) Permitted but unbuilt development has placed a further strain on an OSEP already under significant pressure.

11.22 The Hollies 2 Inspector's conclusion in paragraph 30 was that 77 people into the DEPZ would not, of itself, have a material impact on the overall emergency response, nor had he seen robust evidence that 77 additional residents would materially affect the adequacy of the OSEP, and so he found no conflict with Policy CS8 in paragraph 33. However, this conclusion was mitigated by the explanation in paragraph 31 that "the OSEP is not infinitely scalable and that incremental, unplanned development could, over time, erode the effective management of the land use planning consultation zones and be detrimental to public safety…However, such concerns do not arise in the present case due to the fact that the appeal site is the only remaining unallocated site within the DEPZ. As such, the circumstances of this appeal are unlikely to be repeated elsewhere in the DEPZ".

Policy TB04

11.23 Policy TB04 permits development only where the applicant demonstrates that the increase in population can be safely accommodated having regards to the needs of Blue Light services and the OSEP. The burden is thus on the Appellant to show that the 350 people introduced by the appeal Scheme can be safely accommodated in the OSEP. The Appellant's Planning witness accepted that the OSEP is more than just Blue Light services.

11.24 Despite this planning test, the Appellant has only focussed on radiological risk and radiological protection. Policy TB04 goes further: the requirement is for safety

having regard to the OSEP. The Appellant's Emergency Planning witness accepted that he had not considered any other health impacts or areas outside of the appeal site. He focussed on the radiation dose but did not consider other elements of the radiation emergency.

11.25 He made the point that the Ambulance Service had not written into the Inquiry to object. In addition, the Appellant's Planning witness noted that no s.106 contributions had been requested by Blue Light services. But this misses the point and the burden. There is no analysis provided by the Appellant of the capacity of those Blue Light services. The Appellant has not provided an analysis of the current capacity of the OSEP nor the impact of an additional 350 people. It is not true that emergency services could respond to the nuclear emergency "as they would normally".[222]

11.26 No agency with a statutory role in the OSEP has provided any evidence that there is spare capacity within it. Rather than seeking to test the boundaries of the OSEP, decision-makers should adopt a precautionary approach with seeks to protect it. In most circumstances adequacy of the OSEP is addressed retrospectively: if an approach of identifying and utilising headroom were to be adopted, it is inevitable that, on any party's case, a point would be reached where development makes the OSEP inadequate before that can confirmed in a statutory test. During that period, were the OSEP to be triggered, there would be a material impact on the safety of residents of the DEPZ.

11.27 Moreover, Regulation 11 of REPPIR 19 provides for the OSEP, which must contain the information in Chapters 1 and 2 of Part 2 of Schedule 6, comply with Chapter 3 of Part 2 of Schedule 6 and be drawn up in accordance with the principles and purposes set out in Schedule 7. There is nothing in those provisions which permits future development to be included in the OSEP. The reviewing and testing of emergency plans under Regulation 12 of REPPIR 19 requires a test to ensure that the OSEP is effective. If the OSEP were designed to include future unbuilt development as is the case in respect of headroom, it would not be compliant with REPPIR 19.

11.28 Notably, whilst REPPIR 19 does not compel an OSEP to take any account of the town and country planning regime, the planning regime provides for control of development in accordance with REPPIR 19: in respect of the appeal Scheme, the development plan makes specific provision within Policy TB04.

Actions on activation of a nuclear emergency

11.29 Arguments based on the percentage chance of an event happening; the percentage chance of death from the reference accident; a comparison of the percentage of people at the appeal site compared to Reading Stadium or any other area are not relevant. The Appellant's Emergency Planning witness accepted that if the OSEP is activated, the immediate action is for the whole of the DEPZ to shelter. This means that every person in the DEPZ becomes an "affected

[222] CD1.8 paragraph 6.11

person" under REPPIR 19. It follows that at the stage of implementation of the OSEP, risk, type of accident, wind direction or any other variable, is irrelevant.

11.30 People living on the site would automatically become affected persons. In emergency planning terms, that is problematic as the appeal site would require additional emergency planning considerations and resources. In town and country planning terms, that is problematic as the Appellant must demonstrate that those people can be safely accommodated within the OSEP: in simple terms, both questions point to the same considerations, and the Inquiry has had no reliable evidence on those considerations from the Appellant.

Sheltering

11.31 It is unrealistic that in the event of a nuclear emergency, the experts who will form the STAC and the SCG will err on the side of taking risks and start making steps to release people from sheltering in 30 minutes or a few hours. It is also unrealistic, and contrary to national arrangements, that the decision to withdraw protective action should be given to AWE, in circumstances where the OSEP will have been activated because of an accident on the AWE site.

11.32 Notably page 73 of the OSEP makes plain that the plan for lifting shelter is to be considered within the 48-hour window for sheltering which implies that the decision is one to be considered over the whole period of sheltering – i.e. not swiftly. Some of the STAC and SCG members were at the Inquiry, giving evidence against the Appellant's Emergency Planners assertions that sheltering could be lifted swiftly.

11.33 The ONR's Planning witness's evidence was that it would take hours or days for SCG and STAC to form and gather evidence. That was the experience at ALDEX 23. That evidence should be preferred – it is plainly realistic, and it comes from someone with direct experience of statutory tests in the context of REPPIR 19.

11.34 As to the withdrawal of sheltering itself, the Appellant focussed on averting the dose, rather than in accordance with UKHSA's (previously PHE) standing advice[223] that other radiological and other non-radiological factors need to be taken into account.

11.35 If the Appellant's evidence on sheltering being for a few hours or less is rejected, that has significant implications for the evidential basis of the Appellant's case that there is headroom in the OSEP and/or that it can demonstrate the safe accommodation of the additional population arising from the appeal Scheme. The Appellant has advanced no alternative assessment of a realistic and longer-term sheltering period other than asserting that everyone in the DEPZ has well-stocked fridges and 48 hours of sheltering would not be problematic.

[223] CD13.3 – PHE Public Health Protection in Radiation Emergencies

Adequacy

11.36 The Appellant's Emergency Planner's evidence amounted to an assertion that all that was required in respect of adequacy was to get under shelter as that would avert the dose. The OSEP is some 241 pages with a full index setting out the matters it addresses. It is far more than a simple instruction to shelter as soon as possible.

11.37 The Appellant misunderstands our evidence. The purpose of a statutory test is not to try out future scenarios but assess whether the OSEP, on the day of the test, is adequate. Whether or not it is possible to simulate additional housing is not relevant to the test.

11.38 The Appellant's case is that there is no evidence that the OSEP is inadequate today; the next statutory test is in 2026 and that ONR has not made any declaration or stopped AWE from carrying out work with nuclear materials.

11.39 The adequacy of the OSEP is retrospective. There is sufficient evidence that means that there is no confidence that the OSEP is adequate. The ONR is escalating its regulatory intervention. Until that intervention is concluded or the next statutory test confirms inadequacy, the OSEP remains adequate in regulatory terms, but it is unprecedented for a nuclear inspector to express such concerns so explicitly. Our Planning Witness is a Principal Inspector, Policy Lead and Deputy Head of Regulation within ONR's Emergency Planning and Response team. That is as expert evidence as will ever be available as to the adequacy of the OSEP. There was no contrary expert evidence on that point.

The Appellant's Fallback Arguments

11.40 It was suggested in XX and the Appellant's evidence that the area protected in the event of a nuclear emergency could and would change as a result of the appeal Scheme being permitted: that what the ONR might do in relation to plan adequacy in the future was relevant and could form part of the planning balance. This argument should be rejected for the following reasons.

- Matters concerning the DEPZ are not for a planning appeal.
- The Inquiry is not the place to write an emergency plan.
- There is no policy or legal basis for making a planning decision now on the basis of what a regulator may do in respect of emergency planning regulations in the future.

11.41 If there were a requirement for either the DEPZ or the OSEP to change as a result of the appeal Scheme being permitted, that would be because a risk to public safety had arisen: it would be implicit that the appeal Scheme would not be in compliance with Policy TB04 - as people living in the DEPZ benefit now from the protection of the OSEP, removing them from the DEPZ would obviously mean that the population increase could not be safely accommodated.

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11.42 In any event, the novel argument regarding amendment to the DEPZ is flawed as a matter of law:

- Regulation 8(1) provides that a local authority has power only to extend (i.e. not contract) the DEPZ for the reasons provided at Reg 8(1)(a) – (c).
- "Practical implementation issues" do not carry the weight which the Appellant seeks to give it: all the regulations say is that if there is a practical implementation issue (amongst other considerations) the local authority can extend the DEPZ.
- Under regulation 8(6), the local authority may redetermine the DEPZ in two circumstances: where there is a change in the local area which necessitates redetermination or as a consequence of a change to the operator's consequences report.
- A prospective grant of planning permission is not a change in the local area. A grant of planning permission is not a change in the local area. It would only be once the appeal site had been built and occupied that there would, arguably, be a change in the local area. At that stage, an amendment or redetermination would be too late – the harm to safety across the DEPZ would have realised.
- There is no power, as the Appellant appears to assert, to redetermine the DEPZ at will in order to facilitate development ambitions. Nuclear safety regulations are not flexible in that regard.

11.43 Much of the Appellant's focus was on the UPA. The UPA has no planning policy basis and is not mentioned in REPPIR 19. The "minimum geographical extent" of the DEPZ is the intermediate step in the statutory process which sets the DEPZ – the application of regulation 8 extends that minimum area for the reasons set out in regulation 8(1). Although the Appellant's Emergency Planning witness might not be a fan of "lumps and bumps" in the DEPZ boundary, a circular minimum distance DEPZ was the position pre-REPPIR 19. Nuclear safety has moved on.

