The Planning Inspectorate

Appeal Decision

Inquiry held on 15-18, 22 and 24 November 2022

Site visit made on 17 November 2022

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2023

Appeal Ref: APP/X0360/W/22/3304042
Land west of Kingfisher Grove, Three Mile Cross, Reading, Berkshire, RG7 1LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by JPP Land Ltd against Wokingham Borough Council.
- The application, Ref: 201002, is dated 23 April 2020.
- The development proposed is an outline planning application for the proposed erection of 49 affordable dwellings, with new publicly accessible open space and access (access to be considered).

Decision

1. The appeal is allowed and planning permission is granted for outline planning application for the proposed erection of 49 affordable dwellings with new publicly accessible open space and access, at land west of Kingfisher Grove, Reading, RG7 1LZ in accordance with the terms of the application, Ref 201002, dated 23 April 2020, subject to the schedule of conditions in Annex A of this decision.

Preliminary Matters

Change of development description

2. Prior to the Council's decision, the appellant requested a change to the description of development, altering the number of proposed affordable homes. The original description of development was: "Outline application for the proposed erection of 49 dwellings, including 22 units of affordable housing, with new publicly accessible open space and access from Grazeley Road." Prior to the Inquiry, the appellant consulted interested parties on the intended description, with three submissions received, which I have taken into account together with all other correspondence. The Council agreed to the change.

3. Having considered this issue at the Case Management Conference held on 6 October 2022, I advised in the note of the proceedings that the change to the description of development does not raise any new issues, that it would not prejudice any party, and that sufficient consultation on the change has been undertaken. As such, it is reflected in the description of development in this decision.

Other matters and appeal background

4. The appeal is submitted in outline form will all matters except access reserved for more detailed consideration at a later time. Parameter plans were submitted which are incorporated in the conditions at Annex A.

5. The development plan for the area includes the Council's *Adopted Core Strategy Development Plan Document* (2010)[1] (the Core Strategy) and the *Adopted Managing Development Delivery Local Plan* (2014)[2] (MDD), together with the *Shinfield Parish Neighbourhood Plan* (2017)[3] (the Neighbourhood Plan). The Council's Local Plan review is at an early stage and is subject to further consultation and revision. I therefore accord it only minimal weight in my decision.

6. In its statement of case, the Council stated that had it decided the application, it would have been refused for several reasons. Several of these inform the main issues set out below. Others are addressed by the completed and signed Planning Agreement (s106 Agreement)[4], which was submitted during the Inquiry. A highways-based reason for refusal was latterly the subject of discussions between the appellant and the Council, during which the parties achieved common ground, and was not subject to examination at the Inquiry.

Main Issues

7. The main issues are:

   - Whether the proposed development can be safely accommodated with regard to the proximity of the Atomic Weapons Establishment (AWE) site at Burghfield;
   - The effect of the proposal on the landscape character and appearance of the area; and
   - Whether the proposed development would provide appropriate accessibility for future occupiers.

Reasons

AWE Burghfield site

8. The appeal site is around 2.8 kilometres to the east/northeast of the AWE Burghfield site, which is subject to the *Radiation (Emergency Preparedness and Public Information) Regulations 2019* (REPPIR)[5]. An urgent protective area (UPA) with a radius of around 3.16km has been established around the AWE site, and the appeal site is within this. The UPA is wholly within a detailed emergency planning zone (DEPZ), The *AWE Off-site Emergency Plan* (2022)[6] (the REPPIR plan) has been established for the DEPZ by West Berkshire District Council (WBDC). Should an incident occur, Wokingham Borough Council would have a role in managing and executing any emergency response.

[1] CD 5.1.
[2] CD 5.3.
[3] CD 5.5.
[4] ID 07.
[5] CD 11.20.
[6] CD 11.5.

9. MDD Policy TB04 states that development will only be permitted when the applicant demonstrates that the increase in the number of people living, working, shopping and/or visiting the proposal can be safely accommodated having regard to the needs of "blue light" services and the emergency off-site plan for the AWE site. It was agreed at the Inquiry that blue light services includes emergency services, such as ambulances, that would be required for the operation of the REPPIR plan in the event of an AWE site incident. *National Planning Policy Framework* (2021) (the Framework) paragraph 95 suggests, amongst other considerations, that operational sites for defence and security purposes should not be affected adversely by the impact of other development.

10. The AWE Burghfield site has a role in maintaining national security that includes manufacture and disposal services. Despite the small risk of any accident occurring, emergency planning must be in place. One of the risks is a serious event in which radioactive material could be released into the atmosphere and which would most likely take the form of a plume that would be carried along the atmosphere according to wind direction, eventually dispersing. The type of activity taking place at AWE Burghfield means that any release of material would not be sustained, and thus any event would likely happen over hours or a small number of days.

11. Were an incident to occur, the most likely composition of a plume would be plutonium particulates. The type of activity carried out at the AWE Burghfield site together with the distance of the appeal site from the former means that although there are additional risks of different material release or various possible types of exposure, the greatest risk would be from inhalation. For example, larger particulates would be likely to drop from the atmosphere after being carried and settle on the ground before the plume were to pass over a 2.8km radius from the site.

12. The Council and the appellant agree that such a risk, or the risk of an incident occurring, is very small. The appellant carried out an exercise that considered potential risk factors of previously calculated event frequencies and the AWE Burghfield on-site fault sequences that could trigger an event, concluding that such an event could occur on a 1 in 10,000-year basis. The consideration of additional factors such as meteorological and wind conditions and adherence to the REPPIR plan reduces the risk of a person on the appeal site being harmed by such an incident to a single event in many more thousands or millions of years.