11.44 The answer to a problem about the provision of such safety should not be to withdraw that protection altogether. The arguments of the Appellant's Planning and Emergency Planning witnesses, taken to their logical extremes are ultimately that there is no need for any prohibition on development around AWE(B) as the prospect of anything happening is too remote and/or other parties would change position in order to accommodate such development. As the Appellant's Emergency Planning witness accepted, the event which led to the tightening up of the regulations and REPPIR 19, Fukushima, was also "very unlikely" and that there had been similar risk estimates.

11.45 Notwithstanding the legal and policy reasons why the Appellant's approach should be rejected, the only evidence before the Inquiry as to how the DEPZ boundary might be amended was the Appellant's Planning witness's evidence in re-examination, i.e. along the Basingstoke Road. No plans or proposals are in evidence, and the Inquiry does not have any comments from the Council or ONR on those non-existent proposals. His assertion that a redefinition of the DEPZ "would probably be acceptable to ONR" is untrue. The view expressed that the

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Basingstoke Road could be used as a boundary is for the convenience of the Appellant. The Appellant's proposed boundary would helpfully, for the Appellant, zig and zag around the appeal site. The suggestion that the DEPZ could be amended should be firmly rejected.

Proposed monitoring condition

11.46 The proposed condition is inappropriate and unworkable. It seeks to address matters of emergency planning regulation through a planning condition. Moreover, the local authority cannot approve equipment or monitoring strategies under REPPIR 19: those issues are for UKHSA. It follows that the proposed condition does nothing to address or improve the safe implementation of the OSEP.

Planning Balance

11.47 This is not a straightforward planning balance appeal, and that has not been the Appellant's approach. The Inquiry has had everything from new radiation monitoring techniques, to musings as to the attendance of specific UKHSA employees at other planning appeals, to the likelihood and power of the SoS to exempt AWE from compliance with the regulatory regime. The ONR does not accept that the Inquiry has seen, from the Appellant, an analysis of the policy test and the necessary evidence to demonstrate the safe accommodation of the appeal Scheme in the OSEP as it exists now.

11.48 As regards planning balance and material considerations, the ONR's position is that nuclear and public safety is extraordinarily serious. The issue of the OSEP is significant enough that Parliament has legislated for it in REPPIR 19 and the Council has recognised that significance with Policy TB04. It is difficult to imagine in those circumstances what might balance out nuclear and public safety in favour of the appeal Scheme in circumstances where the nuclear safety regulator has said that its expert advice is that the appeal Scheme cannot be accommodated safely within the OSEP and so recommended that it should be refused.

12. THE CASES FOR INTERESTED PARTIES APPEARING AT THE INQUIRY

Mr Blick

12.1 It is his case that the proposed path and cycle path in front of The Thatch should be put on the other side of the road where there is an existing footpath because, he believes that the addition of a cycle path directly in front of the Thatch would harm the setting of the Listed Building by changing the appearance of the highway from a country lane to something more developed and urban. He considered that this would spoil the look of the house. Furthermore, he said it is not possible to build a path in front of his land due to the changes in height between the road and his entrance. The difference in height between the two, he said, would be too great.

12.2 He is also concerned about the paths through the open space being too close to his boundary and that they would cause a loss of privacy due to the boundary hedge being sparce in the winter. In addition, he considered that the extra traffic would justify traffic calming measures on the road in front of his house as drivers already speed, breaking the speed limit excessively, along Church Lane. He

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suggested that Church Lane should be a 30mph limit for its entirety. He also had concerns about whether the site would be adequately drained.

Mr Lias

12.3 Three Mile Cross has greatly expanded over the years from just 100 dwellings in 1997. His case is that the proposal would further increase the settlement area by about one third and add about 16% to the total number of dwellings. There would be no appreciable improvement to local amenities and traffic would increase.

12.4 He explained that the water table is very high in the area and in heavy rainfall places become waterlogged. His view is that the proposal would exacerbate the surface water run-off from the site and the pumped drainage would be inadequate to mitigate flood risk of neighbouring roads, properties and amenities.

12.5 The local secondary school has been rated as inadequate by Ofsted and the other school in Arborfield is increasingly unavailable for Three Mile Cross residents and there is no direct bus service to it. He considers that financial contributions should be provided for local education.

13. WRITTEN REPRESENTATIONS

13.1 **Local Residents:** There have been a number of objections from local residents. They include that the development would cause a risk of flooding from additional surface water and Church Lane regularly floods. The attenuation pond nearby has already overflown. Wildlife would be harmed, including dear, rabbits, red kites, adders and foxes. The roads do not have the capacity for the additional traffic as it takes over 20 minutes to travel half a mile to the motorway from the middle of Church Road in rush hour. There is a nuclear safety risk and nuclear accidents do happen. War is just around the corner and this area will be in the first top 10 strikes due to the nuclear weapons factories. Brownfield should be developed instead of greenfield. There would be harm to the Listed Building, The Thatch. Local services such as schools and health services are already over-subscribed. It is impossible to register for a doctor or dentist in the area and you have to go further into Reading. There would be harm to the character of the area as it would ruin the landscape. There would be noise pollution to the houses from the motorway. The sewerage systems need improving.

13.2 **Shinfield Parish Council:** Object due to the proximity of AWE(B), flood risk, traffic impact, ecological harm and landscape impact. It has not been allocated for the development in the local plan. It is in the DEPZ. A drainage scheme must be implemented properly and using a pumping station is not best practice. There are foul drainage issues nearby. There is limited access to public transport. Junction 11 of the M4 cannot deal with the level of traffic at already. There would be encroachment into the root protection areas of trees. There would be harm to the nearby Listed Building, The Thatch. The gap between settlements would be closed.

13.3 **Councillor Catherine Glover:** Objections because the site is out of the settlement limits. It has not been accepted as a development location in the eLP. It would harm landscape and biodiversity. The roads are congested. There is no guarantee that public transport will remain available and it is already poor. The site is in the

DEPZ. It would increase flood risk to other properties. The A33 and M4 would present noise and pollution problems to new residents.

14. CONDITIONS AND PLANNING OBLIGATION

Conditions

14.1 In the event that planning permission is granted the Appellant and the Council have agreed a list of conditions which they would wish to see imposed on the planning permission. There is one additional condition which is not agreed and that relates to an on-site air monitoring system. I attach at Appendix D of this Report the conditions I recommend if permission is granted. My recommendation takes account of the agreement of the parties and a discussion at the Inquiry.

14.2 I have considered the conditions in accordance with the Planning Practice Guidance. As well as the standard time limiting conditions (1,2,3) it is necessary to define the plans in the interest of certainty (4). It is necessary to have an approved strategy for the phasing of the development to ensure that infrastructure is delivered at appropriate times (5). The site has archaeological potential so a condition is necessary to protect and record any archaeological remains (8). Conditions are necessary to protect against contamination (9,10,11). There was no suggested condition requiring a contamination report but there was a suggested condition relating to the discovery of unexpected contamination. As there is no contamination report before me, it will be necessary to submit one, so I have added such a condition. This was discussed at the round table session, so it should not come as a surprise to the parties. Conditions are necessary to manage construction (12,13) in the interest of highway safety, residential amenity and biodiversity. Conditions are required in respect of drainage in the interest of public health and the avoidance of flooding (14,15,28).

14.3 Full details of the access are required in the interest of highway safety (18). Conditions relating to cycle and pedestrian access points, car and bicycle club and cycle parking, are necessary in the interest of sustainable travel (19,21,33). The bicycle hire was not discussed at the conditions round table session but provision was referred to in the Appellant's closing statement and it is proposed in the Appellant's Sustainability Statement[224]. Details of car parking management are required in case not all spaces are within residential curtilages (29), this is in the interests of living conditions and highway safety.

14.4 Conditions are necessary to protect existing trees, to manage dead wood, to manage the landscape, to control external lighting, and to require a landscape and ecological management plan are necessary in the interests of biodiversity (6,7,20,22,23)

14.5 Conditions in respect of carbon emissions, water consumption (including provision of water butts), and compost bins are necessary in the interest of climate change (24,30, 31).

14.6 A condition requiring noise attenuation is necessary in the interests of the living conditions of future occupiers due to the proximity of the M4 (27). Conditions

[224] CD19.13 p13

requiring details of site levels and earthworks are necessary in the interest of character and appearance (16,17). Provision of a broadband connection is necessary to provide good communications (32). A construction emergency plan is necessary in case of a nuclear emergency during construction (25). A condition is necessary to ensure the provision a notification scheme in case of a radiation emergency for the occupants (26).

14.7 The parties have suggested a communications plan during construction as a stand-alone condition but I have put this in the construction management plan. Conditions requiring details of internal roads, internal footpaths, car parking and cycle parking layout are not necessary as this relates to the reserved matters (layout). The condition requiring garages to be retained for parking, i.e., removing permitted development rights would not pass the test of reasonableness or necessity as there are no garages proposed at this stage and the car parking layout is not before me. It is not necessary to impose conditions relating to secure by design, landscaping, boundary treatment, bin storage and materials as these relate to reserved matters, i.e. appearance, layout and landscaping. I do not consider that the proposed condition relating to air monitoring scheme is enforceable as it would involve a third parties over which there is no control.

Planning Obligations

14.8 A S.106 agreement has been completed by the Appellant and the Council. The key provisions of the covenants are:

- An affordable housing provision of 45% of the dwellings of a tenue mix of 58% social rented units, 12% affordable rented units and 30% shared ownership units.
- The provision of open space. An Open Space Detailed Specification and Management Plan and the Open Space Plan shall be submitted as part of the Reserved Matters Application. No more than 75% of the dwellings will be occupied until the Council has issued the Certificate of Practical Completion of the Open Space. If the developer transfers it to the Council, then a sum for maintenance will be payable. Alternatively, the developer is to set up a management company to maintain the open space.
- The provision of play areas on site. The first play area must be completed prior to occupation of not more than 50% of the dwellings and the second or remaining play areas to be completed prior to occupation of not more than 75% of the dwellings. If the developer transfers it to the Council then a sum for maintenance will be payable. Alternatively, the developer is to set up a management company to maintain the open space.
- The provision and agreement of an employment skills plan or a financial contribution in lieu of one. This is to encourage both the training and use of local labour during construction. It is in accordance with MDD Policy TB12.
- To complete an “Estate Roads Deed” to secure the construction of estate roads and transfer to a management company or enter into an agreement with the Council under Section 38 of the Highways Act 1980 to complete and dedicate the estate roads as public highway.