13. The REPPIR plan recommends sheltering within buildings during an event as the primary method of protection to human health. The barrier of a building (with closed doors and windows) would afford the greatest and most immediate and accessible type of protection in the event of the type described above. The REPPIR plan also sets out measures for potential evacuation either during or after the event, but it is unlikely that this would be required for the appeal site should the shelter-in-place recommendation be followed. The same low risk factors mean that the requirement to shelter would be over a short period of no more than two days.

14. The consideration of risk was relevant to the Secretary of State's agreement to allow 115 dwellings at Boundary Hall[7] close to the AWE Aldermaston site, which performs similar work to that of AWE Burghfield and is also covered by the

[7] CD 6.8.

REPPIR plan. The minimum distance between Boundary Hall and AWE Aldermaston was agreed to be 740 metres. He concluded in that case that the "extremely remote possibility" of an incident did not outweigh the other factors that led to him allowing the application.

15. The Council's duties under the REPPIR plan include the protection of the public and the organisation of emergency services. Its concerns are predominantly based on the ability of the plan to be carried out should the appeal development occur. Although only 49 properties and around 117 people, this would add to the number already within the DEPZ and UPA. The surroundings of the AWE site are predominantly rural, but other parts of the area have also been developed, and these include Burghfield Common, a larger residential settlement than Three Mile Cross, and Green Park, a mixed-use business area. These are to the west/southwest and north/northeast, respectively, of the AWE site. Although low in risk, I acknowledge that an incident would have a high impact as set out in the Crest Nicholson judgement[8].

16. The unidirectional nature of wind means that if a plume was to occur then it would disperse in a singular direction. This would be dependent on specific weather conditions and wind speeds, which are factors that inform the low risk of a plume passing over the appeal site. The REPPIR plan sectorises the DEPZ radially from the AWE site. The plan seeks to prioritise assistance within the sectors over which the plume would pass. Although I heard at the Inquiry that blue light and other relevant services would be working at capacity should an event occur, these are planned to address all areas within the DEPZ. The settlements elsewhere within the area that are larger than those in the appeal site sector (or a sector area comprising the sector and its neighbouring sectors) are in different directions. Given that the plan has the capacity to cover an incident in those sector areas, and that service resources would be predominantly focused on only one sector area, I consider that the addition of the proposed dwellings on the appeal site would not compromise the delivery of the plan.

17. Other implications for the safety of appeal site residents were presented to the Inquiry, including responses from WBDC and other agencies. In particular, the safety of home care workers entering the DEPZ during an incident was in issue, and it was mentioned that the potential for affordable housing to accommodate those with home care meant that this could occur. The Council would not send staff into the DEPZ in an emergency without being confident that staff would not be at risk.

18. Based on the appellant's modelling, were an incident to occur, a person at the appeal site who was not sheltering might be exposed to a radiation dose of 1.5 milliSieverts (mSv). Advice from the Health and Safety Executive categorises the risk impact of such a dose to "minor"[9]. By comparison, WBDC's public advice[10] provides example levels of 0.02 mSv from a single chest X-ray, 1 mSv as the average annual dose in the UK from naturally occurring radon in homes and 2 mSv as the average total annual dose in the UK from natural radiation sources, 8 mSv as the average annual dose from all sources of radiation in Cornwall, and 500 mSv as the threshold for nausea and reduction in white blood cells. 20 mSv is listed as the annual legal worker dose limit.

[8] CD 7.4.
[9] CD 11.12 (appendix 2).
[10] CD 11.21.

19. The effective dose received by anyone within the zone within the conditions set out previously would therefore be low, and lessened if REPPIR advice is followed. Although fear of contamination may prevent workers from entering the DEPZ, this could be disproportionate to the actual risk. Even in the event of plume particles settling on the ground in the appeal site, the risk from a dose following an incident would be lower than those occurring from the alternative sources set out above.

20. Should the REPPIR shelter-in-place advice be followed by those in the DEPZ, road traffic levels are unlikely to be greater than normal and the ability of services to access the zone would not be adversely affected. The possibility of self-evacuation by those within the zone was also raised as a potential safety issue, but this is addressed within the REPPIR plan and discouraged through the dissemination of public information. Other safety barriers such as being elsewhere on the appeal site away from shelter, travelling into the DEPZ, or not having access to a telephone landline (in the event of a safety announcement) are partly covered within the REPPIR plan. Alternatively, they are situations in which sufficient time would be available between the incident occurring and the plume passing over the site for people to become aware of the situation and gain access to shelter or other safety.

21. I have been made aware of other appeal decisions in which siting within the DEPZ have been factors in their dismissal[11]. In each of these cases the evidence was considered by way of written representations. The Inspector in the Diana Close appeal adopted a precautionary approach in the absence of detailed evidence. In comparison, the evidence presented to me in this appeal has been examined and tested. Given its bespoke circumstances, I do not consider that it would result in the creation of a precedent for allowing other development in the DEPZ that in any case must be assessed on its own merit.

22. I therefore conclude that the proposal would not present a barrier to the ability of blue light services to safely carry out their duties, and nor would it affect the Council's ability to execute and manage its obligations under the REPPIR plan. Furthermore, people living in or using the appeal site could be safely accommodated. Together, these considerations form the thrust of MDD Policy TB04 and, as such, I find no conflict with this policy. Additionally, the development would not adversely affect the continued operation of the AWE site, and there would be no conflict with the NPPF.

Landscape character and appearance

23. The site is to the west of the existing built-up area of Three Mile Cross, and to the east of the A33. Its sole road access is at its northernmost point, from the junction of Grazeley Road and Kingfisher Grove. The land slopes downward generally from a ridge close to the eastern boundary, and apart from a shed and some vehicles close to the entrance, is vacant, having been used for agriculture. It currently has a grassland appearance dotted with trees, particularly along ditches close to the western edge and on the southern portion of the site.

24. At least the southern part of the site is historically associated with a former stately home and this also adjoins an area of open grassland (known as a suitable alternative natural greenspace, or SANG, area). A footpath (known as

[11] CD 6.7, CD 6.20, CD 6.21.

a byway open to all traffic, or BOAT) runs along the length of the site's eastern boundary. Beyond this is the A33. I visited the site in late Autumn, when deciduous trees were not in leaf, and there was intervisibility between the site and the SANG and BOAT areas, although views were limited to glimpses. In both cases there were areas with no or very limited intervisibility due to vegetation, which would be exacerbated in the months when deciduous trees are in leaf. More distant views are gained beyond the A33 to the west, in which the uppermost part of the site is visible.

25. Of relevance to the consideration of landscape character are Core Strategy policies CP1, CP3 and CP11, which together seek sustainable development that maintains or enhances the high quality of the environment, has no detrimental impact on landscape features, and seeks to maintain development limits, amongst other considerations. MDD policies CC01, CC02, CC03 and TB21 are also relevant. These add the requirement to respect adopted development limits, green infrastructure and landscape character, amongst other considerations, with Neighbourhood Plan Policies 1 and 2 reflecting the boroughwide policies.

26. The Council has also referred to its *Wokingham Borough Landscape Character Assessment*[12] (2019) (the LCA), which characterises the borough into landscape zones sharing particular characteristics. The 'J3' categorisation into which the site falls identifies its undulating landscape of large fields, with changes to its character through settlement and urbanising influence of its proximity to Reading. Other relevant characteristics include remnant parkland and an intact hedgerow network. Issues for the area include pressure to develop the ridgelines and the encroachment of residential development changing the landscape character and increasing demand for associated infrastructure.

27. Although outside of the Council's defined development limit, the development would adjoin existing residential development within the limit. The proposed 49 homes would be concentrated in a group form running roughly parallel with the BOAT, with the remainder of the site as managed grassland to be used as open space.

28. The topography of the site as well as its surrounding vegetation limits unhindered views into the site. The site itself is in private ownership with restricted public access, and public views are therefore limited to the BOAT and the area around the Kingfisher Grove access, together with the SANG and areas beyond the A33 in which distant views are possible. Private views are possible from within the site itself and other surrounding land, such as the dwellings on Kingfisher Grove. New development would be visible to varying degrees in most of these views, but although direct views would be largely filtered by vegetation, viewers would be in no doubt that there were buildings on the site. This would be particularly noticeable in dynamic views in the context of a journey along the BOAT, in which (despite the existing heavy understorey of vegetation) they would appear closer and more distinct than existing development, and would periodically appear through vegetation gaps. I also that the verified views in the appellant's *Landscape and Visual Impact Assessment*[13] (LIVIA) demonstrate that visibility of the proposal would be reduced over time as screening vegetation matures.

[12] CD 12.1A/B.
[13] CD 1.6.

29. Viewers on Mereoak Lane would notice buildings on the lower portion of the existing visible green swath of the site. This viewpoint is identified within the LIVIA as a low-value receptor and views from here are generally experienced in the context of a journey. Although building heights would be limited by the parameter plan and the line of the ridge would not be broken, there would still be visible signs of development. This is a form of urbanising development discouraged by the LCA.

30. Overall, despite the largely screened nature of the site, there would be a shift in some views from a rural to a partly suburban character. This would result in minor harm the landscape character of the area.

31. However, there are measures within the proposal that seek to mitigate this harm. The area to be developed immediately adjoins existing development and enables retention of the green space in more than half of the site, allowing for open zones around its other edges in which structural planting would filter outside views. The development would also enable the green space around the proposed built-up zone to be maintained as a recreational parkland and biodiverse resource, together with the formal management of three identified veteran trees, of which at least one is at risk of failure without intervention.

32. Concern was expressed from various parties that the development would close the existing strategic gap between Three Mile Cross and Spencers Wood. I do not consider that this would be the case. The development would enable the retention of a substantial amount of green space between the settlements, including land both on the appeal site and the existing land outside. I saw that there was a significantly narrower gap between the settlements on Basingstoke Road where the provision of a relatively narrow strip of green space between built-up areas was sufficient separation to ensure retention of both settlements' identities. The lack of direct access between the site and Spencers Wood, together with there being no intervisibility of the proposed buildings to or from Spencers Wood, as well as the existing topography and the existing and proposed vegetation, would not exacerbate any physical or perceived coalescence of the settlements.

33. Despite the minor level of harm, there would nonetheless be harm to the landscape character of the area. This would conflict Core Strategy policies CP1, CP3 and CP11, MDD policies CC01, CC02, CC03 and TB21 and Neighbourhood Plan Policies 1 and 2, for the reasons set out above.