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- To agree and deliver a biodiversity net gain plan.
- To agree and deliver a public rights of way scheme and to pay the public rights of way contribution to the Council.
- To enter into a SANG Allocation Agreement for the purchase of sufficient capacity in the SANG Land in order to mitigate the impact of recreational pressure on the Thames Basin SPA by the occupants of the proposed development

14.9 Also included are the payment of a financial contributions towards:

- The provision of off-site allotments.
- "My Journey" which is a project to educate/train people to use alternative modes of transport to the car.
- The Council's South of M4 SDL Bus Improvements Scheme.
- The making of a Traffic Regulation Order to reduce speed on Church Lane in the vicinity of the proposed access from 40mph to 30mph.
- The National Health Service for primary health care. The contribution will go towards either the extension of Shinfield Medical Centre or to a proposed project to either reconfigure the existing non-clinical space or to extend the premises of the Shinfield branch of the Swallowfield Medical Practice. This is to provide additional space in the surgery to accommodate the new patients from the proposed development.
- Education - to increase the provision of local primary and secondary school places as there could be insufficient school capacity as a result of the proposed development.
- Sports facilities in the Wokingham Borough.
- Strategic Access Management and Monitoring as part of the avoidance measures to address impacts upon the Thames Basin Heaths SPA.

14.10 There are also general requirements in respect of any management company set up in respect of estate roads, biodiversity, open space and play areas.

14.11 I am satisfied that each of the covenants would be supported by policy and would meet the tests for obligations set by Regulation 122 and echoed by the Framework in that they would be necessary to make the development acceptable in planning terms, would be directly related to the development, and would be fairly and reasonably related to it in scale and kind. The obligations are therefore taken into account in support of the appeal proposal.

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15. INSPECTOR CONCLUSIONS

Main Consideration (i) - The effect of the development upon the character and appearance of the countryside.

15.1 The site comprises several fields separated and bounded by hedges. It is agreed that the site lies outside of the settlement boundary of Three Mile Cross and is in the countryside. It is also agreed that the site is not part of a valued landscape for the purposes of paragraph 187(a) of the Framework and it has no landscape designation. Although it is within the Land South of the M4 Strategic Development Location SPD[225], it is not in an area identified for development. I accept that the settlement boundary is out of date. That said, paragraph 187 of the Framework says that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. [8.7, 8.57, 9.4, 9.65]

15.2 The site is next to a recently developed housing estate off Hayes Drive albeit separated from that by a landscape buffer which provides a soft edge to the existing settlement. Otherwise, it is surrounded by land of a rural character. [8.159]

15.3 The Wokingham Borough Landscape Character Assessment (WBLCA) identifies the site as being within Grazely Farmed Clay Lowland Landscape Character Area. The characteristics of the Character Area are large arable fields and smaller areas of pasture bound by thorn hedges and banks; a hidden wetland character of a network of drainage ditches; remnant historic field patterns; and a scattered settlement pattern of farms and rural hamlets. I heard evidence at the round table session that the site displays ancient field patterns and that these field patterns were preserved by the later hedges that had been planted on the boundaries. Nevertheless, although this evidence of a historic field pattern is a rare example in West Berkshire, it is common in other districts, e.g. Oxfordshire and the Midlands, and therefore, I do not consider the fields to be a heritage asset. That said, the historic field pattern somewhat adds to the local interest and character of the landscape. [8.161, 9.5, 9.6, 9.9, 9.11, 9.12]

15.4 According to the Illustrative Masterplan, (extract in Fig 1.) soft landscaping would be retained along the boundaries of the site and the historic field pattern would still be seen due to boundary hedging being retained within the layout. Veteran and mature trees would also be retained. They would also be enhanced by appropriate arboricultural management. A community orchard is also indicated in the southern field. However, whilst key landscape features would be retained and enhanced, their context would be dramatically altered by replacing open fields with a housing estate. Furthermore, because the land on which the houses would be built is likely to be raised for drainage reasons, the hedges would appear as being submerged in ditches and this would detract from their current visual value. [8.1, 8.158, 9.9, 9.11, 9.13]

[225] CD6.09

Fig. 1 Extract from *Illustrative Concept Masterplan* showing field boundaries to be retained.

15.5 The site lies between the settlements of Three Mile Cross, Reading and Sinfield. CS Policy CP19 seeks to ensure that these settlements remain separate. The South of the M4 SDL SPD envisages that settlements do not coalesce and that the wider rural character of the area is maintained. This is consistent with the WBLCA. Figure 2, below, shows the site in relationship to the settlements of Reading and Sinfield. Reading is to the north of the site, outlined in blue and Sinfield is to the east, outlined with a bright green line. It can be seen that there would be open countryside between the site and those settlements. In addition, the M4 is a clear delineation between the site and Reading. There is a cluster of development on Church Lane between Sinfield and the appeal site but that development is not within the Shinfield settlement boundary. In respect of coalescence, I find no conflict with point 5) of CS Policy CP19 which seeks to ensure that development within South of the M4 SDL avoids coalescence with Reading and Sinfield. [8.162, 8.163, 9.6, 9.10]

15.6 However, although I have found that the settlements would remain separate, the development is not supported by CS Policy CP19 because it states that development will be delivered “within the areas identified South of the M4 motorway” and the site is not identified for development. [6.14]

Redacted

Fig 2. Extract from *EDP Proof Plan WG 6: Settlement Separation* [CD19.5]

15.7 The proposed housing would extend the edge of Three Mile Cross into the open countryside and it would impinge upon the existing gap between the cluster of development on Church Lane and the existing edge of Three Mile Cross. It would also be somewhat detached from the adjacent housing development at Hayes Drive. This is because that housing has a soft buffer containing allotments, a play area and a SUDS attenuation pond between it and the appeal site. This buffer can be seen in Figures 1 and 2 between the existing and proposed housing. Developing the site with housing beyond the buffer would have an urban sprawl effect which would significantly alter the character of Church Lane which has a rural feel in the location of the appeal site.

15.8 In respect of the concerns the Council has raised about prominence,[226] I accept that constructing houses on platforms, which are envisaged to be on average around 0.7m high, would slightly increase the dominance of the dwellings. However, the adjacent housing development at Hayes Drive was also constructed on platforms which were slightly higher than those proposed in this appeal. Therefore, the proposed housing would not look out of context with the existing housing. Nevertheless, these circumstances do not change the fact that attractive countryside landscape would be lost.

15.9 There are several viewpoints of concern. These include from Junction 11 slip road; from the pedestrian bridge crossing Junction 11; and from "The Ridge" SANG (Suitable Alternative Natural Greenspace). Existing and proposed views can be seen in the Appellant's Landscape Proof.[227] I consider that the views of the housing from the motorway bridge and slip road are not sensitive due to the noise and visual intrusion of the motorway being in the foreground. However, the view from The Ridge is more sensitive as this area is a SANG, connected to other SANGs, which offer rural recreation and rural views over the site. The filtering of

[226] Para 8.4 of Council Landscape Proof CD20.3
[227] CD19.5

views by the proposed and existing vegetation would make the development better than without it, but a very obvious change to the landscape would still occur.

15.10 For the above reasons I conclude that the proposed development would harm the character and appearance of the countryside. Therefore, it would conflict with CS Policies CP1, CP3 and CP11 and Policies CC02 CC03 and TB21 of the MDD Local Plan which, in combination, seek to maintain a high-quality environment, respect landscape character and avoid excessive encroachment beyond development limits. I give significant weight to this harm.

Main Consideration (ii) The effect upon surface drainage

15.12 The site is currently waterlogged and this is made worse by an adjoining land owner unlawfully obstructing the natural outfalls to the north of the appeal site. Due to the ditch being blocked, the land cannot currently drain to the north [8.172, 955]. At the round table session, the Council accepted that only a pumped solution would work if the obstruction to the northern outfall is not remedied.

15.13 I appreciate that the Council is in discussions with the offending landowner and it expects the situation to be resolved voluntarily. I also appreciate that if the landowner does not conform, there are powers to take enforcement action under both the Land Drainage Act 1991 and the Town and Country Planning Act 1990 [9.58]. However, at the present time, the blockage remains and there is no substantive information before me as to how and when it will be resolved.

15.14 The appellants have been through the process of considering 7 options for drainage [8.167]. Four of them involved a gravity drainage solution but these were not viable. In particular, this was because the development platforms would have to be too high, and because the earthworks to construct the platforms would encroach into the root protection areas of most of the trees across the site, including all of the ancient and veteran trees. It is also likely that the hedgerows would have been adversely affected. [8.167, 9.56]. The drainage solution proposed for the purposes of this appeal would keep the platforms as low as possible, and slightly lower than on the housing development at Hayes Drive next to the appeal site.

15.15 The Council thinks that a different layout would enable gravity drainage but I do not have details before me from the Council to substantiate how an alternative layout would work [9.57].

15.16 The pumping station would have two pumps on separate systems to avoid catastrophic failure. There would also be at least two sources of power to the pumps [8.170]. I understand that they would be constructed in accordance with Water UK's Sewerage Sector Guidance Appendix C, Design and Construction Guidance. In respect of ensuring that maximum energy efficiency is achieved, the pumping station would be designed taking account of Environment Agency's Pumping Station Efficiency: Guidance Document Project: SC090025/R1. Pumping stations are not novel. The Environment Agency owns and operates over 2000 surface water pumping stations for situations where a gravity solution is not viable.

15.17 The Lead Local Flood Authority has agreed that the pumped solution is technically viable. Given the drainage difficulties of the site, I am satisfied that a pumped

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solution is acceptable; that the appellant has demonstrated that the site can be drained satisfactorily; and that there is no other viable option at present.

15.18 I conclude that the proposal would not have an adverse effect upon surface water drainage. Therefore, I find no conflict with Policy CC10 of the MDD Local Plan or Policy 8 of the Shinfield Neighbourhood Plan. In addition, I find no conflict with South of M4 SPD. Furthermore, I find no conflict with paragraph 182 of the Framework which indicates that development which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal.

Main Consideration (iii) (a) the safety and wellbeing of future residents of the proposed development, and the wider public, with regard to the proximity of the Atomic Weapons Establishment site at Burghfield (AWE(B)); and (b) the future capability and capacity of AWE(B) to operate effectively

Safety and wellbeing of future residents of the proposed development and the wider public

15.19 AWE is an arm's length Non-Departmental Public Body, wholly owned by the Ministry of Defence (MOD). AWE Burghfield (AWE(B)) is a designated site under the Atomic Weapons Establishment Act 1991. It is essential for the maintenance of the UK's Continuous at Sea Deterrent (CASD), known as Operation Relentless.

15.20 The PPG does not impose a moratorium on development but it says that local planning authorities should take account of cumulative development around major hazard establishments when considering public safety in planning decisions. It says that cumulative development, by whatever means, leads to a rise in population and a proportionate increase in the consequences, should a major accident occur [8.108, 10.2]. The proposal would increase the population of the DEPZ by some 1.4% [8.22, 8.42].

15.21 Under the requirements of the Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPIR 19), an OSEP is necessary to work with ionising radiation. The regulations apply to any sites working with ionising radiation that have a quantity of a radioactive substance which could, in a radiation emergency, result in an annual effective dose to persons offsite greater than 1 mSv. The OSEP is to protect the public and the environment from harm and sets out protective actions to be implemented in the event of a radiological emergency at AWE(B) [10.1, 10.5].

15.22 AWE determine the minimum zone where an OSEP must apply [9.20]. This is commonly known as the UPA where urgent protective actions are necessary. The UPA is determined by the consequences of an explosion, releasing plutonium oxide particles, in a hot cell in F2 weather conditions[228]. F2 weather conditions are typically a still, cold winter's night [8.15, 8.16, 8.21]. Such weather conditions occur at AWE(B) about 10-12% of the time. This means that around 90% of explosion scenarios would result in less serious consequences than the assumptions which

[228] Consequence Report [CD13.2]

have led to the UPA. However, REPPIR 19 requires emergency planning for a worst-case scenario.

15.23 The UPA circle produced by the consequence assessment is calculated without reference to any features on the ground and tends to result in the circle being drawn through the middle of communities and even through buildings. This can lead to confusion about where the boundaries of the UPA lie. [9.23]

15.24 Therefore, a DEPZ, with more legible boundaries, is set by West Berkshire District Council. The DEPZ includes the UPA but goes beyond it to form more coherent boundaries. The OSEP applies to the whole of the DEPZ. The boundaries of the DEPZ take into account three criteria (REPPIR 19 Regulation 8(1)): [9.24]

a) local geographic, demographic and practical implementation issues;

b) the need to avoid, where practicable, the bisection of local communities; and

c) the inclusion of vulnerable groups immediately adjacent to the area proposed by the operator.

15.25 All main parties agree that the boundaries of the DEPZ are lawful.

15.26 The likelihood of a radiation emergency is very low. The accident frequency is likely to be about 1 in 10,000 years. There is a 1 in 2,000,000 year chance of the relevant explosion in Category F2 conditions with the wind blowing towards the appeal site [8.20]. Nevertheless, the ACOP advises that "*Operators should consider the possibilities for radiation emergencies with extremely low likelihoods but with significant or catastrophic consequences*".[229]

15.27 Therefore, a low likelihood of a fault does not discount the potential hazard from a radiation emergency. An OSEP must be adequate despite the extremely low likelihood of an accident at AWE(B).

15.28 The radiological dose to humans from an explosion would be from inhalation of the plutonium oxide particles. The material dose would not come from groundshine, (i.e., radiation from particles which have landed on surfaces) [8.14, 8.46, 8.90].

15.29 During the passage of the plume, the radiation dose to someone at the site would be some 6.4mSv. This dose assumes that the person is outdoors for the entire time the plume is overhead. Should there be an accident at AWE, the OSEP provides for sheltering in place for up to 48 hours for everyone within the DEPZ. Taking shelter (going indoors) would reduce the dose by 40% which would bring the assumed dose down to 3.8MsV. This 40% reduction dates from the late 20th century and does not take account of modern house construction which has, since then, become more airtight for energy efficiency purposes. It is agreed that modern house construction for houses on the appeal site would reduce the assumed dose by more than 40%. [8.23, 8.24, 8.28, 10.35, 10.36]

15.30 These doses are low and it is unlikely that they would lead to any physical harm. The risk is considerably below the threshold identified by the UKHSA for refusing

[229] CD13.03, paragraph 127

planning permission on safety grounds. Nevertheless, these doses are several times higher than the trigger dose for REPPIR 19 and well above the doses that the ONR's Safety Assessment Principles regard as "significant" should such a dose be received by the public during potential accident scenarios [10.35]. There is no benefit of getting the dose, as opposed to a benefit you might get from a radiation dose due to a medical procedure. People do not choose to get a dose of radiation from a nuclear accident. I accept that Three Mile Cross is a popular place to live [8.31] but that does not necessarily mean that everyone fully understands the risk or that they would be happy to get caught up in a nuclear emergency.

15.31 Furthermore, a low individual risk of radiation is not determinative of the boundary of the DEPZ. The boundary is set in the best way to manage the population in and around the UPA in the event of a nuclear emergency.

15.32 In addition, even though the radiation dose is unlikely to be physically harmful, people might be anxious and worried about being exposed to radiation. They may think of events such as Fukishima and Chernobyl. Misinformation can spread quickly, especially on social media. As a result, a radiation emergency could well cause long term anxiety to some people. [10.40] Getting caught up in a nuclear emergency could have a negative impact on people's mental health.

15.33 In respect of sheltering, it is not necessarily the case that people living on the site would be at home at the time of an emergency. They may be in other places in the DEPZ because people do not tend to stay permanently on their housing estate. Residents would go out and about in their neighbourhood and local area. They might not be able to avert the dose so easily if they are not at home.

15.34 There are resources that would be used by the additional population if the OSEP were activated. For example, some people living on the site may require help from the fire service with decontamination. There may be no need for people on the site to be decontaminated but they may prefer it if they are. The role the fire service has in the OSEP would take them away from their normal duties. [8.89, 10.31, 10.45]

15.35 Radiation monitoring would be offered to reassure people [10.45]. Even though it may not be necessary to monitor people for physical reasons, it might be important for the mental health of some people to undergo reassurance monitoring. It takes about 20 minutes to monitor one person at a Radiation Monitoring Unit so if there were 2 people per dwelling, this would equate to about 98 hours of monitoring time, if they all took it up. I accept that there would be no urgency to carry this out as the radiation dose would be too low to cause physical harm and there would be nothing that could be done about it anyway. Nevertheless, resources would be necessary for anyone who requested it.

15.36 It may be that many residents of the appeal Scheme would be able to get through up to 48 hours of sheltering without requiring assistance from the Blue Light services or other public services [8.45]. The demand on Blue Light services and other public services would be greater than usual in the event of a nuclear incident. If people need such services, for whatever reason, even if it is not associated with the emergency, this would be against a background of unusually high demand. Additional population adds to demand. The Appellant says that there is no evidence that Blue Light services would not cope with the additional demand [8.51]. However, the Appellant has not provided substantive quantitative

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evidence that Blue Light services would cope with demand without other duties being affected.

15.37 There is evidence before the Inquiry in the form of comments from a member of the AWE OSEP Group at Royal Berkshire NHS Foundation Trust[230] which say that an incident occurring would add to existing pressures on NHS services. He said that the demand on services to deliver emergency care to patients extracted or displaced from the affected zone would likely overwhelm any normal operational response capability and it would disrupt elective care. This would be harmful to people's health. This might occur anyway but additional population would slightly add to the pressure during an emergency.

15.38 The Ambulance and Fire services have not indicated that the development would result in unacceptable pressure on them and they have not sought any financial contribution from the development [8.53-8.54]. The local ambulance trust have indicated that it could rely on backfilling from other trusts outside the area in a radiation emergency [8.51]. However, the fact that they would have to rely on backfilling from other trusts shows that they could not cope alone and the backfilling would mean that ambulance service resources would be taken from other areas. Again, this would occur anyway, but additional population would add to the pressure. Furthermore, a lack of a specific objection from the Ambulance Service and the Police is not a positive endorsement of being able to cope in an emergency. The Fire Brigade has confirmed it provides training to staff for an incident involving radiation and it did not seek a S.106 contribution. In addition, it did not object to the proposal [8.54-8.56] but these factors do not, in any way, confirm that they would cope with the additional pressure.

15.39 I do not accept that everyone on the site would have enough food and provisions in their home to last up to 48 hours of sheltering [8.45]. Not everyone keeps two days' worth of food in their house at all times. It is not unusual to run out of supplies before buying more. There are some foods that might become urgently required within that time, such as baby formula. I consider that it is quite possible that residents would not have sufficient provisions to last two days. In addition, there may be urgent medication that needs to be collected. I do not consider it at all realistic that all future residents would always ensure that they have everything they need two days in advance of needing it. People who are not normally particularly vulnerable can become much more vulnerable if they do not have what they need. This would put pressure on support agencies or it could result in people suffering if they do not get the support.