Accessibility

34. The Council's putative reason for refusal on this issue expresses a concern that as a development outside settlement limits, with perceived poor accessibility to local facilities and services, a lack of good public transport links and poor quality of the walking and cycling environment, it would not encourage a shift towards sustainable modes of transport. These themes are reflected in Core Strategy Policies CP1, CP2, CP3, CP6 and CP11, MDD Policies CC01 and CC02 and Policy 4 of the Shinfield Neighbourhood Plan.

35. Both the Council's and appellant's evidence referred to an 800-metre distance being an indicator of whether a neighbourhood is 'walkable', this being a comfortable ten-minute walking time for most people to be able to access a

range of services[14]. This is not an upper limit and I heard that there may be factors that influence people to consider a longer walking distance to acceptable, such as the physical quality of the walking route. The supporting text to Core Strategy Policy CP6 states that the borough has one of the highest car ownership rates of any English local authority, and thus, in accordance with this policy, local conditions should offer choices through the provision of sustainable forms of transport.

36. The closest facilities and services to the site are concentrated on Basingstoke Road in Three Mile Cross. These include convenience stores, leisure facilities, schools and a post office counter within a range of 800m to two kilometres (a 25-minute walk)[15]. Other facilities including a wider range of employment are further afield. The *Manual for Streets* (MfS) recognises that walking trips under 2km offer the greatest potential to replace short car trips and whilst the walking time to all these facilities would be longer than the comfortable 10-minute walking time, I acknowledge the possibility that people could be encouraged to walk greater distances if the range of services was appropriately enticing, as set out in a previous appeal decision[16].

37. The main walking route between the site and the concentration of facilities and services on Basingstoke Road is along Grazeley Road. I saw that although the route is legible along its full length, in many places the footpath is narrower than the MfS suggested accessible width of two metres and also is not overlooked for a short length close to Kingfisher Grove. As indicators of route quality, the absence of an appropriate width and passive surveillance from dwellings along sections of the route result in a substandard walking experience. The alternative available walking route using Tabby Drive is longer and as such, Grazeley Road is more likely to be used. Additionally, the Tabby Drive route uses part of Grazeley Road and does not wholly avoid substandard sections. Although improvements to junctions along Grazeley Road are planned, these would not alleviate the substandard sections.

38. Beyond the aforementioned closest services, walking routes to other destinations such as local schools are variable, including areas with no passive surveillance or lighting. Such conditions would discourage users from walking longer distances.

39. Cycling options would be improved with the proposed paving of the section of BOAT north of Grazeley Road. This would offer a route to the employment centres beyond Three Mile Cross. Although there is a good range of facilities and services within a 20-minute cycling distance from the site, are other few dedicated cycling facilities or lanes within the vicinity of Three Mile Cross, thereby affecting the attractiveness of cycling as a realistic travel mode choice.

40. A bus service operates to Reading along Basingstoke Road on a good frequency, with services into the evening. However, the absence of a Sunday service would reduce the attractiveness of the proposed housing for those who would rely on public transport, as would the absence of convenient links to alternative destinations, such as the borough centre at Wokingham. Access to the bus stops would be along the Grazeley Road route which, given my

[14] As set out in *Manual for Streets* section 4.4 (CD 12.3) and the *National Design Guide* (CD 12.21).
[15] Distances are calculated from the approximate centre of the proposed residential component of the appeal site and are as set out in the parties' proofs of evidence.
[16] CD 6.15.

considerations set out above, would affect the attractiveness of public transport as a transport mode choice.

41. In conclusion on this main issue, despite some positive components, accessibility to and from the site when considered as a whole, would be poor. As such, future occupiers of the proposed development would not benefit from appropriate accessibility and there would be conflict with Core Strategy Policies CP1, CP2, CP3, CP6 and CP11, MDD Policies CC01 and CC02 and Policy 4 of the Shinfield Neighbourhood Plan, for the reasons set out above.

Other Matters

Housing supply

42. It is agreed between the appellant and the Council that the latter is not able to demonstrate that it has a deliverable five-year housing land supply. There is disagreement on the scale of the shortfall, with the appellant and Council claiming a supply of 4.66 and 4.83 years, respectively. I heard evidence at the Inquiry as to the varying methods resulting in the different outcomes but consider the difference to be so small as to be of minimal relevance. In any case, the housing land supply shortfall is minor. Although other factors raised in the evidence include local affordability and the previous supply/delivery of homes against the housing need, I have no need to refer to these in detail.

43. The calculation variances result in annual housing need figures, with a 5% buffer applied, of about 806 (Council's figure) or 835 (appellant's figure) dwellings. The development would provide approximately 6% of the Council's annual supply of homes, which I consider to be a sizeable proportion. Although the Housing Delivery Test indicates that the Council has delivered more homes than its targets in recent years, there is nonetheless a shortfall in the future five-year supply.

Affordable housing

44. The development would wholly comprise affordable dwellings, with the tenure split agreed by the Council. The relevant Strategic Housing Market Assessment[17] (SHMA) estimates the borough's per annum affordable housing need as 441 dwellings with the Council's more recent Local Housing Needs Assessment[18] (LHNA) stating a requirement for 407 affordable dwellings per annum.

45. The recent delivery of affordable housing, of around 1,700 homes over the past five years, has been stronger in some years but delivery in most has fallen short of the per annum requirement. The Council considers that the likely delivery of dwellings over the next five years (estimated to be at least 1,249 homes) would meet the housing requirement for those on the local Housing Needs Register with the most acute need and that this would include meeting around 87% of the local need within Shinfield. The fact that the site's proximity to employment sources could result in a high local need but this is tempered by the Council's assertion that the types of jobs to be created would not be those that would appeal to those residing in affordable housing. Nonetheless there are links between the site and the wider employment catchment area incorporating Reading.

[17] CD 10.2.
[18] CD 10.3.

46. No targeted local affordable housing needs surveys have been undertaken in Shinfield, although local housing register demand is strong. I am reticent to the rely on this source as an indication of local affordable housing need, given the potential for 'double counting' in demand for Shinfield and neighbouring borough areas. Nonetheless the SHMA and LHNA indicate strong demand for affordable housing within the borough, and despite the expected forthcoming local delivery of dwellings, unmet demand will remain in Shinfield and the wider borough area.

Rural exception site

47. Core Strategy Policy CP9 refers to the provision of affordable housing on rural exception sites. These are sites outside development limits, and the policy enables the provision of affordable housing adjoining the limits in specific instances, where a need is demonstrated for residents, workers or other people with family connections within the Parish Council's area. A rural exception site is defined in the Framework as a small site used for affordable housing in a site that would not normally be used for housing, which seeks to address the needs of the local community.

48. The Framework does not define what constitutes a small site. At 5.82 hectares with a development area of 1.63ha providing 49 dwellings, there is disagreement between the appellant and the Council that this is a small site. Without a definition, this becomes a matter of planning judgement. In comparison with the Council's Local Housing need for 2020/21 of 789 homes, 49 homes represents about 6% of the Council's annual need, which as I noted above would represent sizeable proportion to the borough's housing supply and therefore not small in this sense. Elsewhere in the Core Strategy (at appendix 3) small sites are defined as those less than 1ha with up to 9 dwellings. Although this is not a direct comparison to the absence of a definition with regard to rural exception sites, the Council's intention in describing small sites in regard to housing delivery is clear. Taking all these matters into consideration, I do not consider the appeal site to be a rural exception site.

Biodiversity

49. Core Strategy Policy CP8 requires development which alone or in combination is likely to have a significant effect on the Thames Basin Heaths Special Protection Area (the SPA) to demonstrate that adequate measures to avoid and mitigate any potential impacts are delivered. Thresholds for mitigation requirements are set out in the accompanying text. As a development of fewer than 50 dwellings and one between five and seven kilometres of the SPA, mitigation is not required.

50. Implementation of the appeal scheme would result in biodiversity net gain of 114% for habitats, 11% for hedgerows and 35% for ditches. Further benefits would be gained from additional planting and habitat management over the longer term. Phase 1 and Phase 2 surveys have been undertaken to protected species, with evidence of dormice in the hedgerow boundaries. The site was also found to be of value to foraging and commuting bats, with trees on the site of potential value to roosting. Paragraph 180 of the Framework encourages avoidance of significant harm to biodiversity. Together with the implementation of the features that would result in biodiversity net gain and the creation of new invertebrate habitats, as well as the suitable management of the site, I am satisfied that the development would avoid significant harm.

Highways

51. Whilst the Council initially presented a putative reason for refusal relating to access to the site and its potential effects on highway safety, discussions between the appellant and Council prior to the Inquiry resolved matters of difference. A theme within the objections from interested parties was the potential effects of traffic congestion on the local road network resulting from the additional vehicle trips generated by the development. The junction of Grazeley Road and Basingstoke Road was identified as a particularly congested spot. Forthcoming improvements to the junction have already been resourced and from the evidence provided it appears that this junction will provide for increased traffic levels resulting from the various developments in and around Three Mile Cross.

S106 Agreement

52. The heads of terms of the s106 Agreement were agreed between the main parties prior to the Inquiry. Given that an obligation may constitute a reason for granting planning permission only if it meets the tests set out in Regulation 122 of the *Community Infrastructure Regulations 2010* and paragraph 57 of the Framework, it falls to me to reach a finding on its acceptability.

53. Provision for affordable housing comprising 70% social rented and 30% shared ownership tenures is incorporated, with a nomination agreement for prospective residents. This is an appropriate method for ensuring fair placement according to local need. The proposal complies with Core Strategy Policy CP5 in that it contributes to mixed and balanced developments within the borough, and I am satisfied that it would meet a need for such accommodation.

54. The development/employment skills contribution would take the form of either a plan or a monetary contribution. I recognise that the Council's preference is for a plan but acknowledge that the agreement offers suitable choice in the event of a housing provider managing the scheme in the future. Based on benchmarked values, the contribution or plan would target the Council's identified shortfall of skills training in the area local to the application site and is therefore necessary.

55. The proposed transport-related contributions of a 'My Journey' travel plan payment and a contribution for upgrading the surface of Woodcock Lane would promote sustainable travel choices and improve local access. I am satisfied that these are required to make the development acceptable.

56. Open space on the site would be made available for use by residents, and although the agreement contains various closure clauses I am content that these would only be used as necessary and for reasonable purposes. Management of the space is necessary, particularly in relation to the veteran trees and to comply with Core Strategy Policy CP2 and MDD Policy TB08 with regard to meeting the needs of residents and providing appropriate spaces for recreation.