15.40 The Appellant contends that most people could be released from sheltering much quicker than 48 hours. They say that the shelter advisory could be lifted in most places within 2-6 hours after the plume has passed which would allow for resources to be freed up. [8.63-8.74] However, I heard that there may be practical difficulties which would prevent this, in particular, delays in mobilising SCG and the STAC in relation to the decision-making process for releasing people from shelter. I heard that this was the experience at the ALDEX 23 test. Furthermore, I heard that monitoring of environmental contamination may take several hours. [11.32 – 11.35]

[230] CD25.24

15.41 It is clear that there is significant disagreement between the parties about the time it would take to release people from shelter. However, I have heard the evidence of the people who have been involved in the ALDEX testing and the OSEP. The Appellant believes there is a better way of doing things. However, I take the evidence of the people who would actually be involved in the emergency response very seriously and they think it would take much longer than 2-6 hours. The Appellant may or may not have some good ideas about how the emergency response should be managed but the fact is that the Appellant has no control over what will happen. Therefore, I have no confidence that people in non-contaminated parts of the DEPZ would be released as quickly as the appellant suggests.

15.42 In respect of sheltering during school hours, I accept that local schools are currently full so the appeal proposal is unlikely to result in more children in school in the DEPZ area. Nevertheless, if an emergency did occur during school hours, the children living at the appeal site might not be able to return home for up to 48 hours. This is likely to cause some distress to families.

15.43 Activating the OSEP would not only put pressure on Blue Light Services, it would also divert other public resources. I heard that there is a shortage of staff to help with such an emergency. For example, rest and reception centres would take away health and social care workers from other essential services. This would happen with or without the proposed development. It is also unlikely that a significant number of people living at the appeal site would require a place in a reception centre, but they might do, for example, they may be elsewhere in the DEPZ at the time of the emergency and unable to get home. If outside of the DEPZ at the time of an emergency and unable to get home, they could potentially be accommodated into a hotel in Reading or stay with friends, but they might alternatively turn up at a Council run centre, adding to the burden. [8.84, 8.94, 9.41]

15.44 In respect of mitigation, and to potentially shorten the shelter period, the appellant has offered to provide monitoring stations on the appeal site to measure the contamination in order to assist in lifting the shelter advisory [8.80-81]. However, such monitoring stations would have to be secured by a condition which I do not consider would meet the 6 tests. The appellant's proposed condition is as follows:

"No dwelling shall be occupied until an air monitoring system to detect radiation arising from a radiation emergency has been installed and is operating in accordance with a strategy agreed in writing with the Local Planning Authority. The approved air monitoring strategy will include details, for the lifetime of the development, as to: make and specification of equipment (and of associated power and data transfer connections); siting and security; arrangements for access, management and maintenance, and renewal of the equipment (including testing, calibration and periodic changing of filters); arrangements for operation and for real-time communication of readings; arrangements for periodic review of the approved strategy; and identification of those responsible for securing all the foregoing. The air monitoring system shall be maintained thereafter in accordance with the terms of the approved strategy."

15.45 Firstly, the Council is not able to approve such details as it is for the UKHSA to approve equipment and monitoring strategies under REPPIR 19. It would be

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unreasonable to expect the Council to rely on the UKSHA and I have no real evidence before me that it could be done. Secondly, the data transfer would need to be to a third party (i.e., not the Council) for it to be of any use, and there is no way of enforcing against a third party. Thirdly, the emergency response would still have to rely on AWE and UKHSA [10.62-10.65] for monitoring, so the monitoring stations would not add much to the scheme anyway – i.e., the condition would not be necessary because the monitoring would be carried out under the existing arrangements.

15.46 I note the Appellant's arguments in respect of the OSEP being able to cope with a plume over Reading Stadium (AWE(B) DEPZ) and Tadley (AWE(A) DEPZ). [8.13, 8.57, 8.61] However, the level of contamination and the number of people contaminated are not the only factors. If the OSEP were activated, the immediate action would be that the whole of the DEPZ would shelter, regardless the location of the plume, the population density, or the contamination level. Every person in the DEPZ would become an "affected person" under REPPIR 19. It follows that in the first stage of implementing the OSEP, these factors would be irrelevant. [11.29-11.30]

15.47 I accept that some of the provisions of the OSEP would occur regardless of the increase in population resulting from the appeal proposal e.g., road closures to control entry to an affected area. However, whilst not every single aspect of the OSEP is affected by population changes, it cannot be said that the whole of the OSEP is not affected by population changes. There would simply be more people to deal with.

15.48 In terms of reducing the burden on the OSEP in the future, the appellant argued that the MENSA programme, would result in improvements in safety over that of the gravel girties where the explosions are currently at risk of happening. I accept that it is theoretically possible that the UPA could shrink as a result. Nevertheless, this has not been modelled and there is no public date for the completion of MENSA. Therefore, it is the circumstances that exist today that must be taken into account. [8.192, 10.53]

15.49 The DEPZ is much larger than the UPA and 54% of the DEPZ population live beyond the UPA. There are areas outside of the DEPZ but closer to the UPA than the appeal site. It is the Appellant's contention that the OSEP is spread too thin and even if the appeal Scheme were to cause practical implementation issues with the OSEP, the boundary could be reviewed to make it smaller. [8.115-8.125, 10.51-10.53]

15.50 Under REPPIR 19 Regulation 8(6) the boundary can be reviewed where there has been a change in the local area, e.g., a significant development.[231] It may be the case that a boundary could be redrawn but it would need to go through due process which is separate to this planning appeal. It is not for this appeal to consider a future boundary or to judge whether or not the OSEP has incorporated an unnecessary amount of population.

15.51 OSEP adequacy is defined by REPPIR 19 Regulation 11(2) which is that it must be designed to mitigate, so far as is reasonably practicable, the consequences of

[231] ACOP para 250-252 [CD13.3]

a radiation emergency. The ONR's view expressed at the Inquiry was that the OSEP was judged as "adequate" following ALDEX 23, although improvements are needed. The assessment of adequacy lasts until at least the next ALDEX test which is likely to be April 2026, unless there is some unforeseen and exceptional change. [8.31-41, 9.31, 9.36, 9.74, 10.3, 10.28, 10.50, 11.11-16]

15.52 That said, I heard that the ALDEX 22 and ALDEX 23 exercises highlighted population-sensitive issues within the OSEP. I heard from the ONR that the OSEP is already exhibiting substantial, population-based weaknesses[232] and the ONR also expressed serious doubts about the OSEP's current adequacy. The tests do not account for future unbuilt development, i.e., they do not test for "headroom" in the OSEP. It is not within REPPIR 19 to test for headroom [11.26-11.27]. There is no evidence from anyone, with a statutory role in the OSEP, that spare capacity exists.

15.53 On the contrary, both the ONR and West Berkshire Council confirmed that the ONR notified West Berkshire Council that it was planning to undertake a regulatory intervention to interrogate the adequacy of the OSEP (i.e. well ahead of the next statutory test). This is the first ever such intervention under REPPIR 19 [11.14]. The ONR's REPPIR witness's own professional view was that he had no confidence that the OSEP is adequate [11.15]. The task of assessment of the adequacy of the OSEP has been assigned by Parliament to the ONR. For this reason, I give great weight to the evidence of the ONR's witnesses.

15.54 I appreciate that the proposal would introduce only a small percentage of new population into the DEPZ. However, there are also about 301 consented but unbuilt units to come forward in the DEPZ, in addition to the 148 dwellings proposed in this appeal. Given that I have heard that the OSEP is already under significant pressure, I consider that the appeal Scheme, cumulative with these developments, would unacceptably add to the existing pressure.

15.55 In conclusion, although there is a tiny chance of an accident occurring, the consequences would be significant throughout the DEPZ as a whole. The radiation dose at the appeal site is highly unlikely to cause physical harm but there could well be psychological harm. There may also be harm resulting from the shelter period. In addition, there would be many resources required in an emergency which would be diverted from elsewhere and there would undoubtedly be strain on Blue Light and other public services.

15.56 I have had regard to the Tadley SoS appeal decision[233]. I appreciate that a 30mSv dose was the level of radiation for that site and the appeal was allowed. However, for the reasons above, the dose at the site is not the only consideration. In addition, that decision was in 2011, a long time before ALDEX 22 and ALDEX 23. Furthermore, in that case the Health and Safety Executive had not said that the OSEP might fail [DL 304] Additionally, the SoS said that the OSEP has built in flexibility and extendibility but that is not the evidence I heard from the ONR in this appeal. That appeal related to a different DEPZ well over a decade ago and therefore it is not directly comparable to the current appeal.

[232] CD20.12b
[233] CD9.1

15.57 I have also had regard to the Hollies 2 decision[234] but that scheme was a much smaller development on an allocated site.

15.58 For the above reasons, I conclude that the appeal proposal would cause an unacceptable risk of harm to the OSEP which in turn would be detrimental to the safety and wellbeing of future residents of the proposed development, and the wider public.

Operational capacity and capability of AWE(B)

15.59 If the ONR were to declare the OSEP inadequate, then AWE(B) would not be able to operate[235]. I heard that the nuclear deterrent is critical to UK defence policy. AWE(B) is essential for the delivery of Continuous at Sea Defence (CASD) which has been a cornerstone of the defence of the UK for over 6 decades. It is the system that always has at least one nuclear-armed Royal Navy ballistic missile submarine patrolling the seas undetected. Since 1969, CASD has worked every hour of every day to keep the country and NATO allies safe. I heard that the current global security landscape is reinforcing the criticality of that capability. Furthermore, AWE has requirements associated with decommissioning as part of the full implementation of the Treaty on the Non-Proliferation of Nuclear Weapons. The consequences of AWE(B) not being able to operate would be very serious in terms of national security. [10.1]

15.60 The appellant contended that in circumstances where the OSEP became inadequate, AWE could be exempted from the REPPIR 19 Regulations and continue operating. Regulation 25(2)(d) allows, in the interests of national security, any person engaged in work with ionising radiation for, or on behalf of, the Secretary of State for Defence, from all or any of the requirements or prohibitions imposed by REPPIR 19. Any such exemption may be granted subject to conditions and a limit of time and may be revoked at any time. [8.146-8.151]

15.61 Whilst I acknowledge an exemption as a possibility, I heard from the MOD witness that there is no history of an exemption being used for sites such as AWE and that such exemptions are only normally applied at times of extreme national emergency. Furthermore, the Secretary of State for Defence's Policy Statement on Health, Safety and Environment in Defence requires the maintaining of arrangements that "produce outcomes that are so far as reasonably practicable, at least as good as those required by UK legislation" [CD13.77] which means that an exempted site would still need adequate off-site emergency planning in place. [10.26, 10.54-10.57]

15.62 There is no substantive evidence about how an exemption would potentially operate. Whilst an exemption may be made, it is clearly not a straight forward solution. I do not consider that it should be relied upon as a fall back, especially as it would be a matter that would be determined completely outside of this appeal.

15.63 If AWE could not operate because the OSEP had become inadequate, it would have an economic impact too, as it is a significant employer in the area.

[234] CD24.9
[235] Regulation 10(4) of REPPIR 2019

15.64 In respect of the "agent of change" mitigation required under Paragraph 200 of the Framework, the appellant has proposed radiation monitoring stations. However, I have found that such a condition would not be appropriate.

15.65 For the above reasons, I conclude that the proposal would be an unacceptable threat to the future capability and capacity of AWE(B) to operate effectively.

Conclusion

15.67 The safety and wellbeing of future residents of the proposed development, and the wider public would be at an unacceptable risk of harm; and the future capability and capacity of AWE(B) to operate effectively would be at an unacceptable risk. Therefore, the proposal would be contrary to Policy TB04 of the Wokingham MDD. In addition, it would conflict with paragraphs 102(b) 200 of the Framework.

15.68 I give these harms substantial weight against the proposal.

Other Matters

Setting of the Listed building

15.69 Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

15.70 Adjacent to the site, fronting Church Lane is a Grade II Listed Building known as The Thatch. It dates from the late 16th century and is timber framed with a thatched gabled roof with two dormers in the thatch and leaded light casements. It is understood to have once been within a wider agricultural land holding. However, it now sits within its own garden. The asset is best appreciated from within its garden and from Church Lane. It can also be glimpsed from the south-west and south-east from fields and the roof can be seen above a fence from the public right of way to the west. There are also some filtered views from the fields of the appeal site.

15.71 The heritage significance of The Thatch is principally derived from its vernacular architecture as a 16th century timber framed farmhouse. It is illustrative of the agricultural landscape that once dominated both Shinfield Parish and the wider country of Berkshire. It is of archaeological interest due to the potential to retain a historic base coat or remnants of previous coats of thatch which have the potential to yield evidence of past thatching materials, fixings and techniques.

15.72 The setting contributes to its significance. This includes the garden from where it is best appreciated. It's location on Church Lane has a historic illustrative value as to its position adjacent to a historic routeway. Its intervisibility with the former agricultural land of the site, some of which was historically connected with the asset also contributes to its significance. The Thatch has been long severed from the site and the site is no longer farmed but the historic connection is evident. Therefore, the appeal site makes a positive contribution to the significance of the Listed Building. The development of these fields would cause some harm to the setting of the building. Furthermore, the highway improvements proposed, including the cycle lane would urbanise Church Lane a little more, further eroding its former rural setting. [12.1] The overall harm to the significance of the asset would be less than substantial and at the lower end of the scale of less than

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substantial harm. Nevertheless, this harmful impact is a matter of considerable importance and weight. The Framework advises that less than substantial harm must be weighed against the public benefits of the scheme.

Thames Basin Heath Special Protection Area

15.73 The proposed development would be in the 5-7km linear mitigation zone for the Thames Basin Heaths Special Protection Area. A shadow habitats assessment is attached at Annex E. In that, I have found that the proposed development would not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area. It would also comply with Policy CP8 of the Core Strategy which seeks to ensure that adverse effects are avoided and mitigated.

Housing land supply

15.74 The Council has a housing land supply (HLS) of 1.7 years. Therefore, the tilted balance under paragraph 11(d) of the Framework applies. The Government recently re-calculated the Council's local housing need following publication of the new Standard Method in 2024. This resulted in a 78% overnight increase in housing need. I acknowledge the difficulty this has presented to the Council but it does not diminish the actual need.

15.75 I also accept that there has been a surplus of housing completions against all national policy requirements since the Core Strategy period began in 2006. Wokingham has a strong record of performance in terms of housing delivery and this as an indicator of future performance. Nevertheless, the requirement is essentially forward facing[236] and the bottom line is that the housing land supply position is very weak. [8.29,9.60-9.64, 9.71]

15.76 The already delayed eLP fails to provide for 15 years of needs upon adoption, hence it is likely to need to add at least 2 years' further requirements. It provides for less than 80% of the local housing need. There are no guarantees that the plan will be found sound in its present form as it is untested. Even if the eLP is adopted in the next couple of years, the Council will have to immediately commence a replacement local plan. Furthermore, there are many objections to the eLP. [8.175-8.182] Under these circumstances I give very significant weight to the addition of 148 homes to the supply of housing.

Affordable housing

15.77 The proposal would deliver 45% affordable housing which is 10% more than required under CS Policy CP5. I note the Council's point that only 80 dwellings per year are required to meet the most acute needs and well in excess of that number have been delivered over many years [9.69-70]. However, affordable housing is not just for people in the most acute need, such as the homeless. All forms of affordable housing matter to the people who benefit from them. A lack of a decent affordable home can have a negative impact on everyday life. There is a serious problem of affordability in the area and a persistent unmet need for affordable housing [8.2]. The proposed affordable housing is a benefit to which I give very significant weight.

[236] As determined by previous inspectors at Trowes Lane DL39 [CD9.18] and Twyford DL62 [CD9.48]

Other Considerations

15.78 The housing would be in a sustainable location in respect of being close to local amenities and employment. It would also be a locationally attractive housing choice for AWE(B) employees, given that AWE are planning to expand. However, a sustainable location is an expectation of the planning system so I give that factor neutral weight.

15.79 I also give the preservation of trees and hedgerows neutral weight as removing them would be harmful. However, I give their long-term management, including the removal of waterlogging (which is bad for them) a small amount of weight. The surface water drainage of the site would, to some extent, help to reduce the risk of flooding elsewhere and I give this a small amount of weight.

15.80 The proposal would provide three times more POS than required by Council policy. Policy TB08 of the MDD would require 2.42 ha of POS, but the appeal Scheme provides 7.5 ha, which is an excess of 5.08 ha. The site currently has no public access. I give the provision of the POS a small amount of weight.

15.81 Biodiversity net gain would be 20% even though the statutory 10% provision does not apply in this case. I give this a small amount weight.

15.82 There would be some sustainability improvements in the way of new and upgraded cycleways, footways and crossing points, and there would also be a financial contribution to bus provision. These improvements are mostly to make the development acceptable so I give them only a very small amount of weight.

15.83 There would be economic benefits to the proposal in terms of employment during the construction period and a planning obligation encourages the use of local labour. The benefits would mostly be during the construction period. I give them a small amount of weight.

15.84 The appellant claims that the new population would be spending in local shops and businesses and whilst I have no reason to believe otherwise, it follows that any new residents to the area would be spending less in the area they moved from. Therefore, I have no substantive evidence that there would be a net gain in spending so I give this neutral weight.

Interested Parties

15.85 I note the concern of Mr Blick in respect of the cycle path in front of his house. I have accepted that it would have an impact upon the setting of The Thatch. There is potential for the privacy to his rear garden to be compromised as the boundary treatment between the site and his property is sparce in the winter. However, layout and landscaping are Reserved Matters and the privacy issue falls to be considered as part of those later applications. In respect of reducing the traffic speed on Church Lane, I consider that it is only outside of the appeal site, particularly around the new vehicular accesses, that is relevant to this appeal and the speed there would be reduced from 40mph to 30mph.

15.86 The proposal would increase traffic to some extent but I have no substantive evidence before me that the additional volume of traffic would harm highway safety especially as the proposed S.106 provides for some small highway improvements in mitigation.

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15.87 I note comments in relation to additional pressure on education and health facilities but financial contributions would be provided to off-set the increased demand arising from the proposal. I have no evidence that the proposal would materially harm wildlife. I also note comments in relation to noise effects upon the future residents of the site from the M4 but planning conditions would require noise mitigation.

Planning balance

15.88 I have found harm to the character and appearance of the countryside to which I give significant weight. I find no harm to drainage but this is neutral in the balance. I give substantial weight to the harm to (a) the safety and wellbeing of future residents of the proposed development, and the wider public and (b) the future capability and capacity of AWE(B) to operate effectively. I also give considerable importance and weight to the less than substantial harm to the significance of the Listed Building.

15.89 Weighed against this harm are the benefits of the scheme. I give very significant weight to the addition of 148 homes to the supply of housing and to the provision of affordable housing; I give a small amount of weight to the long-term management of trees and hedgerows; the surface water drainage of the site; the provision of POS; the increase in biodiversity; and to the economic benefits. I give a very small amount of weight to the sustainability benefits.