57. Monitoring fees are specified within the agreement and I am satisfied that due to the nature of the development, particularly with regard to the level of affordable housing and open space proposed, their inclusion makes the development acceptable in planning terms.

58. The various sums within the obligation are necessary and justified and I am satisfied that the Council could rely on the document to secure the contributions. Moreover, I am content that the obligations meet the requirements of the statutory and acceptability tests.

Planning balance

Policy and Framework considerations

59. Framework paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11d suggests that where the policies which are the most important for determining an application are out-of-date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. There is no five-year housing land supply in Wokingham and therefore paragraph 11d is applicable to this appeal, and the policies that are the most important for determining this appeal are deemed to be out of date. I have no discretion within this purpose to consider whether specific policies are out of date. However, I must consider the weight to be given to policies including whether they are out of date in the context of the issues in this appeal.

60. Previous appeal decisions that have been brought to my attention[19] have noted that in specific cases, although some of the Council's policies were considered to be out of date, the overall 'basket' of policies considered most important for determining the appeal was not out of date. In these cases, the Council was able to demonstrate that it had a suitable housing land supply at that time. This is not the case in this instance, where both the Council and the appellant agree that the 'tilted balance' is engaged. A further example[20] found the basket to be out of date in that specific instance, when the Council could not demonstrate a five-year housing land supply.

61. Core Strategy Policies CP1, CP2 and CP3 set the overall approach to sustainable and inclusive development in the borough and are broadly consistent with the Framework. Similarly, Policy CP6 which promotes sustainable travel choices and does not conflict with the Framework, These policies do conflict with the appeal proposal in terms of landscape and accessibility. My weighting on these issues is set out in the next section.

62. Policy CP5 sets the requirements for affordable housing provision by development scale and location but is not consistent with the Framework in that it seeks affordable housing on developments from five or more dwellings in urban areas, whereas paragraph 64 of the Framework states that provision should be sought only on such development of ten or more dwellings. However, there is no conflict with the appeal proposal and I have afforded only minimal weight to this consideration.

63. Core Strategy Policy CP7 requires conservation of biodiversity, veteran trees or features of the landscape that are important for flora and fauna, and MDD Policy TB21 requires proposals to address the requirements of the Council's Landscape Character Assessment, amongst other considerations. There are no conflicts with the Framework or the appeal scheme and thus no weight is allocated.

[19] Including CDs 6.7 and 6.15.
[20] CD 6.1.

64. Core Strategy Policy CP17 provides housing figures based on the South East Plan which is no longer in force. Accordingly, Core Strategy policies CP9 and CP11, MDD Policy CC02, and Neighbourhood Plan Policy 1, which apply development limits throughout the borough, are out of date because these are based on out-of-date housing numbers, to which I give significant weight. A further out-of-date policy is MDD Policy TB04 which deals with development around the AWE Burghfield Site, due to the use of superseded measurements for the DEPZ radius, but as the general principles still apply only minimal weight is apportioned to this conflict.

65. MDD Policy CC01 which sets a presumption in favour of sustainable development is broadly comparable with the similar Framework presumption and does not conflict. Likewise, MDD Policies CC03 sets the Council's approach to developing and managing green areas and assets and does not conflict with the Framework, and MDD Policy TB08 which sets out the Council's approach to recreational facility provision is also generally in line with the Framework, despite the superseded reference to a previous version. The former policies conflict with the appeal scheme in the areas of landscape and accessibility, with weighting set out below.

66. Summarising the above, the Framework's tilted balance is applied as the Council cannot demonstrate a five-year housing land supply. The issues in which there are conflicts between out of date policies are AWE Burghfield, with the conflict attracting minimal weight, affordable housing provision in which the conflict attracts minimal weight, and conflict with the policies for the supply of housing more generally attracting significant weight.

Applying the balance

67. With regard to the main issues, the proposal demonstrates poor accessibility and this weighs heavily against the proposal, attracting significant weight. Landscape harm would be minor, but still conflicts with policy, and therefore this attracts moderate weight. I have found that there would be no harm with regard to the proximity of the AWE Burghfield site, which is a neutral factor in the balance.

68. Housing and affordable housing provision aside, other benefits of the scheme would include provision of new open space, net biodiversity gain, ongoing management of at-risk veteran trees, and local transport improvements. These would benefit those outside the site, and I give these considerations moderate weight. Other section 106 provisions are needed to make the development acceptable only and attract minimal weight, although there would be a wider benefit in regard to the improvement of Woodcock Lane and employment skills provisions, which attracts moderate weight.

69. The provision of new homes comprising 6% of the borough's annual supply attracts moderate weight. The provision of affordable housing that would assist the Council in meeting its shortfall in provision is significant, as is the presumption in favour of sustainable development triggered by the application of Framework paragraph 11.

70. The development plan policies that are the most important for the supply of housing are out of date, but those with which I have found conflict in this decision are not out of date and are generally consistent with the Framework.

The development would result in landscape harm and have poor accessibility. I find that the proposal conflicts with the development plan as a whole.

71. However, the weighting of the above factors is in favour of the scheme proceeding. I find that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The development proposal benefits from the Framework's presumption in favour of sustainable development.

72. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Notwithstanding the conflict with the development plan, I have found that the development would deliver significant and demonstrative benefits. These are material considerations that lead me to the decision that planning permission should be granted, and the appeal should succeed.

Conditions

73. I have assessed the list of conditions proposed by the parties against the tests set out in the Planning Practice Guidance (PPG)[21]. These were discussed at the Inquiry and subsequently refined, and are included at Annex A. I have made minor changes for clarity. In accordance with section 100ZA(5) of the Act, the Appellant has agreed to those conditions which would be pre-commencement conditions.

74. Conditions 1 through 5 are applied for the absence of doubt, with conditions 3 and 5 also applied to ensure that the development proceeds in accordance with the outline plans. Conditions 6, 7, 8 and 18 are applied in the interests of satisfactory access and highway safety. Conditions 9, 10 and 17 are to preserve the living conditions of surrounding occupiers and minimise the effects of construction. Condition 11 is to ensure sustainable drainage is incorporated within the development, and 12 is applied to investigate and if necessary preserve the archaeological heritage of the appeal site. Conditions 13 and 14 are included to ensure the protection, conservation and management of landscape features. Conditions 15 and 16 are to preserve and improve the biodiversity of the appeal site, and conditions 19 and 20 are included to ensure the landscape character and appearance of the site is preserved.

Conclusion

75. For the reasons given above I conclude that the appeal should be allowed.

G Rollings

INSPECTOR

[21] PPG reference ID: 21a-003-20190723; revision date: 23 07 2019.

ANNEX A: SCHEDULE OF CONDITIONS

1) Approval of the details of the siting, design and external appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

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 number of dwellings hereby permitted shall not exceed 49.

4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

5) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan in A2 (D2871_430 Rev A);
Parameter Plan (D2871_423_Rev B);
Site Access Arrangement (ITB15490-GA-002 Rev E).

6) No building shall be occupied until the accesses (pedestrian and vehicle) have been constructed in accordance with details to plan no.
ITB15490-GA-002 Rev E.

7) Prior to the commencement of development, full details of the construction of the access, including levels, widths, construction materials, depths of construction, surface water drainage, boundary treatment, landscaping and lighting shall be submitted to and approved in writing by the local planning authority. Each dwelling shall not be occupied until the vehicle access to serve that dwelling has been constructed in accordance with the approved details to road base level and the final wearing course will be provided within 3 months of occupation, unless otherwise agreed in writing by the local planning authority.

8) No occupation of the development shall take place until:

   (a) the approval by the local planning authority of a scheme that that provides for the visibility splays shown on plan no.
   ITB15490-GA-002 Rev E (to include also the removal of any obstruction above a height of 0.6 metres) and the maintenance of the same over the lifetime of the development; and,
   (b) the full implementation of the aforementioned approved scheme.

9) No development shall take place, until a Construction Method Statement, including a CEMP (Construction Ecological Management Plan), has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

   (a) construction of suitable works access;
   (b) the parking of vehicles of site operatives and visitors;
   (c) loading and unloading of plant and materials;
   (d) storage of plant and materials used in constructing the development;
   (e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
   (f) wheel washing facilities;
   (g) measures to control the emission of dust and dirt during construction;

(h) a scheme for recycling/disposing of waste resulting from demolition and construction works;
(i) hours of construction;
(j) hours of delivery; and
(k) mitigation and avoidance measures for ecology and biodiversity.

10) 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 National Holidays.

11) Prior to the commencement of development details for disposing of surface water by means of a sustainable drainage system (SuDS) shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the aforementioned approved details (in so far as they apply to that dwelling) have been implemented.

12) No development shall take place until the applicant or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved by the planning authority. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition.

13) No development shall take place until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority, this shall include details of existing trees and hedges to be retained in the submitted Arboricultural Impact Assessment, in line with BS5837:2012, and shall include details of;

(a) any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the sub-phase;

(b) any proposed alterations to ground levels within the Root Protection Area or Crown Spread (whichever is the greater) of any retained tree, including trees on land adjacent to the site;

(c) the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

(d) the erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written consent of the local planning authority.

(e) Prior to occupation of the first dwelling, a Veteran Tree Management Plan shall be agreed in writing with the local planning authority. This Plan shall include:

- Specialist Survey Method assessment of the trees;
- Individual tree management programme geared towards maximising longevity;
- Provision and maintenance of knee-rail style fencing beyond crown driplines, enclosing access-deterrent planting; and
- Regular review by a competent person of veteran trees' condition, with follow-up management works being implemented as recommended.

The first three elements of the Plan shall be implemented also prior to first occupancy.

14) No trees, shrubs or hedges within the site which are shown as being retained on the plans approved under condition 13 shall be felled, uprooted wilfully damaged or destroyed, cut back in any way or removed without previous written consent of the local planning authority; any trees, shrubs or hedges removed without consent or dying or being severely damaged or becoming seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the local planning authority gives written consent to any variation.

15) Prior to the commencement of development, details of how the development will achieve a biodiversity net gain of 10 % for habitats shall be submitted to and approved in writing by the Local Planning Authority. The details thereby agreed shall be fully implemented in accordance with an agreed timetable.

16) Prior to the commencement of the development a Landscape Environmental Management Plan (LEMP), in accordance with the Update Biodiversity Report by Aspect Ecology dated October 2022, including long term design objectives, management responsibilities, timescales, and maintenance schedules for all landscape areas, other than privately owned domestic gardens, which delivers and demonstrates a habitat and hedgerow biodiversity net gain shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved LEMP.

17) The development hereby approved shall not be occupied until the noise mitigation measures as set out in the Noise assessment report, project number 13390 dated 08/04/2020 submitted with the application, are implemented. The noise mitigation measures shall be retained and maintained thereafter.