15.90 Overall, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

Recommendation

15.89 I therefore recommend that the appeal is dismissed.

Siobhan Watson

INSPECTOR

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ANNEX A – APPEARANCES

FOR WOKINGHAM BOROUGH COUNCIL

Matt Lewin, Counsel

He called:

Carolyn Richardson BSc Hons, CIEH	Service Manager for Emergency Planning for Bracknell Forest, Royal Borough of Windsor and Maidenhead and West Berkshire Councils
Harry Williamson	Emergency Planning Manager
Peter Weatherhead FRICS MRTPI	Principal of Peter Weatherhead Planning

Additional participants at the Drainage Round Table Session:

Ray Drabble BSc MSc C.WEM	Manager of the Lead Local Flood Authority

Additional participants at the Landscape Round Table Session:

Chris Hannington BSc(Hons) MPhil CMLI MRTPI	Planning Trees and Landscape Team Manager

Additional participants at the Conditions/Obligations Round Table Session:

Chris Beasty	Solicitor
Adriana Gonzalez	Senior Planning Officer

FOR WATES DEVELOPMENT LTD

Andrew Tabachnik KC

He called:

Dr Michael C Thorne BSc PhD, FInstP FSRP CRadP	Mike Thorne and Associates
Dr Keith Pearce BSc BA MBA MSc PhD FEPS	Katmal Limited
Douglas Bond BA(Hons) MRTPI	Woolf Bond Planning Limited

Additional participants at the Drainage Round Table Session:

Grant Turner HND, MICE	Principal Engineer RSK

Additional participants at the Landscape Round Table Session:

Will Gardner BSc(Hons) MSc, CLMI	Director, The Environmental Dimension Partnership Ltd
Gail Stoten BA(Hons)PG Cert Res MCIfA FSA,	Heritage Executive Director, Pegasus Planning Group

Additional participant at the Conditions/Obligations Round Table Session:

Beth Gascoyne	Solicitor, Cripps
Chris Beasty,	Solicitor, Wokingham Council
Adriana Gonzalez	Senior Planning Officer, Wokingham Council

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FOR AWE PLC AND THE MINISTRY OF DEFENCE

Rose Grogan, Counsel

She called:

Person AW	AWE
Person MD	MoD

FOR THE OFFICE FOR NUCLEAR REGULATION

Michael Fry, Counsel

He called:

Eamonn Guilfoyle, BSc(Hons), MSc, PgCert	Nuclear Technology, Emergency Planning and Response Workstream Lead
Grant Ingham	Policy and International Workstream Lead

INTERESTED PARTIES

Mr Blick – Local Resident
Mr Lias – Local Resident

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ANNEX B: CORE DOCUMENTS

Core Documents can be accessed at: Live Planning Inquiries

CD01	Submitted Application
CD02	Environmental Statement
CD03	During determination (documents submitted)
CD04	Representations
CD05	Officer Report and Decision Notice
CD06	Development Plan SPG
CD07	Emerging Development Plan
CD08	Regulations, Judgements
CD09	appeal Decisions
CD10	Monitoring Information
CD11	Other Wokingham Decisions
CD12	Inspectorate advice
CD13	AWE Documents
CD14	Heritage Documents
CD16	Flooding and Drainage Documents
CD17	Trees Documents
CD18	Landscape Documents
CD19	Appellant Proofs and Statements
CD20	LPA Proofs and Statements
CD21	AWE & MoD Proofs and Statements
CD22	ONR Proof and Statements
CD23	Statements of Common Ground
CD24	Proofs from Hollies appeal
CD25	Other Docs
CD26	Documents submitted at the Inquiry
Word Doc	Core Documents List

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ANNEX C: DOCUMENTS SUBMITTED DURING THE INQUIRY

These are on the CD list and can be accessed at: Live Planning Inquiries

INQ Ref	Description
CD26.02	Email exchange between Council and Met Office regarding previously proposed local meteorological station.
CD26.03	Email exchange between Council and UKHSA regarding proposed air monitoring station.
CD26.06	Notice of Submission of the Wokingham Borough Local Plan Update 2023-2040 to the Secretary of State.
CD26.09	CIL Compliance Statement
CD26.11	appeal Decision APP/W0340/W/24/3346878 (Brimpton Lane)
CD26.13	Emails between appellant, Council and AWE re potential planning condition to secure air/weather monitoring facilities.

ANNEX D – SCHEDULE OF RECOMMENDED CONDITIONS

1) Details of the appearance, landscaping, layout and scale "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of the approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans:
   - Site Location Plan dated Nov 2023,
   - Parameter Plan Drawing (drawing ref F18119-RFT-ZZ-XX-DR-A-0131 P01) received by the local planning authority on 5/12/23;
   - Proposed Site Access Arrangement (Drawing ref 160404 – 13) received by the local planning authority on 10/05/2024.

5) No development shall be commenced until a strategy for the phasing of the development hereby approved is submitted to and approved in writing by the Local Planning Authority. The Phasing Strategy will define:
   i) the development to be delivered within each separate and severable phase of the development;
   ii) timescales;
   iii) details of the coordination of housing and infrastructure delivery including triggers for the delivery of infrastructure and the arrangements to prevent interruption of delivery across sub-phase and phase boundaries;

   The development shall be carried out in accordance with the approved details.

6) No development shall commence, including any site clearance or removal of dead trees, until a management plan for the standing and fallen dead wood on the site has been submitted to and approved in writing by the local planning authority. The management plan should be based on appropriate ecological surveys undertaken by suitably experienced ecologists for the hosting of rare or specialist fungi, lichens and deadwood invertebrates. The plan should show Tree 77 as being removed and re-sited either on the ground or buried upright in an appropriate location or locations to maximise its use as habitat for rare and specialist species. Development shall be carried out in accordance with the approved management plan.

7) No development shall commence until a detailed aged and veteran tree management strategy & plan has been submitted to and approved in writing by the local planning authority. The strategy shall include details of all the tree works that

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are required to maintain the trees ecological value. The management plans should cover a period of 10 years from the commencement of development. The mitigation strategy shall be implemented in accordance with the approved plan.

8) No development shall take place until:
   i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
   ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.

   Development shall be carried out in accordance with the approved details.

9) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

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

10) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report

by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the relevant phase of the development is occupied.

11) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the relevant phase of development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved schemes.

12) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
    i) the parking and turning of vehicles of site operatives and visitors;
    ii) loading and unloading of plant and materials;
    iii) storage of plant and materials used in constructing the development;
    iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
    v) wheel washing facilities;
    vi) measures to control the emission of dust and dirt during construction;
    vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
    viii) identification of biodiversity protection zones along with practical measures, including details of the timing of works, to avoid or reduce impacts on them during construction;
    ix) a badger mitigation strategy (including a status check and follow up licensing and compensation) and reptile and amphibians mitigation strategy, in accordance with British Standard 4202:2013.
    x) the times during construction when specialist ecologists need to be present on site to oversee works;
    xi) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person and their contact details;
    xii) details of any site construction office, compound and ancillary facility buildings which shall be sited away from biodiversity features;
    xiii) details of the temporary surface water management measures to be provided during the construction phase;
    xiv) responsible persons and lines of communication including where contact details will be displayed;
    xv) details of protective fences, exclusion barriers and warning signs.
    xvi) measures to ensure no on-site fires during construction;
    xvii) delivery hours.

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The approved Construction Method Statement shall be adhered to throughout the construction period of the development.

13) No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 Saturdays and at no time on Sundays or Bank or Public Holidays.

14) No development shall commence within a phase until full details of the proposed foul water drainage have been submitted to and approved in writing by the Local Planning Authority. Details shall include its routing, design, and subsequent management / maintenance. No building within that phase of the development shall be occupied until the foul water drainage scheme has been implemented in accordance with the approved details.

15) No development shall commence within any phase until full details of the proposed surface water drainage scheme, which shall accord with the principles of RSK Drawings 132781-RSK-ZZ-ZZ-DR-C-0201 (sheet 1 of 2 and sheet 2 of 2) have been submitted to and approved in writing by the Local Planning Authority.

Subject to these principles and drawings, the design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations and the recommendations of the SUDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage.

No dwelling shall be occupied until the surface water drainage scheme has been implemented and it shall be maintained thereafter in accordance with the approved details.

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16) Before commencement of development of any phase, a measured survey of the site and a plan prepared to a scale of not less than 1:500 showing details of existing and finished ground, floor and roof levels (in relation to a fixed datum point) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be in accordance with the approved details.

17) No development shall take place within any phase until details of the earthworks for that phase have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The earthworks shall be carried out in accordance with the approved details and retained thereafter.

18) No development shall take place until details of the proposed vehicular and emergency access onto Church Lane, including details of visibility splays have been submitted to and approved in writing by the local planning authority. The accesses shall be formed and retained in accordance with the approved details. Visibility splays shall be free of any obstruction exceeding 0.6 metres in height prior to the occupation of the development and at all times thereafter.

19) No development shall take place until details of internal pedestrian and cycle infrastructure and connections from the development to improve footway and cycleway routes that connect the development with Three Mile Cross, including bus stops, Oakbank School and the SANG to the south of Church Lane have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details prior to occupation of the first dwelling and retained thereafter.

20) No development shall take place within any phase until a landscape and ecological management plan (LEMP) for that phase, including long-term design objectives, management responsibilities, timescales and maintenance schedules for all landscaped areas (except privately owned domestic gardens), has been submitted to, and approved in writing by, the Local Planning Authority for that phase. The LEMP shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

21) No development shall commence on any phase until details of secure and covered bicycle storage/parking facilities have been submitted to and approved in writing by the local planning authority. The cycle storage/parking shall be implemented in accordance with the approved details before first occupation within that phase of the development and shall be permanently retained in the approved form for the parking of bicycles and used for no other purpose.