18) The development hereby approved shall not be occupied until the pedestrian crossing improvements shown in principle on Drawing ITB15490-GA-017 have been completed to the written satisfaction of the Local Planning Authority.

19) No dwelling shall be more than 2 storeys in height, and no dwelling shall be higher than 61.5mAOD.

20) Prior to first occupation of the development hereby approved, details of any gate, fence or other means of enclosure within or around the public open space as shown on the Parameter Plan (D2871_423_Rev B), shall be submitted to and approved in writing by the Local Planning Authority.

End of schedule.

ANNEX 2: CORE DOCUMENTS REFERENCED IN THIS DECISION

CD 1.6	Appellant's *Landscape and Visual Impact Assessment*, April 2020.
CD 5.1	Adopted *Core Strategy Development Plan Document* (2010).
CD 5.3	Adopted *Managing Development Delivery Local Plan* (2014).
CD 5.5	Made *Shinfield Parish Neighbourhood Plan* (2017).
CD 6.1	Appeal decision, ref: APP/X0360/W/19/3275086, 18 February 2022.
CD 6.7	Appeal decision, ref: APP/X0360/W/19/3240232, 1 February 2021.
CD 6.8	SoS decision, ref: APP/H1705/V/10/2124548, 16 June 2011.
CD 6.15	Appeal decision, ref: APP/X0360/W/19/3235572, 25 August 2020.
CD 6.20	Appeal decision, ref: APP/X0360/W/21/3271917, 3 September 2021.
CD 6.21	Appeal decision, ref: APP/X0360/W/21/3269974, 31 August 2021.
CD 7.4	High Court judgment, Crest Nicholson v West Berkshire Council [2021] EWHC 289 (Admin).
CD 10.2	*Berkshire (including South Bucks) Strategic Housing Market Assessment* (February 2016).
CD 10.3	*Wokingham Borough Local Housing Needs Assessment 2019* (January 2020).
CD 11.5	*AWE Off-site Emergency Plan*, Joint Emergency Planning Unit, August 2022.
CD 11.12	*The Radiation (Emergency Preparedness and Public Information) Regulations 2019*, HSE/ONR.
CD 11.20	*The Radiation (Emergency Preparedness and Public Information) Regulations 2019*, SI 2019 No. 703.
CD 11.21	*REPPIR – What you should do if there is a radiation emergency at the AWE Aldermaston or Burghfield sites*, West Berkshire Council, 2020.
CD 12.1A/B	*Wokingham Borough Landscape Character Assessment*, LUC 2019.
CD 12.3	*Manual for Streets*, DoT/DCLG, 2007.
CD 12.21	*National Design Guide*, MHCLG, 2021.

ANNEX 3: DOCUMENTS SUBMITTED AT THE INQUIRY

ID 01	Appellant's opening submissions.
ID 02	Council's opening submissions.
ID 03	Shinfield Parish Council written statement.
ID 04	Site visit route map.
ID 05	Wokingham Draft Local Plan.
ID 06	Wokingham Employment Skills Plan Guidance for Developers.
ID 07	Section 106 Agreement Certified Copy.
ID 08	Agreed (final) schedule of conditions.
ID 09	Hopkins Homes Ltd, Richborough Estates Partnership LLP v Cheshire East BC, SSCLG [2017] UKSC 37.
ID 10	Hallam Land Management Ltd c v Eastleigh BC, SSCLG [2017] EWHC 2865 (Admin).
ID 11	Old Hunstanton Parish Council v Hastoe Housing Association Ltd, Kings Lynn & West Norforl BC, SSCLG [2015] EWHC 1958 (Admin).
ID 12	Council's closing submissions.
ID 13	Appellant's closing submissions.

ANNEX 4: APPEARANCES

FOR THE APPELLANT

Andrew Tabachnik of King's Counsel and Katherine Barnes of Counsel	Instructed by the appellant
They called	
Michael C Thorne *BSc PhD FInstP FSRP CRadP*	Mike Thorne and Associates Ltd
Tim Wall *BA MSc MCIHT CMILT*	Partner, i-Transport LLP
Andrew Smith *BSc(Hons) MSc CMLI*	Joint Managing Director, fabrik
Julian Forbes-Laird *BA(Hons) Dip.GR.Stud MICFor MRICS MEWI Dip.Arb.(RFS)*	Senior Director, Forbes-Laird Arboricultural Consultancy Ltd
Douglas Bond *BA(Hons) MRTPI*	Partner, Woolf Bond Planning LLP

FOR THE LOCAL PLANNING AUTHORITY (WBC)

Matt Lewin of Counsel	Instructed by Lyndsay Jennings of WBC
He called	
Harry Williamson *BSc(Hons) Cert(CBCI)*	Emergency Planning Manager, WBC
Gordon Adam *BA DipEcon MA CGIHT MILT*	Principal Development Control Engineer, WBC
Chris Hannington *BSc MPhil CMLI MRTPI*	Team Manager, WBC
Catherine Brimble *BA(Hons) DipLA CMLI*	Senior Landscape Officer, WBC
Ian Church *BA(Hons) MTRP MRTPI*	Team Manager (Senior Specialist), WBC
Mark Croucher *BA(Hons) MSc*	Principal Planning Officer Team Leader, WBC

INTERESTED PERSONS

Darrell Lias	Vice Chair (operations), Shinfield Parish Council