22) No development, including site clearance, within any phase until a scheme which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to that phase, in accordance with BS5837: 2012 has been submitted to and approved in writing by the Local Planning Authority. The Scheme shall name a retained arboricultural consultant for the duration of the construction and landscaping project. The protection measures shall be implemented in accordance with the approved details for the duration of the development.

    No retained trees shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Rushmoor BC

No development within a phase (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any other operation involving use of motorised vehicles or construction machinery) shall commence until the Local Planning Authority has been given written notice of at least 7 working days to inspect the implementation of the measures identified in the Approved Scheme on-site.

No excavation, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Scheme.

All tree work must be undertaken in accordance with BS3998:2010 Tree work - Recommendations unless otherwise agreed by the Local Planning Authority Arboricultural Officer.

23) No development shall commence on a phase until a Lighting Design Strategy for Biodiversity has been submitted for that phase and approved in writing by the Local Planning Authority. This shall include all external lighting. The strategy shall be in accordance with 'Bats and Artificial Lighting at Night: Guidance Note GN08/23 and shall detail mitigation for commuting and foraging bats. The Strategy shall identify:
    i) those areas/features on site that are particularly sensitive for nocturnal species 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
    ii) 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 the above species using their territory or having access to their breeding sites and resting places.

    All external lighting within a phase 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. No other external lighting shall be installed without written consent from the local planning authority.

24) No development shall commence until a plan for achieving a 10% reduction in the predicted carbon emissions arising from operation of the development through the use of decentralised renewable and/or low carbon sources (as defined in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007) or any subsequent version) has been submitted to and approved in writing by the local planning authority. The minimum 10% reduction shall be achieved in addition to the levels of reduction in carbon emissions required through the Building Regulations in force at the time of the submission of planning application. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.

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25) No development shall take commence until a comprehensive Emergency Plan (EP) has been submitted to and approved in writing by the local planning authority in relation to the construction phase of the development. The EP shall provide policies and procedures for the preparedness and response to an incident at AWE Burghfield. The plan shall include but not be limited to the following aspects:

(a) details about the site;
(b) preparations in advance of any incident;
(c) how the site will be notified of an AWE incident;
(d) actions to take on notification (set out on a flow chart and/or check list);
(e) actions to do to shelter for up to 48 hour period;
(f) actions to have in place in relation to preparing for evacuation;
(g) recovery.

The Development shall be carried out in accordance with the approved EP.

26) No development shall commence until a scheme for the installation of a notification system within each dwelling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the system to receive a 'Shelter In Place' alert in the event of a radiation emergency at AWE Burghfield. The system should be installed in accordance with the approved details, and thereafter maintained.

27) The dwellings within each phase of development hereby approved shall be constructed to provide attenuation against externally generated noise in accordance with a noise mitigation scheme that has first been submitted to and approved in writing by the Local Planning Authority before any construction above ground level of the relevant phase. The submitted noise mitigation scheme shall ensure that ambient internal noise levels and the noise levels within gardens for dwellings meet the BS8233/2014: Guidance on sound insulation and noise reduction for buildings. The approved mitigation measures to serve each dwelling shall be implemented prior to first occupation and retained thereafter.

28) No dwelling shall be occupied until a SuDS Management and Maintenance Plan for the lifetime of the development has been submitted to and approved in writing by Local Planning Authority. The plan should include details of: - arrangements to secure the operation of the scheme throughout its lifetime, including adoption by a Private Management Company, WBC or a Statutory Undertaker; maintenance access; a method statement for safe and sustainable removal and disposal of waste from the drainage system, detailing frequency, materials to be used and standard of work; and a GIS shape file for the drainage system serving the site. The approved SuDS Maintenance and Management Plan shall be implemented and maintained in full in accordance with the approved details.

29) No dwelling shall be occupied until a Parking Management Strategy for the management of the on-site parking arrangements shall be submitted to and approved in writing by the Local Planning Authority. The submitted Parking Management Strategy shall include details of the management of all parking

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spaces. The management and provision of parking shall be maintained in accordance with the approved details thereafter.

30) No dwelling shall be occupied until fittings have been installed that are designed to achieve a water consumption target of 105 litres/person/day or less in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be retained thereafter.

31) No dwelling shall be occupied until it has been provided with a water butt and a composting bin, unless it can agreed in writing with the Local Planning Authority that it is not practicable to accommodate it within its curtilage.

32) No dwelling shall be occupied until adequate ducting, that shall enable the connection of superfast broadband or similar technologies, has first been provided to serve that dwelling.

33) No dwelling shall be occupied until details of a car club and bicycle hire locker, has been submitted to and approved in writing by the Local Planning Authority and provision made in accordance with the approved details. The details shall include the car/bike club operator, the number and types of bikes and vehicles to be provided, the location of bikes and vehicles and how the car club/bicycle hire will be marketed, including any agreed membership discounts or offers. The club/bike hire shall be implemented from the 100th occupation.

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ANNEX E

INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS REGULATIONS ASSESSMENT

INTRODUCTION

The proposal is for 148 dwellings. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site[237] or European marine site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

PROJECT LOCATION

The appeal site and surroundings are described in Section 2 of the main report. It is located in Three Mile Cross and is in proximity to the Thames Basin Heath Special Protection Area. The proposal is for outline planning permission for 148 dwellings with all matters reserved except for access.

THE DESIGNATED SITE, ITS QUALIFYING FEATURES AND CONSERVATION OBJECTIVES

The qualifying features are:

A224 Caprimulgus europaeus; European nightjar (Breeding)
A246 Lullula arborea; Woodlark (Breeding)
A302 Sylvia undata; Dartford warbler (Breeding)

The conservation objectives are:

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[237] Regulation 8 of the Habitats Regulations 2017, as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (the '2019 Regulations'), defines European sites and European marine sites. European sites include: Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) already existing at 31 December 2020; any Site of Community Interest (SCI) placed on the EU Commission's list or any site
proposed to the EU prior to 31 December 2020; and any SAC or SPA designated in the UK after 31 December 2020. European marine sites are defined as European sites consisting of marine areas. As a matter of policy, the Government also applies the Habitats Regulations procedures to possible SACs (pSACs), potential SPAs (pSPAs), Ramsar sites and proposed Ramsar sites, and sites identified, or required, as compensatory measures for adverse
effects on any of the above sites.
European sites in the UK will no longer form part of the EU's 'Natura 2000' ecological network. The 2019 Regulations have however created a 'national site network'. The national site network includes existing SACs and SPAs, and new SACs and SPAs designated under the Habitats Regulations 2017 (as amended), as noted above. Ramsar sites do not form part of the national site network, but all Ramsar sites are treated in the same way as SACs/SPA as a matter of policy.

To ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;
• The extent and distribution of the habitats of the qualifying features;
• The structure and function of the habitats of the qualifying features;
• The supporting processes on which the habitats of the qualifying features rely;
• The population of each of the qualifying features, and,
• The distribution of the qualifying features within the site.

HRA IMPLICATIONS OF THE PROJECT

The proposed development would introduce further residents into the area that have the potential to affect the Thames Basin SPA. The impact pathway is visitors to the SPA, who would disturb birds nesting on the ground. In the absence of mitigation the development of 148 dwellings within 7km of the SPA poses a risk of impacting on the SPA.

ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

The additional population and the potential for residents to use the SPA for recreational purposes is likely to result in likely significant effects.

FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY

In the absence of avoidance or mitigation measures, there remains potential for the development proposal to lead to a significant effect on the Thames Basin SPA via disturbance effects. An Appropriate Assessment is therefore required.

The evidence from the Appellant is contained in the Ecology Solutions Shadow Habitat's Regulations [CD1.18]. Since that report was written, the appellant has amended its mitigation strategy. It now proposes by way of a planning obligation to make a financial contribution to Suitable Alternative Natural Green Space (SANG) capacity at Stanbury House. It also proposes by way of a planning obligation to make a financial contribution to the Strategic Access Management and Monitoring (SAMM) of the SANG. This is the approved strategy of the Thames Basin Heaths Joint Strategic Partnership. I have consulted Natural England on the proposal, and they have not objected. On 3 March 2025 they emailed the Planning Inspectorate to say:

"Thank you for consulting Natural England. You attached our 11 June 2024 consultation response to your email, but we have been consulted since then. On 3 February 2025 we submitted the below to Wokingham BC, due to the change in contributing to a strategic SANG.

Yes, provided there is capacity at Stanbury House SANG, and the proposed development is within the catchment of that SANG, our below response is applicable.

Thames Basin Heaths Special Protection Area (SPA): No objection subject to appropriate mitigation being secured.
I can confirm to you that as long as the applicant is complying with the requirements of Wokingham's Local Plan policy requirements for the Thames Basin Heaths SPA (through a legal agreement securing contributions to Suitable Alternative Natural Greenspace

(SANG) and Strategic Access Management and Monitoring (SAMM)) for all net increases in residential accommodation, Natural England has no objection to this application."

The contribution to the SANG would provide an alternative recreational area. Natural England do not object to the proposal.

HRA CONCLUSIONS

These conclusions represent my summary and assessment of the evidence presented to me. I have taken into account all the available evidence and have adopted the precautionary principle in carrying out my consideration of the matters raised.

Having considered all of the potential significant effects that could arise from the appeal Scheme, I am satisfied, in light of the mitigation measures set out above, which can be secured by planning obligations, that the proposed development would not, either by itself or in combination with other plans and projects, result in a likely significant effect on the Thames Basin SPA.

My conclusion is predicated on the circumstances of this particular case, based on the site's unique context and situation and on the basis of securing the identified mitigation measures that I have identified.

For the purpose of clarity, the above does not constitute an appropriate assessment for the purposes of the Habitats Regulations. This is a matter for the SoS to undertake as the competent authority.

Siobhan Watson
INSPECTOR

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Richborough

Ministry of Housing, Communities & Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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

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